

As Reported by the Senate Judiciary--Criminal Justice Committee

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SENATOR Herington

A B I L L

To amend sections 109.573, 2152.74, 2743.191, 2901.07, 1
and 2935.01 and to enact sections 109.542 and 2
2935.011 of the Revised Code to expand the offenses 3
for which DNA specimens are collected from 4
delinquent children and criminal offenders, to 5
delay the implementation of the expansion of DNA 6
specimen collection until the Superintendent of the 7
Bureau of Criminal Identification and Investigation 8
gives official notification that the state DNA 9
laboratory is prepared to accept DNA specimens of 10
that nature, to pay the costs of DNA specimen 11
collection regarding the added offenses from the 12
Reparations Fund, to remove the requirement that 13
DNA specimens be collected by specified medical 14
practitioners in certain cases, to expand the 15
circumstances in which a person returning to 16
incarceration must submit to a DNA specimen 17
collection procedure to include misdemeanants 18

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covered by the DNA Specimen Collection Law who are 19
 on probation, to provide that service as an 20
 investigator of the Bureau of Criminal 21
 Identification and Investigation counts as peace 22
 officer service for purposes of maintaining a 23
 current and valid peace officer basic training 24
 certificate and subjects the person to other peace 25
 officer training-related laws, and to include as 26
 peace officers, for certain purposes, investigators 27
 of the Bureau who have received such a certificate 28
 and who are assisting law enforcement officers. 29

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 109.573, 2152.74, 2743.191, 2901.07, 30
 and 2935.01 be amended and sections 109.542 and 2935.011 of the 31
 Revised Code be enacted to read as follows: 32

Sec. 109.542. If an officer or employee of the bureau of 33
 criminal identification and investigation is investigative 34
 personnel of the bureau and has been awarded a certificate by the 35
 executive director of the Ohio peace officer training commission 36
 attesting to the officer's or employee's satisfactory completion 37
 of an approved state, county, municipal, or department of natural 38
 resources peace officer basic training program, both of the 39
 following apply: 40

(A) The officer or employee shall be considered a peace 41
 officer during the term of the officer's or employee's appointment 42
 or employment with the bureau in that capacity for the purposes of 43
 maintaining a current and valid basic training certificate 44
 pursuant to rules adopted under section 109.74 of the Revised 45
 Code. 46

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(B) Sections 109.71 to 109.77 of the Revised Code apply to 47
the officer or employee as if the officer or employee was included 48
in the definition of "peace officer" set forth in section 109.71 49
of the Revised Code. 50

Sec. 109.573. (A) As used in this section: 51

(1) "DNA" means human deoxyribonucleic acid. 52

(2) "DNA analysis" means a laboratory analysis of a DNA 53
specimen to identify DNA characteristics and to create a DNA 54
record. 55

(3) "DNA database" means a collection of DNA records from 56
forensic casework or from crime scenes, specimens from anonymous 57
and unidentified sources, and records collected pursuant to 58
sections 2152.74 and 2901.07 of the Revised Code and a population 59
statistics database for determining the frequency of occurrence of 60
characteristics in DNA records. 61

(4) "DNA record" means the objective result of a DNA analysis 62
of a DNA specimen, including representations of DNA fragment 63
lengths, digital images of autoradiographs, discrete allele 64
assignment numbers, and other DNA specimen characteristics that 65
aid in establishing the identity of an individual. 66

(5) "DNA specimen" includes human blood cells or 67
physiological tissues or body fluids. 68

(6) "Unidentified person database" means a collection of DNA 69
records, and, on and after May 21, 1998, of fingerprint and 70
photograph records, of unidentified human corpses, human remains, 71
or living individuals. 72

(7) "Relatives of missing persons database" means a 73
collection of DNA records of persons related by consanguinity of 74
the first degree to a missing person. 75

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(8) "Law enforcement agency" means a police department, the office of a sheriff, the state highway patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.

(B)(1) The superintendent of the bureau of criminal identification and investigation may do all of the following:

(a) Establish and maintain a state DNA laboratory to perform DNA analysis of DNA specimens;

(b) Establish and maintain a DNA database;

(c) Establish and maintain an unidentified person database to aid in the establishment of the identity of unknown human corpses, human remains, or living individuals;

(d) Establish and maintain a relatives of missing persons database for comparison with the unidentified person database to aid in the establishment of the identity of unknown human corpses, human remains, and living individuals.

