

**As Introduced**

**127th General Assembly  
Regular Session  
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**H. B. No. 218**

**Representative Chandler**

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**A B I L L**

To amend sections 109.573, 2953.21, 2953.23, 2953.71, 1  
2953.72, 2953.73, 2953.74, 2953.75, 2953.83, and 2  
2953.84 and to repeal section 2953.82 of the 3  
Revised Code to provide that an inmate who pleaded 4  
guilty or no contest to a felony, was sentenced to 5  
a prison term or death, and is eligible to apply 6  
for postconviction DNA testing may apply for such 7  
DNA testing under the same procedures as the 8  
application for postconviction DNA testing of an 9  
eligible inmate who was convicted of a felony 10  
offense and sentenced to a prison term or death. 11

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

**Section 1.** That sections 109.573, 2953.21, 2953.23, 2953.71, 12  
2953.72, 2953.73, 2953.74, 2953.75, 2953.83, and 2953.84 of the 13  
Revised Code be amended to read as follows: 14

**Sec. 109.573.** (A) As used in this section: 15

(1) "DNA" means human deoxyribonucleic acid. 16

(2) "DNA analysis" means a laboratory analysis of a DNA 17  
specimen to identify DNA characteristics and to create a DNA 18  
record. 19

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

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

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

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

(7) "Relatives of missing persons database" means a collection of DNA records of persons related by consanguinity to a missing person.

(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.

(9) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. "Administration of criminal justice" also includes criminal identification activities and the collection,

storage, and dissemination of criminal history record information.	51
(B)(1) The superintendent of the bureau of criminal identification and investigation may do all of the following:	52
(a) Establish and maintain a state DNA laboratory to perform DNA analyses of DNA specimens;	53
(b) Establish and maintain a DNA database;	54
(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;	55
(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.	56
(2) If the bureau of criminal identification and investigation establishes and maintains a DNA laboratory and a DNA database, the bureau may use or disclose information regarding DNA records for the following purposes:	57
(a) The bureau may disclose information to a law enforcement agency for the administration of criminal justice.	58
(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.	59
(c) The bureau may use or disclose information from the population statistics database, for identification research and protocol development, or for quality control purposes.	60
(3) If the bureau of criminal identification and investigation establishes and maintains a relatives of missing persons database, all of the following apply:	61

(a) If a person has disappeared and has been continuously 81  
absent from the person's place of last domicile for a thirty-day 82  
or longer period of time without being heard from during the 83  
period, persons related by consanguinity to the missing person may 84  
submit to the bureau a DNA specimen, the bureau may include the 85  
DNA record of the specimen in the relatives of missing persons 86  
database, and, if the bureau does not include the DNA record of 87  
the specimen in the relatives of missing persons database, the 88  
bureau shall retain the DNA record for future reference and 89  
inclusion as appropriate in that database. 90

(b) The bureau shall not charge a fee for the submission of a 91  
DNA specimen pursuant to division (B)(3)(a) of this section. 92

(c) If the DNA specimen submitted pursuant to division 93  
(B)(3)(a) of this section is collected by withdrawing blood from 94  
the person or a similarly invasive procedure, a physician, 95  
registered nurse, licensed practical nurse, duly licensed clinical 96  
laboratory technician, or other qualified medical practitioner 97  
shall conduct the collection procedure for the DNA specimen 98  
submitted pursuant to division (B)(3)(a) of this section and shall 99  
collect the DNA specimen in a medically approved manner. If the 100  
DNA specimen is collected by swabbing for buccal cells or a 101  
similarly noninvasive procedure, division (B)(3)(c) of this 102  
section does not require that the DNA specimen be collected by a 103  
qualified medical practitioner of that nature. No later than 104  
fifteen days after the date of the collection of the DNA specimen, 105  
the person conducting the DNA specimen collection procedure shall 106  
cause the DNA specimen to be forwarded to the bureau of criminal 107  
identification and investigation in accordance with procedures 108  
established by the superintendent of the bureau under division (H) 109  
of this section. The bureau may provide the specimen vials, 110  
mailing tubes, labels, postage, and instruction needed for the 111  
collection and forwarding of the DNA specimen to the bureau. 112

(d) The superintendent, in the superintendent's discretion, 113  
may compare DNA records in the relatives of missing persons 114  
database with the DNA records in the unidentified person database. 115

(4) If the bureau of criminal identification and 116  
investigation establishes and maintains an unidentified person 117  
database and if the superintendent of the bureau identifies a 118  
matching DNA record for the DNA record of a person or deceased 119  
person whose DNA record is contained in the unidentified person 120  
database, the superintendent shall inform the coroner who 121  
submitted or the law enforcement agency that submitted the DNA 122  
specimen to the bureau of the match and, if possible, of the 123  
identity of the unidentified person. 124

