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**Representatives Latta, Faber, McGregor, Hughes, Slaby, Gilb, Schmidt,
Jerse, Willamowski, D. Evans, Aslanides, Book, Buehrer, Cirelli, Clancy,
Collier, Daniels, DeBose, DeGeeter, Domenick, C. Evans, Flowers, Gibbs,
Hagan, Harwood, Hoops, Koziura, Martin, Niehaus, Otterman, T. Patton,
Perry, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schneider, Seitz,
Setzer, Strahorn, Trakas, Wagner, Webster, Widener
Senators Austria, Carey, Hottinger, Mumper, Schuler, Roberts, Miller,
Robert Gardner**

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A B I L L

To amend sections 109.573, 313.08, 2152.74, 2743.191, 1
2901.07, 2953.73, 2953.82, and 5120.021 of the 2
Revised Code to require DNA specimen collection 3
from delinquent children and criminal offenders 4
for all felonies; to make other changes relating 5
to the collection and use of DNA specimens; to 6
extend for one year the period of time for certain 7
inmates to request DNA testing; to clarify the 8
applicability of the provisions of Chapter 5120. 9
of the Revised Code to offenders who committed 10
their offense prior to July 1, 1996, and to those 11
who committed their offense on or after that date; 12
to specify who collects DNA specimens from 13
juvenile offenders when the juvenile is not 14
committed to the Department of Youth Services or 15
other specified facilities; and to give the 16
Department of Rehabilitation and Correction 17

rule-making authority over the collection of a DNA 18
specimen from an offender whose supervision is 19
transferred to Ohio from another state. 20

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

Section 1. That sections 109.573, 313.08, 2152.74, 2743.191, 21
2901.07, 2953.73, 2953.82, and 5120.021 of the Revised Code be 22
amended to read as follows: 23

Sec. 109.573. (A) As used in this section: 24

(1) "DNA" means human deoxyribonucleic acid. 25

(2) "DNA analysis" means a laboratory analysis of a DNA 26
specimen to identify DNA characteristics and to create a DNA 27
record. 28

(3) "DNA database" means a collection of DNA records from 29
forensic casework or from crime scenes, specimens from anonymous 30
and unidentified sources, and records collected pursuant to 31
sections 2152.74 and 2901.07 of the Revised Code and a population 32
statistics database for determining the frequency of occurrence of 33
characteristics in DNA records. 34

(4) "DNA record" means the objective result of a DNA analysis 35
of a DNA specimen, including representations of DNA fragment 36
lengths, digital images of autoradiographs, discrete allele 37
assignment numbers, and other DNA specimen characteristics that 38
aid in establishing the identity of an individual. 39

(5) "DNA specimen" includes human blood cells or 40
physiological tissues or body fluids. 41

(6) "Unidentified person database" means a collection of DNA 42
records, and, on and after May 21, 1998, of fingerprint and 43
photograph records, of unidentified human corpses, human remains, 44

or living individuals. 45

(7) "Relatives of missing persons database" means a 46
collection of DNA records of persons related by consanguinity of 47
~~the first degree~~ to a missing person. 48

(8) "Law enforcement agency" means a police department, the 49
office of a sheriff, the state highway patrol, a county 50
prosecuting attorney, or a federal, state, or local governmental 51
body that enforces criminal laws and that has employees who have a 52
statutory power of arrest. 53

(9) "Administration of criminal justice" means the 54
performance of detection, apprehension, detention, pretrial 55
release, post-trial release, prosecution, adjudication, 56
correctional supervision, or rehabilitation of accused persons or 57
criminal offenders. "Administration of criminal justice" also 58
includes criminal identification activities and the collection, 59
storage, and dissemination of criminal history record information. 60

(B)(1) The superintendent of the bureau of criminal 61
identification and investigation may do all of the following: 62

(a) Establish and maintain a state DNA laboratory to perform 63
DNA analyses of DNA specimens; 64

(b) Establish and maintain a DNA database; 65

(c) Establish and maintain an unidentified person database to 66
aid in the establishment of the identity of unknown human corpses, 67
human remains, or living individuals; 68

(d) Establish and maintain a relatives of missing persons 69
database for comparison with the unidentified person database to 70
aid in the establishment of the identity of unknown human corpses, 71
human remains, and living individuals. 72

(2) If the bureau of criminal identification and 73
investigation establishes and maintains a DNA laboratory and a DNA 74

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~~ the administration of criminal justice.

(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 protocol development, or for quality control purposes.

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

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

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

(c) If the DNA specimen submitted pursuant to division (B)(3)(a) of this section is collected by withdrawing blood from

the person or a similarly invasive procedure, a physician, 105
registered nurse, licensed practical nurse, duly licensed clinical 106
laboratory technician, or other qualified medical practitioner 107
shall conduct the collection procedure for the DNA specimen 108
submitted pursuant to division (B)(3)(a) of this section and shall 109
collect the DNA specimen in a medically approved manner. If the 110
DNA specimen is collected by swabbing for buccal cells or a 111
similarly noninvasive procedure, division (B)(3)(c) of this 112
section does not require that the DNA specimen be collected by a 113
qualified medical practitioner of that nature. No later than 114
fifteen days after the date of the collection of the DNA specimen, 115
the person conducting the DNA specimen collection procedure shall 116
cause the DNA specimen to be forwarded to the bureau of criminal 117
identification and investigation in accordance with procedures 118
established by the superintendent of the bureau under division (H) 119
of this section. The bureau may provide the specimen vials, 120
mailing tubes, labels, postage, and instruction needed for the 121
collection and forwarding of the DNA specimen to the bureau. 122