(2) If the bureau of criminal identification and investigation establishes and maintains a DNA laboratory and a DNA database, the bureau may use or disclose information regarding DNA records for the following purposes:

(a) The bureau may disclose information to a law enforcement agency for purposes of identification.

(b) The bureau shall disclose pursuant to a court order issued under section 3111.09 of the Revised Code any information necessary to determine the existence of a parent and child relationship in an action brought under sections 3111.01 to 3111.18 of the Revised Code.

(c) The bureau may use or disclose information from the population statistics database, for identification research and

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protocol development, or for quality control purposes. 106

(3) If the bureau of criminal identification and 107
investigation establishes and maintains a relatives of missing 108
persons database, all of the following apply: 109

(a) If a person has disappeared and has been continuously 110
absent from the person's place of last domicile for a thirty-day 111
or longer period of time without being heard from during the 112
period, persons related by consanguinity of the first degree to 113
the missing person may submit to the bureau a DNA specimen, the 114
bureau may include the DNA record of the specimen in the relatives 115
of missing persons database, and, if the bureau does not include 116
the DNA record of the specimen in the relatives of missing persons 117
database, the bureau shall retain the DNA record for future 118
reference and inclusion as appropriate in that database. 119

(b) The bureau shall not charge a fee for the submission of a 120
DNA specimen pursuant to division (B)(3)(a) of this section. 121

(c) A If the DNA specimen submitted pursuant to division 122
(B)(3)(a) of this section is collected by withdrawing blood from 123
the person or a similarly invasive procedure, a physician, 124
registered nurse, licensed practical nurse, duly licensed clinical 125
laboratory technician, or other qualified medical practitioner 126
shall conduct the collection procedure for the DNA specimen 127
submitted pursuant to division (B)(3)(a) of this section and shall 128
collect the DNA specimen in a medically approved manner. If the 129
DNA specimen is collected by swabbing for buccal cells or a 130
similarly noninvasive procedure, division (B)(3)(c) of this 131
section does not require that the DNA specimen be collected by a 132
qualified medical practitioner of that nature. No later than 133
fifteen days after the date of the collection of the DNA specimen, 134
the person conducting the DNA specimen collection procedure shall 135
cause the DNA specimen to be forwarded to the bureau of criminal 136
identification and investigation in accordance with procedures 137

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established by the superintendent of the bureau under division (H) 138
of this section. The bureau may provide the specimen vials, 139
mailing tubes, labels, postage, and instruction needed for the 140
collection and forwarding of the DNA specimen to the bureau. 141

(d) The superintendent, in the superintendent's discretion, 142
may compare DNA records in the relatives of missing persons 143
database with the DNA records in the unidentified person database. 144

(4) If the bureau of criminal identification and 145
investigation establishes and maintains an unidentified person 146
database and if the superintendent of the bureau identifies a 147
matching DNA record for the DNA record of a person or deceased 148
person whose DNA record is contained in the unidentified person 149
database, the superintendent shall inform the coroner who 150
submitted or the law enforcement agency that submitted the DNA 151
specimen to the bureau of the match and, if possible, of the 152
identity of the unidentified person. 153

(5) The bureau of criminal identification and investigation 154
may enter into a contract with a qualified public or private 155
laboratory to perform DNA analyses, DNA specimen maintenance, 156
preservation, and storage, DNA record keeping, and other duties 157
required of the bureau under this section. A public or private 158
laboratory under contract with the bureau shall follow quality 159
assurance and privacy requirements established by the 160
superintendent of the bureau. 161

(C) The superintendent of the bureau of criminal 162
identification and investigation shall establish procedures for 163
entering into the DNA database the DNA records submitted pursuant 164
to sections 2152.74 and 2901.07 of the Revised Code and for 165
determining an order of priority for entry of the DNA records 166
based on the types of offenses committed by the persons whose 167
records are submitted and the available resources of the bureau. 168

(D) When a DNA record is derived from a DNA specimen provided 169

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pursuant to section 2152.74 or 2901.07 of the Revised Code, the
bureau of criminal identification and investigation shall attach
to the DNA record personal identification information that
identifies the person from whom the DNA specimen was taken. The
personal identification information may include the subject
person's fingerprints and any other information the bureau
determines necessary. The DNA record and personal identification
information attached to it shall be used only for the purpose of
personal identification or for a purpose specified in this
section.

