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Senators Austria, Carey, Hottinger, Mumper, Schuler, Roberts, Miller,
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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
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(1) "DNA" means human deoxyribonucleic acid.	25
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(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 collection of DNA records of persons related by consanguinity of the first degree to a missing person.	46 47 48
(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.	49 50 51 52 53
(9) <u>"Administration of criminal justice"</u> means the <u>performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.</u> <u>"Administration of criminal justice"</u> also <u>includes criminal identification activities and the collection, storage, and dissemination of criminal history record information.</u>	54 55 56 57 58 59 60
(B)(1) The superintendent of the bureau of criminal identification and investigation may do all of the following:	61 62
(a) Establish and maintain a state DNA laboratory to perform DNA analyses of DNA specimens;	63 64
(b) Establish and maintain a DNA database;	65
(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;	66 67 68
(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.	69 70 71 72
(2) If the bureau of criminal identification and investigation establishes and maintains a DNA laboratory and a DNA	73 74

database, the bureau may use or disclose information regarding DNA records for the following purposes:	75 76
(a) The bureau may disclose information to a law enforcement agency for purposes of identification <u>the administration of criminal justice.</u>	77 78 79
(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.	80 81 82 83 84
(c) The bureau may use or disclose information from the population statistics database, for identification research and protocol development, or for quality control purposes.	85 86 87
(3) If the bureau of criminal identification and investigation establishes and maintains a relatives of missing persons database, all of the following apply:	88 89 90
(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.	91 92 93 94 95 96 97 98 99 100
(b) The bureau shall not charge a fee for the submission of a DNA specimen pursuant to division (B)(3)(a) of this section.	101 102
(c) If the DNA specimen submitted pursuant to division (B)(3)(a) of this section is collected by withdrawing blood from	103 104

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, preservation, and storage, DNA record keeping, and other duties required of the bureau under this section. A public or private laboratory under contract with the bureau shall follow quality assurance and privacy requirements established by the superintendent of the bureau.	137 138 139 140 141 142
(C) The superintendent of the bureau of criminal identification and investigation shall establish procedures for entering into the DNA database the DNA records submitted pursuant to sections 2152.74 and 2901.07 of the Revised Code and for determining an order of priority for entry of the DNA records based on the types of offenses committed by the persons whose records are submitted and the available resources of the bureau.	143 144 145 146 147 148 149
(D) When a DNA record is derived from a DNA specimen provided 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.	150 151 152 153 154 155 156 157 158 159 160
(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.	161 162 163 164 165 166
(F) The bureau of criminal identification and investigation	167

may charge a reasonable fee for providing information pursuant to this section to any law enforcement agency located in another state.	168 169 170
(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.	171 172 173 174 175 176
(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.	177 178 179
(H) The superintendent of the bureau of criminal identification and investigation shall establish procedures for all of the following:	180 181 182
(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;	183 184 185 186 187
(2) The collection, maintenance, preservation, and analysis of DNA specimens;	188 189
(3) The creation, maintenance, and operation of the DNA database;	190 191
(4) The use and dissemination of information from the DNA database;	192 193
(5) The creation, maintenance, and operation of the unidentified person database;	194 195
(6) The use and dissemination of information from the unidentified person database;	196 197

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

Revised Code.	258
(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, placed in a detention facility or district detention facility pursuant to division (A)(3) of section 2152.19 of the Revised Code, or placed in 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 detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which the child was committed or in which the child was placed. 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 or places the child in a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children, the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child is placed shall cause the DNA specimen to be collected from the child during the intake process for the detention facility, district detention facility, 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	259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289

collected from the child in accordance with division (C) of this 290
section. 291

(2) If a child is adjudicated a delinquent child for 292
committing an act listed in division (D) of this section, is 293
committed to or placed in the department of youth services, a 294
detention facility or district detention facility, or a school, 295
camp, institution, or other facility for delinquent children, and 296
does not submit to a DNA specimen collection procedure pursuant to 297
division (B)(1) of this section, prior to the child's release from 298
the custody of the department of youth services, from the custody 299
of the detention facility or district detention facility, or from 300
the custody of the school, camp, institution, or facility, the 301
child shall submit to, and the director of youth services or the 302
chief administrator of the detention facility, district detention 303
facility, school, camp, institution, or facility to which the 304
child is committed or in which the child was placed shall 305
administer, a DNA specimen collection procedure at the institution 306
operated by or under the control of the department of youth 307
services or at the detention facility, district detention 308
facility, school, camp, institution, or facility to which the 309
child is committed or in which the child was placed. ~~In accordance~~ 310
~~with division (C) of this section, the director or the chief~~ 311
~~administrative officer shall cause the DNA specimen to be~~ 312
~~forwarded to the bureau of criminal identification and~~ 313
~~investigation no later than fifteen days after the date of the~~ 314
~~collection of the DNA specimen.~~ The DNA specimen shall be 315
collected in accordance with division (C) of this section. 316