(d) The superintendent, in the superintendent's discretion, 123
may compare DNA records in the relatives of missing persons 124
database with the DNA records in the unidentified person database. 125

(4) If the bureau of criminal identification and 126
investigation establishes and maintains an unidentified person 127
database and if the superintendent of the bureau identifies a 128
matching DNA record for the DNA record of a person or deceased 129
person whose DNA record is contained in the unidentified person 130
database, the superintendent shall inform the coroner who 131
submitted or the law enforcement agency that submitted the DNA 132
specimen to the bureau of the match and, if possible, of the 133
identity of the unidentified person. 134

(5) The bureau of criminal identification and investigation 135
may enter into a contract with a qualified public or private 136

laboratory to perform DNA analyses, DNA specimen maintenance, 137
preservation, and storage, DNA record keeping, and other duties 138
required of the bureau under this section. A public or private 139
laboratory under contract with the bureau shall follow quality 140
assurance and privacy requirements established by the 141
superintendent of the bureau. 142

(C) The superintendent of the bureau of criminal 143
identification and investigation shall establish procedures for 144
entering into the DNA database the DNA records submitted pursuant 145
to sections 2152.74 and 2901.07 of the Revised Code and for 146
determining an order of priority for entry of the DNA records 147
based on the types of offenses committed by the persons whose 148
records are submitted and the available resources of the bureau. 149

(D) When a DNA record is derived from a DNA specimen provided 150
pursuant to section 2152.74 or 2901.07 of the Revised Code, the 151
bureau of criminal identification and investigation shall attach 152
to the DNA record personal identification information that 153
identifies the person from whom the DNA specimen was taken. The 154
personal identification information may include the subject 155
person's fingerprints and any other information the bureau 156
determines necessary. The DNA record and personal identification 157
information attached to it shall be used only for the purpose of 158
personal identification or for a purpose specified in this 159
section. 160

(E) DNA records, DNA specimens, fingerprints, and photographs 161
that the bureau of criminal identification and investigation 162
receives pursuant to this section and sections 313.08, 2152.74, 163
and 2901.07 of the Revised Code and personal identification 164
information attached to a DNA record are not public records under 165
section 149.43 of the Revised Code. 166

(F) The bureau of criminal identification and investigation 167

may charge a reasonable fee for providing information pursuant to 168
this section to any law enforcement agency located in another 169
state. 170

(G)(1) No person who because of the person's employment or 171
official position has access to a DNA specimen, a DNA record, or 172
other information contained in the DNA database that identifies an 173
individual shall knowingly disclose that specimen, record, or 174
information to any person or agency not entitled to receive it or 175
otherwise shall misuse that specimen, record, or information. 176

(2) No person without authorization or privilege to obtain 177
information contained in the DNA database that identifies an 178
individual person shall purposely obtain that information. 179

(H) The superintendent of the bureau of criminal 180
identification and investigation shall establish procedures for 181
all of the following: 182

(1) The forwarding to the bureau of DNA specimens collected 183
pursuant to division (H) of this section and sections 313.08, 184
2152.74, and 2901.07 of the Revised Code and of fingerprints and 185
photographs collected pursuant to section 313.08 of the Revised 186
Code; 187

(2) The collection, maintenance, preservation, and analysis 188
of DNA specimens; 189

(3) The creation, maintenance, and operation of the DNA 190
database; 191

(4) The use and dissemination of information from the DNA 192
database; 193

(5) The creation, maintenance, and operation of the 194
unidentified person database; 195

(6) The use and dissemination of information from the 196
unidentified person database; 197

(7) The creation, maintenance, and operation of the relatives of missing persons database;	198 199
(8) The use and dissemination of information from the relatives of missing persons database;	200 201
(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;	202 203 204
(10) The operation of the bureau and responsibilities of employees of the bureau with respect to the activities described in this section.	205 206 207
(I) In conducting DNA analyses of DNA specimens, the state DNA laboratory and any laboratory with which the bureau has entered into a contract pursuant to division (B)(5) of this section shall give DNA analyses of DNA specimens that relate to ongoing criminal investigations or prosecutions priority over DNA analyses of DNA specimens that relate to applications made pursuant to section 2953.73 or 2953.82 of the Revised Code.	208 209 210 211 212 213 214
Sec. 313.08. (A) In counties in which a county morgue is maintained, the coroner shall be the official custodian of the morgue.	215 216 217
In all cases of the finding of the body <u>or remains</u> of a deceased person within a county in which a county morgue is maintained, when the identity of the deceased person is unknown, or the deceased person's relatives or other persons entitled to the custody of the body <u>or remains</u> of the deceased person are unknown or not present, the body <u>or remains</u> shall be removed to the county morgue, where it shall be held for identification and disposal.	218 219 220 221 222 223 224 225
(B) If the body <u>or remains</u> of a deceased person is <u>are</u> not identified, a coroner shall do all of the following prior to	226 227