(E) DNA records, DNA specimens, fingerprints, and photographs
that the bureau of criminal identification and investigation
receives pursuant to this section and sections 313.08, 2152.74,
and 2901.07 of the Revised Code and personal identification
information attached to a DNA record are not public records under
section 149.43 of the Revised Code.

(F) The bureau of criminal identification and investigation
may charge a reasonable fee for providing information pursuant to
this section to any law enforcement agency located in another
state.

(G)(1) No person who because of the person's employment or
official position has access to a DNA specimen, a DNA record, or
other information contained in the DNA database that identifies an
individual shall knowingly disclose that specimen, record, or
information to any person or agency not entitled to receive it or
otherwise shall misuse that specimen, record, or information.

(2) No person without authorization or privilege to obtain
information contained in the DNA database that identifies an
individual person shall purposely obtain that information.

(H) The superintendent of the bureau of criminal
identification and investigation shall establish procedures for

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all of the following:	201
(1) The forwarding to the bureau of DNA specimens collected pursuant to division (H) of this section and sections 313.08, 2152.74, and 2901.07 of the Revised Code and of fingerprints and photographs collected pursuant to section 313.08 of the Revised Code;	202 203 204 205 206
(2) The collection, maintenance, preservation, and analysis of DNA specimens;	207 208
(3) The creation, maintenance, and operation of the DNA database;	209 210
(4) The use and dissemination of information from the DNA database;	211 212
(5) The creation, maintenance, and operation of the unidentified person database;	213 214
(6) The use and dissemination of information from the unidentified person database;	215 216
(7) The creation, maintenance, and operation of the relatives of missing persons database;	217 218
(8) The use and dissemination of information from the relatives of missing persons database;	219 220
(9) The verification of entities requesting DNA records and other DNA information from the bureau and the authority of the entity to receive the information;	221 222 223
(10) The operation of the bureau and responsibilities of employees of the bureau with respect to the activities described in this section.	224 225 226
Sec. 2152.74. (A) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.	227 228 229

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(B)(1) A child who is adjudicated a delinquent child for committing an act listed in division (D) of this section and who is committed to the custody of the department of youth services or to a school, camp, institution, or other facility for delinquent children described in division (A)(2) of section 2152.19 of the Revised Code shall submit to a DNA specimen collection procedure administered by the director of youth services if committed to the department or by the chief administrative officer of the school, camp, institution, or other facility for delinquent children to which the child was committed. If the court commits the child to the department of youth services, the director of youth services shall cause the DNA specimen to be collected from the child during the intake process at an institution operated by or under the control of the department. If the court commits the child to a school, camp, institution, or other facility for delinquent children, the chief administrative officer of the school, camp, institution, or facility to which the child is committed shall cause the DNA specimen to be collected from the child during the intake process for the school, camp, institution, or facility. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected from the child in accordance with division (C) of this section.

(2) If a child is adjudicated a delinquent child for committing an act listed in division (D) of this section, is committed to the department of youth services or to a school, camp, institution, or other facility for delinquent children, and does not submit to a DNA specimen collection procedure pursuant to division (B)(1) of this section, prior to the child's release from

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the custody of the department of youth services or from the
custody of the school, camp, institution, or facility, the child
shall submit to, and the director of youth services or the chief
administrator of the school, camp, institution, or facility to
which the child is committed shall administer, a DNA specimen
collection procedure at the institution operated by or under the
control of the department of youth services or at the school,
camp, institution, or facility to which the child is committed. In
accordance with division (C) of this section, the director or the
chief administrative officer shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected in accordance with division (C) of this section.

(C) A If the DNA specimen is collected by withdrawing blood
from the child or a similarly invasive procedure, a physician,
registered nurse, licensed practical nurse, duly licensed clinical
laboratory technician, or other qualified medical practitioner
shall collect in a medically approved manner the DNA specimen
required to be collected pursuant to division (B) of this section.
If the DNA specimen is collected by swabbing for buccal cells or a
similarly noninvasive procedure, this section does not require
that the DNA specimen be collected by a qualified medical
practitioner of that nature. No later than fifteen days after the
date of the collection of the DNA specimen, the director of youth
services or the chief administrative officer of the school, camp,
institution, or other facility for delinquent children to which
the child is committed shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation in accordance with procedures established by the
superintendent of the bureau under division (H) of section 109.573
of the Revised Code. The bureau shall provide the specimen vials,