(3) If a child is adjudicated a delinquent child for 317
committing an act listed in division (D) of this section, is not 318
committed to or placed in the department of youth services, a 319
detention facility or district detention facility, or a school, 320
camp, institution, or other facility for delinquent children 321

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 <u>would be a misdemeanor if</u>	369
<u>committed by an adult and that arose out of the same facts and</u>	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 <u>that would be a misdemeanor if committed by an adult</u>	379
<u>and that would have been a violation of section 2905.04 of the</u>	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
(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
(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
(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
(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;	409
(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;	411
(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

2911.12 of the Revised Code that previously was dismissed or amended;	416 417
(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;	418 419 420 421
(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.	422 423 424 425 426 427
Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:	428 429 430
(a) The payment of awards of reparations that are granted by the attorney general;	431 432
(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	433 434 435
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	436 437
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	438 439
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	440 441
(f) The costs of investigation and decision-making as certified by the attorney general;	442 443
(g) The provision of state financial assistance to victim	444

assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;	445 446
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	447 448 449
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	450 451 452
(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;	453 454 455 456 457 458
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to section sections 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;	459 460 461 462 463 464 465 466 467
(l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(1) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year.	468 469 470 471 472 473 474
(2) All costs paid pursuant to section 2743.70 of the Revised	475

Code, the portions of license reinstatement fees mandated by division (F)(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 (C)(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 be deposited in the fund.	476 477 478 479 480 481 482 483 484 485 486
(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:	487 488 489 490 491
(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.	492 493 494
(2) The expense shall be charged against all available unencumbered moneys in the fund.	495 496
(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.	497 498 499 500 501 502 503 504
(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the	505 506

award, the attorney general shall request the general assembly to 507
make an appropriation sufficient to pay the award, and no payment 508
shall be made until the appropriation has been made. The attorney 509
general shall make this appropriation request during the current 510
biennium and during each succeeding biennium until a sufficient 511
appropriation is made. If, prior to the time that an appropriation 512
is made by the general assembly pursuant to this division, the 513
fund has sufficient unencumbered funds to pay the award or part of 514
the award, the available funds shall be used to pay the award or 515
part of the award, and the appropriation request shall be amended 516
to request only sufficient funds to pay that part of the award 517
that is unpaid. 518

(C) The attorney general shall not make payment on a decision 519
or order granting an award until all appeals have been determined 520
and all rights to appeal exhausted, except as otherwise provided 521
in this section. If any party to a claim for an award of 522
reparations appeals from only a portion of an award, and a 523
remaining portion provides for the payment of money by the state, 524
that part of the award calling for the payment of money by the 525
state and not a subject of the appeal shall be processed for 526
payment as described in this section. 527

(D) The attorney general shall prepare itemized bills for the 528
costs of printing and distributing the pamphlet the attorney 529
general prepares pursuant to section 109.42 of the Revised Code. 530
The itemized bills shall set forth the name and address of the 531
persons owed the amounts set forth in them. 532

(E) As used in this section, "DNA analysis" and "DNA 533
specimen" have the same meanings as in section 109.573 of the 534
Revised Code. 535

Sec. 2901.07. (A) As used in this section: 536

(1) "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.	537 538
(2) "Jail" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code.	539 540
(3) "Post-release control" has the same meaning as in section 2967.01 of the Revised Code.	541 542
(B)(1) A person who is convicted of or pleads guilty to a felony offense listed in division (D) of this section and who is sentenced to a prison term or to a community residential sanction in a jail or community-based correctional facility pursuant to section 2929.16 of the Revised Code, and a person who is convicted of or pleads guilty to a misdemeanor offense listed in division (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, multiconty, municipal, municipal-county, or multiconty-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	543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568

~~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. 569
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(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

<u>(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.</u>	633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651
<u>(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</u>	652 653 654 655 656 657 658 659 660 661 662 663 664

county, multiconty, municipal, municipal-county, or 665
multiconty-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, multiconty, municipal, 677
municipal-county, or multiconty-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 <u>misdemeanor</u> 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;	696 697 698 699 700 701 702 703
(5)(3) A <u>misdemeanor</u> 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;	704 705 706 707
(6)(4) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, <u>that is a misdemeanor</u> , 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+	708 709 710 711 712 713
(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;	714 715 716 717 718
(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;	719 720 721
(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.	722 723 724 725 726