disposing of the body <u>or remains</u> :	228
(1) Take the fingerprints of the body <u>or remains</u> of the	229
deceased person, or cause the same to be taken, according to the	230
fingerprint system of identification on the forms furnished by the	231
superintendent of the bureau of criminal identification and	232
investigation;	233
(2) Take or cause to be taken one or more photographs of the	234
body <u>or remains</u> of the deceased person;	235
(3) Collect in a medically approved manner a DNA specimen	236
from the body <u>or remains</u> of the deceased person;	237
(4) Promptly cause the fingerprints, the photographs, and the	238
DNA specimen to be forwarded to the bureau of criminal	239
identification and investigation for inclusion in the unidentified	240
person database in accordance with procedures established by the	241
superintendent of the bureau under division (H) of section 109.573	242
of the Revised Code. The bureau shall provide the fingerprint	243
forms, specimen vials, mailing tubes, labels, postage, and	244
instruction needed for the collection and forwarding to the bureau	245
of the fingerprints and the DNA specimen and for the forwarding to	246
the bureau of the photographs.	247
(C) Upon the request of a coroner who has the duty to take,	248
or cause the taking of, fingerprints and photographs under	249
divisions (B)(1) and (2) of this section, the bureau of criminal	250
identification and investigation shall take, or assist in the	251
taking of, the required fingerprints and photographs.	252
(D) As used in this section, "DNA specimen" and "unidentified	253
person database" have the same meanings as in section 109.573 of	254
the Revised Code.	255
Sec. 2152.74. (A) As used in this section, "DNA analysis" and	256
"DNA specimen" have the same meanings as in section 109.573 of the	257

Revised Code. 258

(B)(1) A child who is adjudicated a delinquent child for 259
committing an act listed in division (D) of this section and who 260
is committed to the custody of the department of youth services, 261
placed in a detention facility or district detention facility 262
pursuant to division (A)(3) of section 2152.19 of the Revised 263
Code, or placed in a school, camp, institution, or other facility 264
for delinquent children described in division (A)(2) of section 265
2152.19 of the Revised Code shall submit to a DNA specimen 266
collection procedure administered by the director of youth 267
services if committed to the department or by the chief 268
administrative officer of the detention facility, district 269
detention facility, school, camp, institution, or other facility 270
for delinquent children to which the child was committed or in 271
which the child was placed. If the court commits the child to the 272
department of youth services, the director of youth services shall 273
cause the DNA specimen to be collected from the child during the 274
intake process at an institution operated by or under the control 275
of the department. If the court commits the child to or places the 276
child in a detention facility, district detention facility, 277
school, camp, institution, or other facility for delinquent 278
children, the chief administrative officer of the detention 279
facility, district detention facility, school, camp, institution, 280
or facility to which the child is committed or in which the child 281
is placed shall cause the DNA specimen to be collected from the 282
child during the intake process for the detention facility, 283
district detention facility, school, camp, institution, or 284
facility. ~~In accordance with division (C) of this section, the 285
director or the chief administrative officer shall cause the DNA 286
specimen to be forwarded to the bureau of criminal identification 287
and investigation no later than fifteen days after the date of the 288
collection of the DNA specimen. The DNA specimen shall be 289~~

collected from the child in accordance with division (C) of this section. 290
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(2) If a child is adjudicated a delinquent child for committing an act listed in division (D) of this section, is committed to or placed in the department of youth services, a detention facility or district detention facility, or 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 the custody of the department of youth services, from the custody of the detention facility or district detention facility, 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 detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child was placed 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 detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child was placed. ~~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. 292
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(3) If a child is adjudicated a delinquent child for committing an act listed in division (D) of this section, is not committed to or placed in the department of youth services, a detention facility or district detention facility, or a school, camp, institution, or other facility for delinquent children 317
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described in division (A)(2) or (3) of section 2152.19 of the 322
Revised Code, and does not provide a DNA specimen pursuant to 323
division (B)(1) or (2) of this section, the juvenile court shall 324
order the child to report to the county probation department 325
immediately after disposition to submit to a DNA specimen 326
collection procedure administered by the chief administrative 327
officer of the county probation department. The DNA specimen shall 328
be collected from the child in accordance with division (C) of 329
this section. 330

(C) If the DNA specimen is collected by withdrawing blood 331
from the child or a similarly invasive procedure, a physician, 332
registered nurse, licensed practical nurse, duly licensed clinical 333
laboratory technician, or other qualified medical practitioner 334
shall collect in a medically approved manner the DNA specimen 335
required to be collected pursuant to division (B) of this section. 336
If the DNA specimen is collected by swabbing for buccal cells or a 337
similarly noninvasive procedure, this section does not require 338
that the DNA specimen be collected by a qualified medical 339
practitioner of that nature. No later than fifteen days after the 340
date of the collection of the DNA specimen, the director of youth 341
services or the chief administrative officer of the detention 342
facility, district detention facility, school, camp, institution, 343
or other facility for delinquent children to which the child is 344
committed or in which the child was placed shall cause the DNA 345
specimen to be forwarded to the bureau of criminal identification 346
and investigation in accordance with procedures established by the 347
superintendent of the bureau under division (H) of section 109.573 348
of the Revised Code. The bureau shall provide the specimen vials, 349
mailing tubes, labels, postage, and instruction needed for the 350
collection and forwarding of the DNA specimen to the bureau. 351