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mailing tubes, labels, postage, and instruction needed for the 294
collection and forwarding of the DNA specimen to the bureau. 295

(D) The director of youth services and the chief 296
administrative officer of a school, camp, institution, or other 297
facility for delinquent children shall cause a DNA specimen to be 298
collected in accordance with divisions (B) and (C) of this section 299
from each child in its custody who is adjudicated a delinquent 300
child for committing any of the following acts: 301

(1) A violation of section 2903.01, 2903.02, 2903.11, 302
2905.01, 2907.02, 2907.03, 2907.05, ~~or 2911.01, 2911.02,~~ 2911.11, 303
or 2911.12 of the Revised Code; 304

(2) A violation of section 2907.12 of the Revised Code as it 305
existed prior to September 3, 1996; 306

(3) An attempt to commit a violation of section 2903.01, 307
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to 308
commit a violation of section 2907.12 of the Revised Code as it 309
existed prior to September 3, 1996; 310

(4) A violation of any law that arose out of the same facts 311
and circumstances and same act as did a charge against the child 312
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 313
2907.03, 2907.05, or 2911.11 of the Revised Code that previously 314
was dismissed or amended or as did a charge against the child of a 315
violation of section 2907.12 of the Revised Code as it existed 316
prior to September 3, 1996, that previously was dismissed or 317
amended; 318

(5) A violation of section 2905.02 or 2919.23 of the Revised 319
Code that would have been a violation of section 2905.04 of the 320
Revised Code as it existed prior to July 1, 1996, had the 321
violation been committed prior to that date; 322

(6) A felony violation of any law that arose out of the same 323
facts and circumstances and same act as did a charge against the 324

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child of a violation of section 2903.11, 2911.01, 2911.02, or 325
2911.12 of the Revised Code that previously was dismissed or 326
amended; 327

(7) A violation of section 2923.01 of the Revised Code 328
involving a conspiracy to commit a violation of section 2903.01, 329
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 330
Revised Code; 331

(8) A violation of section 2923.03 of the Revised Code 332
involving complicity in committing a violation of section 2903.01, 333
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 334
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 335
violation of section 2907.12 of the Revised Code as it existed 336
prior to September 3, 1996. 337

(E) The director of youth services and the chief 338
administrative officer of a school, camp, institution, or other 339
facility for delinquent children is not required to comply with 340
this section in relation to the following acts until the 341
superintendent of the bureau of criminal identification and 342
investigation gives agencies in the juvenile justice system, as 343
defined in section 181.51 of the Revised Code, in the state 344
official notification that the state DNA laboratory is prepared to 345
accept DNA specimens of that nature: 346

(1) A violation of section 2903.11, 2911.01, 2911.02, or 347
2911.12 of the Revised Code; 348

(2) An attempt to commit a violation of section 2903.01 or 349
2903.02 of the Revised Code; 350

(3) A felony violation of any law that arose out of the same 351
facts and circumstances and same act as did a charge against the 352
child of a violation of section 2903.11, 2911.01, 2911.02, or 353
2911.12 of the Revised Code that previously was dismissed or 354
amended; 355

(4) A violation of section 2923.01 of the Revised Code 356
involving a conspiracy to commit a violation of section 2903.01, 357
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 358
Revised Code; 359

(5) A violation of section 2923.03 of the Revised Code 360
involving complicity in committing a violation of section 2903.01, 361
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 362
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 363
violation of section 2907.12 of the Revised Code as it existed 364
prior to September 3, 1996. 365

Sec. 2743.191. (A)(1) There is hereby created in the state 366
treasury the reparations fund, which shall be used only for the 367
following purposes: 368

(a) The payment of awards of reparations that are granted by 369
the attorney general,~~the~~i 370

(b) The compensation of any personnel needed by the attorney 371
general to administer sections 2743.51 to 2743.72 of the Revised 372
Code,~~the~~i 373

(c) The compensation of witnesses as provided in division (B) 374
of section 2743.65 of the Revised Code,~~other~~i 375

(d) Other administrative costs of hearing and determining 376
claims for an award of reparations by the attorney general,~~the~~i 377

(e) The costs of administering sections 2907.28 and 2969.01 378
to 2969.06 of the Revised Code,~~the~~i 379