(5) The bureau of criminal identification and investigation 125  
may enter into a contract with a qualified public or private 126  
laboratory to perform DNA analyses, DNA specimen maintenance, 127  
preservation, and storage, DNA record keeping, and other duties 128  
required of the bureau under this section. A public or private 129  
laboratory under contract with the bureau shall follow quality 130  
assurance and privacy requirements established by the 131  
superintendent of the bureau. 132

(C) The superintendent of the bureau of criminal 133  
identification and investigation shall establish procedures for 134  
entering into the DNA database the DNA records submitted pursuant 135  
to sections 2152.74 and 2901.07 of the Revised Code and for 136  
determining an order of priority for entry of the DNA records 137  
based on the types of offenses committed by the persons whose 138  
records are submitted and the available resources of the bureau. 139

(D) When a DNA record is derived from a DNA specimen provided 140  
pursuant to section 2152.74 or 2901.07 of the Revised Code, the 141  
bureau of criminal identification and investigation shall attach 142  
to the DNA record personal identification information that 143  
identifies the person from whom the DNA specimen was taken. The 144

personal identification information may include the subject 145  
person's fingerprints and any other information the bureau 146  
determines necessary. The DNA record and personal identification 147  
information attached to it shall be used only for the purpose of 148  
personal identification or for a purpose specified in this 149  
section. 150

(E) DNA records, DNA specimens, fingerprints, and photographs 151  
that the bureau of criminal identification and investigation 152  
receives pursuant to this section and sections 313.08, 2152.74, 153  
and 2901.07 of the Revised Code and personal identification 154  
information attached to a DNA record are not public records under 155  
section 149.43 of the Revised Code. 156

(F) The bureau of criminal identification and investigation 157  
may charge a reasonable fee for providing information pursuant to 158  
this section to any law enforcement agency located in another 159  
state. 160

(G)(1) No person who because of the person's employment or 161  
official position has access to a DNA specimen, a DNA record, or 162  
other information contained in the DNA database that identifies an 163  
individual shall knowingly disclose that specimen, record, or 164  
information to any person or agency not entitled to receive it or 165  
otherwise shall misuse that specimen, record, or information. 166

(2) No person without authorization or privilege to obtain 167  
information contained in the DNA database that identifies an 168  
individual person shall purposely obtain that information. 169

(H) The superintendent of the bureau of criminal 170  
identification and investigation shall establish procedures for 171  
all of the following: 172

(1) The forwarding to the bureau of DNA specimens collected 173  
pursuant to division (H) of this section and sections 313.08, 174  
2152.74, and 2901.07 of the Revised Code and of fingerprints and 175

photographs collected pursuant to section 313.08 of the Revised Code;	176 177
(2) The collection, maintenance, preservation, and analysis of DNA specimens;	178 179
(3) The creation, maintenance, and operation of the DNA database;	180 181
(4) The use and dissemination of information from the DNA database;	182 183
(5) The creation, maintenance, and operation of the unidentified person database;	184 185
(6) The use and dissemination of information from the unidentified person database;	186 187
(7) The creation, maintenance, and operation of the relatives of missing persons database;	188 189
(8) The use and dissemination of information from the relatives of missing persons database;	190 191
(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;	192 193 194
(10) The operation of the bureau and responsibilities of employees of the bureau with respect to the activities described in this section.	195 196 197
(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 <del>2953.82</del> of the Revised Code.	198 199 200 201 202 203 204

Sec. 2953.21. (A)(1)(a) Any person who has been convicted of 205  
a criminal offense or adjudicated a delinquent child and who 206  
claims that there was such a denial or infringement of the 207  
person's rights as to render the judgment void or voidable under 208  
the Ohio Constitution or the Constitution of the United States, 209  
and any person who has been convicted of, pleaded guilty to, or 210  
pleaded no contest to a criminal offense that is a felony, who is 211  
an inmate, and for whom DNA testing that was performed under 212  
sections 2953.71 to 2953.81 of the Revised Code ~~or under section~~ 213  
~~2953.82 of the Revised Code~~ and analyzed in the context of and 214  
upon consideration of all available admissible evidence related to 215  
the inmate's case as described in division (D) of section 2953.74 216  
of the Revised Code provided results that establish, by clear and 217  
convincing evidence, actual innocence of that felony offense or, 218  
if the person was sentenced to death, establish, by clear and 219  
convincing evidence, actual innocence of the aggravating 220  
circumstance or circumstances the person was found guilty of 221  
committing and that is or are the basis of that sentence of death, 222  
may file a petition in the court that imposed sentence, stating 223  
the grounds for relief relied upon, and asking the court to vacate 224  
or set aside the judgment or sentence or to grant other 225  
appropriate relief. The petitioner may file a supporting affidavit 226  
and other documentary evidence in support of the claim for relief. 227