(D) The director of youth services and the chief 352
administrative officer of a detention facility, district detention 353

facility, school, camp, institution, or other facility for 354
delinquent children shall cause a DNA specimen to be collected in 355
accordance with divisions (B) and (C) of this section from each 356
child in its custody who is adjudicated a delinquent child for 357
committing any of the following acts: 358

(1) ~~A violation of section 2903.01, 2903.02, 2903.11,~~ 359
~~2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or~~ 360
~~2911.12 of the Revised Code~~ An act that would be a felony if 361
committed by an adult; 362

(2) ~~A violation of section 2907.12 of the Revised Code as it~~ 363
~~existed prior to September 3, 1996;~~ 364

~~(3) An attempt to commit a violation of section 2903.01,~~ 365
~~2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to~~ 366
~~commit a violation of section 2907.12 of the Revised Code as it~~ 367
~~existed prior to September 3, 1996;~~ 368

~~(4)~~ A violation of any law that would be a misdemeanor if 369
committed by an adult and that arose out of the same facts and 370
circumstances and same act as did a charge against the child of a 371
violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 372
2907.05, or 2911.11 of the Revised Code that previously was 373
dismissed or amended or as did a charge against the child of a 374
violation of section 2907.12 of the Revised Code as it existed 375
prior to September 3, 1996, that previously was dismissed or 376
amended; 377

~~(5)~~(3) A violation of section ~~2905.02~~ or 2919.23 of the 378
Revised Code that would be a misdemeanor if committed by an adult 379
and that would have been a violation of section 2905.04 of the 380
Revised Code as it existed prior to July 1, 1996, had the 381
violation been committed prior to that date; 382

~~(6) A felony violation of any law that arose out of the same~~ 383
~~facts and circumstances and same act as did a charge against the~~ 384

~~child of a violation of section 2903.11, 2911.01, 2911.02, or
2911.12 of the Revised Code that previously was dismissed or
amended;~~ 385
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~~(7) A violation of section 2923.01 of the Revised Code
involving 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;~~ 388
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~~(8)(4) A violation of section 2923.03 of the Revised Code
involving 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 that would be a misdemeanor if
committed by an adult.~~ 392
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~~(E) The director of youth services and the chief
administrative officer of a detention facility, district detention
facility, school, camp, institution, or other facility for
delinquent children is not required to comply with this section in
relation to the following acts until the superintendent of the
bureau of criminal identification and investigation gives agencies
in the juvenile 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;~~ 399
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~~(1) A violation of section 2903.11, 2911.01, 2911.02, or
2911.12 of the Revised Code;~~ 409
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~~(2) An attempt to commit a violation of section 2903.01 or
2903.02 of the Revised Code;~~ 411
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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
child of a violation of section 2903.11, 2911.01, 2911.02, or~~ 413
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~~2911.12 of the Revised Code that previously was dismissed or
amended;~~ 416
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~~(4) A violation of section 2923.01 of the Revised Code
involving 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;~~ 418
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~~(5) A violation of section 2923.03 of the Revised Code
involving 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.~~ 422
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Sec. 2743.191. (A)(1) There is hereby created in the state 428
treasury the reparations fund, which shall be used only for the 429
following purposes: 430

(a) The payment of awards of reparations that are granted by 431
the attorney general; 432

(b) The compensation of any personnel needed by the attorney 433
general to administer sections 2743.51 to 2743.72 of the Revised 434
Code; 435

(c) The compensation of witnesses as provided in division (J) 436
of section 2743.65 of the Revised Code; 437

(d) Other administrative costs of hearing and determining 438
claims for an award of reparations by the attorney general; 439

(e) The costs of administering sections 2907.28 and 2969.01 440
to 2969.06 of the Revised Code; 441

(f) The costs of investigation and decision-making as 442
certified by the attorney general; 443

(g) The provision of state financial assistance to victim 444

assistance programs in accordance with sections 109.91 and 109.92 445
of the Revised Code; 446

(h) The costs of paying the expenses of sex offense-related 447
examinations and antibiotics pursuant to section 2907.28 of the 448
Revised Code; 449

(i) The cost of printing and distributing the pamphlet 450
prepared by the attorney general pursuant to section 109.42 of the 451
Revised Code; 452

(j) Subject to division (D) of section 2743.71 of the Revised 453
Code, the costs associated with the printing and providing of 454
information cards or other printed materials to law enforcement 455
agencies and prosecuting authorities and with publicizing the 456
availability of awards of reparations pursuant to section 2743.71 457
of the Revised Code; 458

(k) The payment of costs of administering a DNA specimen 459
collection procedure pursuant to ~~section~~ sections 2152.74 ~~of the~~ 460
~~Revised Code in relation to any act identified in division (E)(1)~~ 461
~~to (5) of that section and pursuant to section~~ 2901.07 of the 462
~~Revised Code in relation to any act identified in division (E)(1)~~ 463
~~to (5) of that section~~, of performing DNA analysis of those DNA 464
specimens, and of entering the resulting DNA records regarding 465
those analyses into the DNA database pursuant to section 109.573 466
of the Revised Code; 467