(f) The costs of investigation and decision-making as 380
certified by the attorney general,~~the~~i 381

(g) The provision of state financial assistance to victim 382
assistance programs in accordance with sections 109.91 and 109.92 383
of the Revised Code,~~the~~i 384

(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code, ~~the~~; 385
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(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code, ~~and, subject~~; 388
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(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code; 391
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(k) The payment of costs of administering a DNA specimen collection procedure pursuant to section 2152.74 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section and pursuant to section 2901.07 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code. All 397
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(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (L)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (D)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall 406
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be deposited in the fund. 417

(B) In making an award of reparations, the attorney general 418
shall render the award against the state. The award shall be 419
accomplished only through the following procedure, and the 420
following procedure may be enforced by writ of mandamus directed 421
to the appropriate official: 422

(1) The attorney general shall provide for payment of the 423
claimant or providers in the amount of the award. 424

(2) The expense shall be charged against all available 425
unencumbered moneys in the fund. 426

(3) If sufficient unencumbered moneys do not exist in the 427
fund, the attorney general shall make application for payment of 428
the award out of the emergency purposes account or any other 429
appropriation for emergencies or contingencies, and payment out of 430
this account or other appropriation shall be authorized if there 431
are sufficient moneys greater than the sum total of then pending 432
emergency purposes account requests or requests for releases from 433
the other appropriations. 434

(4) If sufficient moneys do not exist in the account or any 435
other appropriation for emergencies or contingencies to pay the 436
award, the attorney general shall request the general assembly to 437
make an appropriation sufficient to pay the award, and no payment 438
shall be made until the appropriation has been made. The attorney 439
general shall make this appropriation request during the current 440
biennium and during each succeeding biennium until a sufficient 441
appropriation is made. If, prior to the time that an appropriation 442
is made by the general assembly pursuant to this division, the 443
fund has sufficient unencumbered funds to pay the award or part of 444
the award, the available funds shall be used to pay the award or 445
part of the award, and the appropriation request shall be amended 446
to request only sufficient funds to pay that part of the award 447
that is unpaid. 448

(C) The attorney general shall not make payment on a decision 449
or order granting an award until all appeals have been determined 450
and all rights to appeal exhausted, except as otherwise provided 451
in this section. If any party to a claim for an award of 452
reparations appeals from only a portion of an award, and a 453
remaining portion provides for the payment of money by the state, 454
that part of the award calling for the payment of money by the 455
state and not a subject of the appeal shall be processed for 456
payment as described in this section. 457

(D) The attorney general shall prepare itemized bills for the 458
costs of printing and distributing the pamphlet the attorney 459
general prepares pursuant to section 109.42 of the Revised Code. 460
The itemized bills shall set forth the name and address of the 461
persons owed the amounts set forth in them. 462

(E) As used in this section, "DNA analysis" and "DNA 463
specimen" have the same meanings as in section 109.573 of the 464
Revised Code. 465

Sec. 2901.07. (A) As used in this section: 466

(1) "DNA analysis" and "DNA specimen" have the same meanings 467
as in section 109.573 of the Revised Code. 468

(2) "Jail" and "community-based correctional facility" have 469
the same meanings as in section 2929.01 of the Revised Code. 470

(3) "Post-release control" has the same meaning as in section 471
2967.01 of the Revised Code. 472

(B)(1) A person who is convicted of or pleads guilty to a 473
felony offense listed in division (D) of this section and who is 474
sentenced to a prison term or to a community residential sanction 475
in a jail or community-based correctional facility pursuant to 476
section 2929.16 of the Revised Code, and a person who is convicted 477
of or pleads guilty to a misdemeanor offense listed in division 478

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(D) of this section and who is sentenced to a term of imprisonment shall submit to a DNA specimen collection procedure administered by the director of rehabilitation and correction or the chief administrative officer of the jail or other detention facility in which the person is serving the term of imprisonment. If the person serves the prison term in a state correctional institution, the director of rehabilitation and correction shall cause the DNA specimen to be collected from the person during the intake process at the reception facility designated by the director. If the person serves the community residential sanction or term of imprisonment in a jail, a community-based correctional facility, or another county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility, the chief administrative officer of the jail, community-based correctional facility, or detention facility shall cause the DNA specimen to be collected from the person during the intake process at the jail, community-based correctional facility, or detention facility. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected in accordance with division (C) of this section.