(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:	727
(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;	728
(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;	729
(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;	730
(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;	731
(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 <u>may prescribe rules in accordance with Chapter 119.</u> 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.	732
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Sec. 2953.73. (A) An eligible inmate who wishes to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code shall submit an application for DNA testing on a form prescribed by the attorney general for this purpose and shall submit the form to the court of common pleas that sentenced the inmate for the offense for which the inmate is an eligible inmate and is requesting DNA testing. The eligible inmate shall submit the application to that court of common pleas not later than one year two years after the effective date of this section October 29, 2003. No court of common pleas shall accept an application under this section after the expiration of the period of time specified in this division.	758 759 760 761 762 763 764 765 766 767 768 769
(B) If an eligible inmate submits an application for DNA testing under division (A) of this section, upon the submission of the application, all of the following apply:	770 771 772
(1) The eligible inmate shall serve a copy of the application on the prosecuting attorney and the attorney general.	773 774
(2) The application shall be assigned to the judge of that court of common pleas who was the trial judge in the case in which the eligible inmate was convicted of the offense for which the inmate is requesting DNA testing, or, if that judge no longer is a judge of that court, it shall be assigned according to court rules. The judge to whom the application is assigned shall decide the application. The application shall become part of the file in the case.	775 776 777 778 779 780 781 782
(C) If an eligible inmate submits an application for DNA testing under division (A) of this section, regardless of whether the inmate has commenced any federal habeas corpus proceeding relative to the case in which the inmate was convicted of the offense for which the inmate is an eligible inmate and is requesting DNA testing, any response to the application by the	783 784 785 786 787 788

prosecuting attorney or the attorney general shall be filed not 789
later than forty-five days after the date on which the eligible 790
inmate submits the application. The prosecuting attorney or the 791
attorney general, or both, may, but are not required to, file a 792
response to the application. If the prosecuting attorney or the 793
attorney general files a response under this division, the 794
prosecuting attorney or attorney general, whoever filed the 795
response, shall serve a copy of the response on the eligible 796
inmate. 797

(D) If an eligible inmate submits an application for DNA 798
testing under division (A) of this section, the court shall make 799
the determination as to whether the application should be accepted 800
or rejected. The court shall expedite its review of the 801
application. The court shall make the determination in accordance 802
with the criteria and procedures set forth in sections 2953.74 to 803
2953.81 of the Revised Code and, in making the determination, 804
shall consider the application, the supporting affidavits, and the 805
documentary evidence and, in addition to those materials, shall 806
consider all the files and records pertaining to the proceedings 807
against the applicant, including, but not limited to, the 808
indictment, the court's journal entries, the journalized records 809
of the clerk of the court, and the court reporter's transcript and 810
all responses to the application filed under division (C) of this 811
section by a prosecuting attorney or the attorney general, unless 812
the application and the files and records show the applicant is 813
not entitled to DNA testing, in which case the application may be 814
denied. The court is not required to conduct an evidentiary 815
hearing in conducting its review of, and in making its 816
determination as to whether to accept or reject, the application. 817
Upon making its determination, the court shall enter a judgment 818
and order that either accepts or rejects the application and that 819
includes within the judgment and order the reasons for the 820

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.	821 822 823 824 825
(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:	826 827 828 829 830 831
(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.	832 833 834 835 836 837 838
(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.	839 840 841 842 843
(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.	844 845 846 847
(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	848 849 850 851

of the Revised Code on the eligible inmate.	852
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 <u>October 29, 2003</u> may request DNA testing under this section regarding that offense if all of the following apply:	853 854 855 856
(1) The inmate was sentenced to a prison term or sentence of death for that felony and, on the effective date of this section <u>October 29, 2003</u> , is in prison serving that prison term or under that sentence of death.	857 858 859 860
(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.	861 862 863 864 865 866
(B) An inmate who pleaded guilty or no contest to a felony offense that was committed prior to the effective date of this section <u>October 29, 2003</u> , 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.	867 868 869 870 871 872 873 874 875 876 877 878 879 880
The inmate shall file the application with the court of	881

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.	882 883 884 885
(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:	886 887 888 889 890 891 892 893
(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.	894 895 896 897 898 899 900 901 902
(2) Upon completion of the DNA testing, section 2953.81 of the Revised Code applies.	903 904
(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.	905 906 907 908 909 910 911
(E) If the prosecuting attorney fails to file a statement of	912

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.	913 914 915 916
 Sec. 5120.021. (A) <u>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,</u> <u>apply to a person all persons</u> upon whom a court imposed a term of imprisonment prior to July 1, 1996, and <u>a person all persons</u> 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.	917 918 919 920 921 922 923 924 925
(B) <u>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</u> 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.	926 927 928 929 930 931 932
(C) <u>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.</u>	933 934 935 936 937 938 939
 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.	940 941 942

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. 943
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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. 960
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