(1) The payment of actual costs associated with initiatives 468
by the attorney general for the apprehension, prosecution, and 469
accountability of offenders, and the enhancing of services to 470
crime victims. The amount of payments made pursuant to division 471
(A)(1)(1) of this section during any given fiscal year shall not 472
exceed five per cent of the balance of the reparations fund at the 473
close of the immediately previous fiscal year. 474

(2) All costs paid pursuant to section 2743.70 of the Revised 475

Code, the portions of license reinstatement fees mandated by 476
division (F)(2)(b) of section 4511.191 of the Revised Code to be 477
credited to the fund, the portions of the proceeds of the sale of 478
a forfeited vehicle specified in division (C)(2) of section 479
4503.234 of the Revised Code, payments collected by the department 480
of rehabilitation and correction from prisoners who voluntarily 481
participate in an approved work and training program pursuant to 482
division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and 483
all moneys collected by the state pursuant to its right of 484
subrogation provided in section 2743.72 of the Revised Code shall 485
be deposited in the fund. 486

(B) In making an award of reparations, the attorney general 487
shall render the award against the state. The award shall be 488
accomplished only through the following procedure, and the 489
following procedure may be enforced by writ of mandamus directed 490
to the appropriate official: 491

(1) The attorney general shall provide for payment of the 492
claimant or providers in the amount of the award only if the 493
amount of the award is fifty dollars or more. 494

(2) The expense shall be charged against all available 495
unencumbered moneys in the fund. 496

(3) If sufficient unencumbered moneys do not exist in the 497
fund, the attorney general shall make application for payment of 498
the award out of the emergency purposes account or any other 499
appropriation for emergencies or contingencies, and payment out of 500
this account or other appropriation shall be authorized if there 501
are sufficient moneys greater than the sum total of then pending 502
emergency purposes account requests or requests for releases from 503
the other appropriations. 504

(4) If sufficient moneys do not exist in the account or any 505
other appropriation for emergencies or contingencies to pay the 506

award, the attorney general shall request the general assembly to
make an appropriation sufficient to pay the award, and no payment
shall be made until the appropriation has been made. The attorney
general shall make this appropriation request during the current
biennium and during each succeeding biennium until a sufficient
appropriation is made. If, prior to the time that an appropriation
is made by the general assembly pursuant to this division, the
fund has sufficient unencumbered funds to pay the award or part of
the award, the available funds shall be used to pay the award or
part of the award, and the appropriation request shall be amended
to request only sufficient funds to pay that part of the award
that is unpaid.

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

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

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

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

(1) "DNA analysis" and "DNA specimen" have the same meanings 537
as in section 109.573 of the Revised Code. 538

(2) "Jail" and "community-based correctional facility" have 539
the same meanings as in section 2929.01 of the Revised Code. 540

(3) "Post-release control" has the same meaning as in section 541
2967.01 of the Revised Code. 542

(B)(1) A person who is convicted of or pleads guilty to a 543
felony offense ~~listed in division (D) of this section~~ and who is 544
sentenced to a prison term or to a community residential sanction 545
in a jail or community-based correctional facility pursuant to 546
section 2929.16 of the Revised Code, and a person who is convicted 547
of or pleads guilty to a misdemeanor offense listed in division 548
(D) of this section and who is sentenced to a term of imprisonment 549
shall submit to a DNA specimen collection procedure administered 550
by the director of rehabilitation and correction or the chief 551
administrative officer of the jail or other detention facility in 552
which the person is serving the term of imprisonment. If the 553
person serves the prison term in a state correctional institution, 554
the director of rehabilitation and correction shall cause the DNA 555
specimen to be collected from the person during the intake process 556
at the reception facility designated by the director. If the 557
person serves the community residential sanction or term of 558
imprisonment in a jail, a community-based correctional facility, 559
or another county, multicounty, municipal, municipal-county, or 560
multicounty-municipal detention facility, the chief administrative 561
officer of the jail, community-based correctional facility, or 562
detention facility shall cause the DNA specimen to be collected 563
from the person during the intake process at the jail, 564
community-based correctional facility, or detention facility. ~~In~~ 565
~~accordance with division (C) of this section, the director or the~~ 566
~~chief administrative officer shall cause the DNA specimen to be~~ 567
~~forwarded to the bureau of criminal identification and~~ 568

~~investigation no later than fifteen days after the date of the~~ 569
~~collection of the DNA specimen.~~ The DNA specimen shall be 570
collected in accordance with division (C) of this section. 571

(2) If a person is convicted of or pleads guilty to ~~an a~~ 572
felony offense or a misdemeanor offense listed in division (D) of 573
this section, is serving a prison term, community residential 574
sanction, or term of imprisonment for that offense, and does not 575
provide a DNA specimen pursuant to division (B)(1) of this 576
section, prior to the person's release from the prison term, 577
community residential sanction, or imprisonment, the person shall 578
submit to, and the director of rehabilitation and correction or 579
the chief administrative officer of the jail, community-based 580
correctional facility, or detention facility in which the person 581
is serving the prison term, community residential sanction, or 582
term of imprisonment shall administer, a DNA specimen collection 583
procedure at the state correctional institution, jail, 584
community-based correctional facility, or detention facility in 585
which the person is serving the prison term, community residential 586
sanction, or term of imprisonment. ~~In accordance with division (C)~~ 587
~~of this section, the director or the chief administrative officer~~ 588
~~shall cause the DNA specimen to be forwarded to the bureau of~~ 589
~~criminal identification and investigation no later than fifteen~~ 590
~~days after the date of the collection of the DNA specimen.~~ The DNA 591
specimen shall be collected in accordance with division (C) of 592
this section. 593