(2) If a person is convicted of or pleads guilty to an offense listed in division (D) of this section, is serving a prison term, community residential sanction, or term of imprisonment for that offense, and does not provide a DNA specimen pursuant to division (B)(1) of this section, prior to the person's release from the prison term, community residential sanction, or imprisonment, the person shall submit to, and the director of rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or detention

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facility in which the person is serving the prison term, community residential sanction, or term of imprisonment shall administer, a DNA specimen collection procedure at the state correctional institution, jail, community-based correctional facility, or detention facility in which the person is serving the prison term, community residential sanction, or term of imprisonment. In accordance with division (C) of this section, the director or the chief administrative officer shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation no later than fifteen days after the date of the collection of the DNA specimen. The DNA specimen shall be collected in accordance with division (C) of this section.

(3) If a person sentenced to a term of imprisonment or serving a prison term or community residential sanction for a felony committing an offense listed in division (D) of this section is on probation, is released on parole, under transitional control, or on another type of release, or is on post-release control, if the person is under the supervision of a probation department or the adult parole authority, if the person is sent to jail or is returned to a jail, community-based correctional facility, or state correctional institution for a violation of the terms and conditions of the probation, parole, transitional control, other release, or post-release control, if the person was or will be serving a term of imprisonment, prison term, or community residential sanction for committing an offense listed in division (D) of this section, and if the person did not provide a DNA specimen pursuant to division (B)(1) or (2) of this section, the person shall submit to, and the director of rehabilitation and correction or the chief administrative officer of the jail or community-based correctional facility shall administer, a DNA specimen collection procedure at the jail, community-based correctional facility, or state correctional institution in which

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the person is serving the term of imprisonment, prison term, or 543
community residential sanction. In accordance with division (C) of 544
this section, the director or the chief administrative officer 545
shall cause the DNA specimen to be forwarded to the bureau of 546
criminal identification and investigation no later than fifteen 547
days after the date of the collection of the DNA specimen. The DNA 548
specimen shall be collected from the person in accordance with 549
division (C) of this section. 550

(C) ~~A~~ If the DNA specimen is collected by withdrawing blood 551
from the person or a similarly invasive procedure, a physician, 552
registered nurse, licensed practical nurse, duly licensed clinical 553
laboratory technician, or other qualified medical practitioner 554
shall collect in a medically approved manner the DNA specimen 555
required to be collected pursuant to division (B) of this section. 556
If the DNA specimen is collected by swabbing for buccal cells or a 557
similarly noninvasive procedure, this section does not require 558
that the DNA specimen be collected by a qualified medical 559
practitioner of that nature. No later than fifteen days after the 560
date of the collection of the DNA specimen, the director of 561
rehabilitation and correction or the chief administrative officer 562
of the jail, community-based correctional facility, or other 563
county, multicounty, municipal, municipal-county, or 564
multicounty-municipal detention facility, in which the person is 565
serving the prison term, community residential sanction, or term 566
of imprisonment shall cause the DNA specimen to be forwarded to 567
the bureau of criminal identification and investigation in 568
accordance with procedures established by the superintendent of 569
the bureau under division (H) of section 109.573 of the Revised 570
Code. The bureau shall provide the specimen vials, mailing tubes, 571
labels, postage, and instructions needed for the collection and 572
forwarding of the DNA specimen to the bureau. 573

(D) The director of rehabilitation and correction and the 574

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chief administrative officer of the jail, community-based 575
 correctional facility, or other county, multicounty, municipal, 576
 municipal-county, or multicounty-municipal detention facility 577
 shall cause a DNA specimen to be collected in accordance with 578
 divisions (B) and (C) of this section from a person in its custody 579
 who is convicted of or pleads guilty to any of the following 580
 offenses: 581

(1) A violation of section 2903.01, 2903.02, 2903.11, 582
 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, ~~or 2911.01, 2911.02,~~ 583
 2911.11, or 2911.12 of the Revised Code; 584

(2) A violation of section 2907.12 of the Revised Code as it 585
 existed prior to September 3, 1996; 586

(3) An attempt to commit a violation of section 2903.01, 587
2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code 588
 or to commit a violation of section 2907.12 of the Revised Code as 589
 it existed prior to September 3, 1996; 590