(b) As used in division (A)(1)(a) of this section, "actual 228  
innocence" means that, had the results of the DNA testing 229  
conducted under sections 2953.71 to 2953.81 of the Revised Code ~~or~~ 230  
~~under section 2953.82 of the Revised Code~~ been presented at trial, 231  
and had those results been analyzed in the context of and upon 232  
consideration of all available admissible evidence related to the 233  
inmate's case as described in division (D) of section 2953.74 of 234  
the Revised Code, no reasonable factfinder would have found the 235  
petitioner guilty of the offense of which the petitioner was 236



convicted or to which the petitioner pleaded guilty or no contest, 237  
or, if the person was sentenced to death, no reasonable factfinder 238  
would have found the petitioner guilty of the aggravating 239  
circumstance or circumstances the petitioner was found guilty of 240  
committing and that is or are the basis of that sentence of death. 241

(2) Except as otherwise provided in section 2953.23 of the 242  
Revised Code, a petition under division (A)(1) of this section 243  
shall be filed no later than one hundred eighty days after the 244  
date on which the trial transcript is filed in the court of 245  
appeals in the direct appeal of the judgment of conviction or 246  
adjudication or, if the direct appeal involves a sentence of 247  
death, the date on which the trial transcript is filed in the 248  
supreme court. If no appeal is taken, except as otherwise provided 249  
in section 2953.23 of the Revised Code, the petition shall be 250  
filed no later than one hundred eighty days after the expiration 251  
of the time for filing the appeal. 252

(3) In a petition filed under division (A) of this section, a 253  
person who has been sentenced to death may ask the court to render 254  
void or voidable the judgment with respect to the conviction of 255  
aggravated murder or the specification of an aggravating 256  
circumstance or the sentence of death. 257

(4) A petitioner shall state in the original or amended 258  
petition filed under division (A) of this section all grounds for 259  
relief claimed by the petitioner. Except as provided in section 260  
2953.23 of the Revised Code, any ground for relief that is not so 261  
stated in the petition is waived. 262

(5) If the petitioner in a petition filed under division (A) 263  
of this section was convicted of or pleaded guilty to a felony, 264  
the petition may include a claim that the petitioner was denied 265  
the equal protection of the laws in violation of the Ohio 266  
Constitution or the United States Constitution because the 267  
sentence imposed upon the petitioner for the felony was part of a 268

consistent pattern of disparity in sentencing by the judge who 269  
imposed the sentence, with regard to the petitioner's race, 270  
gender, ethnic background, or religion. If the supreme court 271  
adopts a rule requiring a court of common pleas to maintain 272  
information with regard to an offender's race, gender, ethnic 273  
background, or religion, the supporting evidence for the petition 274  
shall include, but shall not be limited to, a copy of that type of 275  
information relative to the petitioner's sentence and copies of 276  
that type of information relative to sentences that the same judge 277  
imposed upon other persons. 278

(B) The clerk of the court in which the petition is filed 279  
shall docket the petition and bring it promptly to the attention 280  
of the court. The clerk of the court in which the petition is 281  
filed immediately shall forward a copy of the petition to the 282  
prosecuting attorney of that county. 283

(C) The court shall consider a petition that is timely filed 284  
under division (A)(2) of this section even if a direct appeal of 285  
the judgment is pending. Before granting a hearing on a petition 286  
filed under division (A) of this section, the court shall 287  
determine whether there are substantive grounds for relief. In 288  
making such a determination, the court shall consider, in addition 289  
to the petition, the supporting affidavits, and the documentary 290  
evidence, all the files and records pertaining to the proceedings 291  
against the petitioner, including, but not limited to, the 292  
indictment, the court's journal entries, the journalized records 293  
of the clerk of the court, and the court reporter's transcript. 294  
The court reporter's transcript, if ordered and certified by the 295  
court, shall be taxed as court costs. If the court dismisses the 296  
petition, it shall make and file findings of fact and conclusions 297  
of law with respect to such dismissal. 298

(D) Within ten days after the docketing of the petition, or 299  
within any further time that the court may fix for good cause 300

shown, the prosecuting attorney shall respond by answer or motion. 301  
Within twenty days from the date the issues are raised, either 302  
party may move for summary judgment. The right to summary judgment 303  
shall appear on the face of the record. 304