(3)(a) If a person ~~sentenced to a term of imprisonment or~~ 594
~~serving a prison term or community residential sanction for~~ 595
~~committing an~~ is convicted of or pleads guilty to a felony offense 596
or a misdemeanor offense listed in division (D) of this section 597
and the person is on probation, ~~is~~ released on parole, under 598
transitional control, ~~or on another type of release, or is on~~ 599
community control, on post-release control, ~~if the person is or~~ 600

under any other type of supervised release under the supervision 601
of a probation department or the adult parole authority, if the 602
person shall submit to a DNA specimen collection procedure 603
administered by the chief administrative officer of the probation 604
department or the adult parole authority. The DNA specimen shall 605
be collected in accordance with division (C) of this section. If 606
the person refuses to submit to a DNA specimen collection 607
procedure as provided in this division, the person may be subject 608
to the provisions of section 2967.15 of the Revised Code. 609

(b) If the person is sent to jail or is returned to a jail, 610
community-based correctional facility, or state correctional 611
institution for a violation of the terms and conditions of the 612
probation, parole, transitional control, other release, or 613
post-release control, if the person was or will be serving a term 614
of imprisonment, prison term, or community residential sanction 615
for committing an a felony offense or for committing a misdemeanor 616
offense listed in division (D) of this section, and if the person 617
did not provide a DNA specimen pursuant to division (B)(1) ~~or~~ (2) 618
or (3)(a) of this section, the person shall submit to, and the 619
director of rehabilitation and correction or the chief 620
administrative officer of the jail or community-based correctional 621
facility shall administer, a DNA specimen collection procedure at 622
the jail, community-based correctional facility, or state 623
correctional institution in which the person is serving the term 624
of imprisonment, prison term, or community residential sanction. 625
~~In accordance with division (C) of this section, the director or~~ 626
~~the chief administrative officer shall cause the DNA specimen to~~ 627
~~be forwarded to the bureau of criminal identification and~~ 628
~~investigation no later than fifteen days after the date of the~~ 629
~~collection of the DNA specimen. The DNA specimen shall be~~ 630
collected from the person in accordance with division (C) of this 631
section. 632

(4) If a person is convicted of or pleads guilty to a felony offense or a misdemeanor offense listed in division (D) of this section, the person is not sentenced to a prison term, a community residential sanction in a jail or community-based correctional facility, a term of imprisonment, or any type of supervised release under the supervision of a probation department or the adult parole authority, and the person does not provide a DNA specimen pursuant to division (B)(1), (2), (3)(a), or (3)(b) of this section, the sentencing court shall order the person to report to the county probation department immediately after sentencing to submit to a DNA specimen collection procedure administered by the chief administrative officer of the county probation office. If the person is incarcerated at the time of sentencing, the person 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 incarcerated. The DNA specimen shall be collected in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood from the person 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 rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or other

county, multicounty, municipal, municipal-county, or 665
multicounty-municipal detention facility, in which the person is 666
serving the prison term, community residential sanction, or term 667
of imprisonment shall cause the DNA specimen to be forwarded to 668
the bureau of criminal identification and investigation in 669
accordance with procedures established by the superintendent of 670
the bureau under division (H) of section 109.573 of the Revised 671
Code. The bureau shall provide the specimen vials, mailing tubes, 672
labels, postage, and instructions needed for the collection and 673
forwarding of the DNA specimen to the bureau. 674

(D) The director of rehabilitation and correction ~~and~~, the 675
chief administrative officer of the jail, community-based 676
correctional facility, or other county, multicounty, municipal, 677
municipal-county, or multicounty-municipal detention facility, or 678
the chief administrative officer of a county probation department 679
or the adult parole authority shall cause a DNA specimen to be 680
collected in accordance with divisions (B) and (C) of this section 681
from a person in its custody or under its supervision who is 682
convicted of or pleads guilty to any felony offense or to any of 683
the following misdemeanor offenses: 684

(1) A misdemeanor violation, an attempt to commit a 685
misdemeanor violation, or complicity in committing a misdemeanor 686
violation of section ~~2903.01, 2903.02, 2903.11, 2905.01, 2907.02,~~ 687
~~2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12~~ 688
of the Revised Code; 689

(2) ~~A violation of section 2907.12 of the Revised Code as it~~ 690
~~existed prior to September 3, 1996;~~ 691

~~(3) An attempt to commit a violation of section 2903.01,~~ 692
~~2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code~~ 693
~~or to commit a violation of section 2907.12 of the Revised Code as~~ 694
~~it existed prior to September 3, 1996;~~ 695

(4) A misdemeanor 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 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that previously was dismissed or amended or as did a charge against the person of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed or amended;

~~(5)~~(3) A misdemeanor violation of section ~~2905.02~~ or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had it been committed prior to that date;