(4) A violation of any law that arose out of the same facts 591
 and circumstances and same act as did a charge against the person 592
 of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 593
 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that 594
 previously was dismissed or amended or as did a charge against the 595
 person of a violation of section 2907.12 of the Revised Code as it 596
 existed prior to September 3, 1996, that previously was dismissed 597
 or amended; 598

(5) A violation of section 2905.02 or 2919.23 of the Revised 599
 Code that would have been a violation of section 2905.04 of the 600
 Revised Code as it existed prior to July 1, 1996, had it been 601
 committed prior to that date; 602

(6) A sexually oriented offense, as defined in section 603
 2950.01 of the Revised Code, if, in relation to that offense, the 604
 offender has been adjudicated as being a sexual predator, as 605

defined in section 2950.01 of the Revised Code;

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(7) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

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(8) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

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(9) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

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(E) The director of rehabilitation and correction or a chief administrative officer of a jail, community-based correctional facility, or other detention facility described in division (B) of this section in relation to the following offenses is not required to comply with this section until the superintendent of the bureau of criminal identification and investigation gives agencies in the criminal justice system, as defined in section 181.51 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

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(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

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(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

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(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or

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amended;

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(4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

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(5) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

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Sec. 2935.01. As used in this chapter:

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(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

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(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated

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pursuant to section 1531.13 of the Revised Code, a park officer 668
designated pursuant to section 1541.10 of the Revised Code, or a 669
state watercraft officer designated pursuant to section 1547.521 670
of the Revised Code; individual designated to perform law 671
enforcement duties under section 511.232, 1545.13, or 6101.75 of 672
the Revised Code; Ohio veterans' home police officer appointed 673
under section 5907.02 of the Revised Code; special police officer 674
employed by a port authority under section 4582.04 or 4582.28 of 675
the Revised Code; police constable of any township; police officer 676
of a township or joint township police district; the house 677
sergeant at arms if the house sergeant at arms has arrest 678
authority pursuant to division (E)(1) of section 101.311 of the 679
Revised Code; and an assistant house sergeant at arms; officer or 680
employee of the bureau of criminal identification and 681
investigation established pursuant to section 109.51 of the 682
Revised Code who has been awarded a certificate by the executive 683
director of the Ohio peace officer training commission attesting 684
to the officer's or employee's satisfactory completion of an 685
approved state, county, municipal, or department of natural 686
resources peace officer basic training program and who is 687
providing assistance upon request to a law enforcement officer or 688
emergency assistance to a peace officer pursuant to section 109.54 689
or 109.541 of the Revised Code; and, for the purpose of arrests 690
within those areas, and for the purposes of Chapter 5503. of the 691
Revised Code, and the filing of and service of process relating to 692
those offenses witnessed or investigated by them, includes the 693
superintendent and troopers of the state highway patrol. 694

(C) "Prosecutor" includes the county prosecuting attorney and 695
any assistant prosecutor designated to assist the county 696
prosecuting attorney, and, in the case of courts inferior to 697
courts of common pleas, includes the village solicitor, city 698
director of law, or similar chief legal officer of a municipal 699

corporation, any such officer's assistants, or any attorney
designated by the prosecuting attorney of the county to appear for
the prosecution of a given case.

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(D) "Offense," except where the context specifically
indicates otherwise, includes felonies, misdemeanors, and
violations of ordinances of municipal corporations and other
public bodies authorized by law to adopt penal regulations.

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Sec. 2935.011. If an officer or employee of the bureau of
criminal identification and investigation is included as a "peace
officer" under division (B) of section 2935.01 of the Revised
Code, both of the following apply:

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(A) Division (D)(2) of section 109.541 applies to the officer
or employee while so included.

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(B) The officer or employee is not, as a result of the
inclusion, a member of a police department for purposes of Chapter
742. of the Revised Code or a law enforcement officer or peace
officer for purposes of any state or local retirement system.

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Section 2. That existing sections 109.573, 2152.74, 2743.191,
2901.07, and 2935.01 of the Revised Code are hereby repealed.

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Section 3. Section 109.573 of the Revised Code is presented
in this act as a composite of the section as amended by both Am.
Sub. S.B. 179 and Am. Sub. S.B. 180 of the 123rd General Assembly.
The General Assembly, applying the principle stated in division
(B) of section 1.52 of the Revised Code that amendments are to be
harmonized if reasonably capable of simultaneous operation, finds
that the composite is the resulting version of the section in
effect prior to the effective date of the section as presented in
this act.

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