~~(6)~~(4) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, that is a misdemeanor, if, in relation to that offense, the offender has been adjudicated a sexual predator ~~or a~~ child-victim predator, ~~both~~ habitual sex offender, or habitual child-victim offender, all as defined in section 2950.01 of the Revised Code;

~~(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;~~

~~(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;~~

~~(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.~~

(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:~~

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

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

~~(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 amended;~~

~~(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;~~

~~(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 may prescribe rules in accordance with Chapter 119. of the Revised Code to collect a DNA specimen, as provided in this section, from an offender whose supervision is transferred from another state to this state in accordance with the interstate compact for adult offender supervision described in section 5149.21 of the Revised Code.~~

Sec. 2953.73. (A) An eligible inmate who wishes to request 758
DNA testing to be conducted under sections 2953.71 to 2953.81 of 759
the Revised Code shall submit an application for DNA testing on a 760
form prescribed by the attorney general for this purpose and shall 761
submit the form to the court of common pleas that sentenced the 762
inmate for the offense for which the inmate is an eligible inmate 763
and is requesting DNA testing. The eligible inmate shall submit 764
the application to that court of common pleas not later than ~~one~~ 765
~~year~~ two years after ~~the effective date of this section~~ October 766
29, 2003. No court of common pleas shall accept an application 767
under this section after the expiration of the period of time 768
specified in this division. 769

(B) If an eligible inmate submits an application for DNA 770
testing under division (A) of this section, upon the submission of 771
the application, all of the following apply: 772

(1) The eligible inmate shall serve a copy of the application 773
on the prosecuting attorney and the attorney general. 774

(2) The application shall be assigned to the judge of that 775
court of common pleas who was the trial judge in the case in which 776
the eligible inmate was convicted of the offense for which the 777
inmate is requesting DNA testing, or, if that judge no longer is a 778
judge of that court, it shall be assigned according to court 779
rules. The judge to whom the application is assigned shall decide 780
the application. The application shall become part of the file in 781
the case. 782

(C) If an eligible inmate submits an application for DNA 783
testing under division (A) of this section, regardless of whether 784
the inmate has commenced any federal habeas corpus proceeding 785
relative to the case in which the inmate was convicted of the 786
offense for which the inmate is an eligible inmate and is 787
requesting DNA testing, any response to the application by the 788

prosecuting attorney or the attorney general shall be filed not
later than forty-five days after the date on which the eligible
inmate submits the application. The prosecuting attorney or the
attorney general, or both, may, but are not required to, file a
response to the application. If the prosecuting attorney or the
attorney general files a response under this division, the
prosecuting attorney or attorney general, whoever filed the
response, shall serve a copy of the response on the eligible
inmate.

(D) If an eligible inmate submits an application for DNA
testing under division (A) of this section, the court shall make
the determination as to whether the application should be accepted
or rejected. The court shall expedite its review of the
application. The court shall make the determination in accordance
with the criteria and procedures set forth in sections 2953.74 to
2953.81 of the Revised Code and, in making the determination,
shall consider the application, the supporting affidavits, and the
documentary evidence and, in addition to those materials, shall
consider all the files and records pertaining to the proceedings
against the applicant, including, but not limited to, the
indictment, the court's journal entries, the journalized records
of the clerk of the court, and the court reporter's transcript and
all responses to the application filed under division (C) of this
section by a prosecuting attorney or the attorney general, unless
the application and the files and records show the applicant is
not entitled to DNA testing, in which case the application may be
denied. The court is not required to conduct an evidentiary
hearing in conducting its review of, and in making its
determination as to whether to accept or reject, the application.
Upon making its determination, the court shall enter a judgment
and order that either accepts or rejects the application and that
includes within the judgment and order the reasons for the

acceptance or rejection as applied to the criteria and procedures
set forth in sections 2953.71 to 2953.81 of the Revised Code. The
court shall send a copy of the judgment and order to the eligible
inmate who filed it, the prosecuting attorney, and the attorney
general.

(E) A judgment and order of a court entered under division
(D) of this section is appealable only as provided in this
division. If an eligible inmate submits an application for DNA
testing under section 2953.73 of the Revised Code and the court of
common pleas rejects the application under division (D) of this
section, one of the following applies:

~~(a)~~(1) If the inmate was sentenced to death for the offense
for which the inmate claims to be an eligible inmate and is
requesting DNA testing, the inmate may seek leave of the supreme
court to appeal the rejection to the supreme court. Courts of
appeals do not have jurisdiction to review any rejection if the
inmate was sentenced to death for the offense for which the inmate
claims to be an eligible inmate and is requesting DNA testing.

~~(b)~~(2) If the inmate was not sentenced to death for the
offense for which the inmate claims to be an eligible inmate and
is requesting DNA testing, the rejection is a final appealable
order, and the inmate may appeal it to the court of appeals of the
district in which is located that court of common pleas.

(F) Notwithstanding any provision of law regarding fees and
costs, no filing fee shall be required of, and no court costs
shall be assessed against, an eligible offender who is indigent
and who submits an application under this section.

(G) If a court rejects an eligible inmate's application for
DNA testing under division (D) of this section, unless the
rejection is overturned on appeal, no court shall require the
state to administer a DNA test under sections 2953.71 to 2953.81

of the Revised Code on the eligible inmate.

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Sec. 2953.82. (A) An inmate who pleaded guilty or no contest to a felony offense that was committed prior to ~~the effective date of this section~~ October 29, 2003 may request DNA testing under this section regarding that offense if all of the following apply:

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(1) The inmate was sentenced to a prison term or sentence of death for that felony and, on ~~the effective date of this section~~ October 29, 2003, is in prison serving that prison term or under that sentence of death.

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(2) On the date on which the inmate files the application requesting the testing with the court as described in division (B) of this section, the inmate has at least one year remaining on the prison term described in division (A)(1) of this section, or the inmate is in prison under a sentence of death as described in that division.

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(B) An inmate who pleaded guilty or no contest to a felony offense that was committed prior to ~~the effective date of this section~~ October 29, 2003, who satisfies the criteria set forth in division (A) of this section, and who wishes to request DNA testing under this section shall submit, in accordance with this division, an application for the testing to the court of common pleas and the prosecuting attorney. The inmate shall specify on the application the offense or offenses for which the inmate is requesting the DNA testing under this section. Along with the application, the inmate shall submit an acknowledgment that is signed by the inmate. The application and acknowledgment required under this division shall be the same application and acknowledgment as are used by eligible inmates who request DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

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The inmate shall file the application with the court of

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common pleas not later than ~~one year~~ two years after ~~the effective~~
~~date of this section~~ October 29, 2003. Upon filing the
application, the inmate shall serve a copy on the prosecuting
attorney.

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(C) Within forty-five days after the filing of an application
for DNA testing under division (B) of this section, the
prosecuting attorney shall file a statement with the court that
indicates whether the prosecuting attorney agrees or disagrees
that the inmate should be permitted to obtain DNA testing under
this section. If the prosecuting attorney agrees that the inmate
should be permitted to obtain DNA testing under this section, all
of the following apply:

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(1) The application and the written statement shall be
considered for all purposes as if they were an application for DNA
testing filed under section 2953.73 of the Revised Code that the
court accepted, and the court, the prosecuting attorney, the
attorney general, the inmate, law enforcement personnel, and all
other involved persons shall proceed regarding DNA testing for the
inmate pursuant to sections 2953.77 to 2953.81 of the Revised
Code, in the same manner as if the inmate was an eligible inmate
for whom an application for DNA testing had been accepted.

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(2) Upon completion of the DNA testing, section 2953.81 of
the Revised Code applies.

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(D) If the prosecuting attorney disagrees that the inmate
should be permitted to obtain DNA testing under this section, the
prosecuting attorney's disagreement is final and is not appealable
by any person to any court, and no court shall have authority,
without agreement of the prosecuting attorney, to order DNA
testing regarding that inmate and the offense or offenses for
which the inmate requested DNA testing in the application.

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(E) If the prosecuting attorney fails to file a statement of

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agreement or disagreement within the time provided in division (C) of this section, the court may order the prosecuting attorney to file a statement of that nature within fifteen days of the date of the order.

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Sec. 5120.021. (A) The provisions of Chapter 5120. of the Revised Code, as ~~it~~ they existed prior to July 1, 1996, ~~applies~~ and that address the duration or potential duration of incarceration or parole or other forms of supervised release, apply to ~~a person~~ all persons upon whom a court imposed a term of imprisonment prior to July 1, 1996, and ~~a person~~ all persons upon whom a court, on or after July 1, 1996, and in accordance with law existing prior to July 1, 1996, imposed a term of imprisonment for an offense that was committed prior to July 1, 1996.

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(B) The provisions of Chapter 5120. of the Revised Code, as ~~it exists~~ they exist on ~~and~~ or after ~~the effective date of this section~~ July 1, 1996, ~~applies~~ and that address the duration or potential duration of incarceration or supervised release, apply to ~~a person~~ all persons upon whom a court imposed a stated prison term for an offense committed on or after ~~the effective date of this section~~ July 1, 1996.

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(C) Nothing in this section limits or affects the applicability of any provision in Chapter 5120. of the Revised Code, as amended or enacted on or after July 1, 1996, that pertains to an issue other than the duration or potential duration of incarceration or supervised release, to persons in custody or under the supervision of the department of rehabilitation and correction.

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Section 2. That existing sections 109.573, 313.08, 2152.74, 2743.191, 2901.07, 2953.73, 2953.82, and 5120.021 of the Revised Code are hereby repealed.

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Section 3. The General Assembly hereby declares that its purpose in amending section 5120.021 of the Revised Code in Sections 1 and 2 of this act is to clarify the applicability of the provisions in Chapter 5120. of the Revised Code that address the duration or potential duration of incarceration and supervision of offenders by the Department of Rehabilitation and Correction, and to clarify the applicability of any other provision in Chapter 5120. of the Revised Code amended or enacted on or after July 1, 1996, to persons in custody or under supervision of the Department. The General Assembly believes that the amendments to section 5120.021 of the Revised Code made in Sections 1 and 2 of this act are not substantive in nature, that these amendments do not affect any substantive right of any offender, and that the version of section 5120.021 of the Revised Code resulting from this act is substantively the same as the version of that section in existence immediately prior to the effective date of this act.

Section 4. Section 2743.191 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 5 of the 125th 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.