(E) Unless the petition and the files and records of the case 305  
show the petitioner is not entitled to relief, the court shall 306  
proceed to a prompt hearing on the issues even if a direct appeal 307  
of the case is pending. If the court notifies the parties that it 308  
has found grounds for granting relief, either party may request an 309  
appellate court in which a direct appeal of the judgment is 310  
pending to remand the pending case to the court. 311

(F) At any time before the answer or motion is filed, the 312  
petitioner may amend the petition with or without leave or 313  
prejudice to the proceedings. The petitioner may amend the 314  
petition with leave of court at any time thereafter. 315

(G) If the court does not find grounds for granting relief, 316  
it shall make and file findings of fact and conclusions of law and 317  
shall enter judgment denying relief on the petition. If no direct 318  
appeal of the case is pending and the court finds grounds for 319  
relief or if a pending direct appeal of the case has been remanded 320  
to the court pursuant to a request made pursuant to division (E) 321  
of this section and the court finds grounds for granting relief, 322  
it shall make and file findings of fact and conclusions of law and 323  
shall enter a judgment that vacates and sets aside the judgment in 324  
question, and, in the case of a petitioner who is a prisoner in 325  
custody, shall discharge or resentence the petitioner or grant a 326  
new trial as the court determines appropriate. The court also may 327  
make supplementary orders to the relief granted, concerning such 328  
matters as rearraignment, retrial, custody, and bail. If the trial 329  
court's order granting the petition is reversed on appeal and if 330  
the direct appeal of the case has been remanded from an appellate 331  
court pursuant to a request under division (E) of this section, 332

the appellate court reversing the order granting the petition 333  
shall notify the appellate court in which the direct appeal of the 334  
case was pending at the time of the remand of the reversal and 335  
remand of the trial court's order. Upon the reversal and remand of 336  
the trial court's order granting the petition, regardless of 337  
whether notice is sent or received, the direct appeal of the case 338  
that was remanded is reinstated. 339

(H) Upon the filing of a petition pursuant to division (A) of 340  
this section by a person sentenced to death, only the supreme 341  
court may stay execution of the sentence of death. 342

(I)(1) If a person sentenced to death intends to file a 343  
petition under this section, the court shall appoint counsel to 344  
represent the person upon a finding that the person is indigent 345  
and that the person either accepts the appointment of counsel or 346  
is unable to make a competent decision whether to accept or reject 347  
the appointment of counsel. The court may decline to appoint 348  
counsel for the person only upon a finding, after a hearing if 349  
necessary, that the person rejects the appointment of counsel and 350  
understands the legal consequences of that decision or upon a 351  
finding that the person is not indigent. 352

(2) The court shall not appoint as counsel under division 353  
(I)(1) of this section an attorney who represented the petitioner 354  
at trial in the case to which the petition relates unless the 355  
person and the attorney expressly request the appointment. The 356  
court shall appoint as counsel under division (I)(1) of this 357  
section only an attorney who is certified under Rule 20 of the 358  
Rules of Superintendence for the Courts of Ohio to represent 359  
indigent defendants charged with or convicted of an offense for 360  
which the death penalty can be or has been imposed. The 361  
ineffectiveness or incompetence of counsel during proceedings 362  
under this section does not constitute grounds for relief in a 363  
proceeding under this section, in an appeal of any action under 364

this section, or in an application to reopen a direct appeal. 365

(3) Division (I) of this section does not preclude attorneys 366  
who represent the state of Ohio from invoking the provisions of 28 367  
U.S.C. 154 with respect to capital cases that were pending in 368  
federal habeas corpus proceedings prior to July 1, 1996, insofar 369  
as the petitioners in those cases were represented in proceedings 370  
under this section by one or more counsel appointed by the court 371  
under this section or section 120.06, 120.16, 120.26, or 120.33 of 372  
the Revised Code and those appointed counsel meet the requirements 373  
of division (I)(2) of this section. 374

(J) Subject to the appeal of a sentence for a felony that is 375  
authorized by section 2953.08 of the Revised Code, the remedy set 376  
forth in this section is the exclusive remedy by which a person 377  
may bring a collateral challenge to the validity of a conviction 378  
or sentence in a criminal case or to the validity of an 379  
adjudication of a child as a delinquent child for the commission 380  
of an act that would be a criminal offense if committed by an 381  
adult or the validity of a related order of disposition. 382

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a 383  
petition filed pursuant to section 2953.21 of the Revised Code, a 384  
court may not entertain a petition filed after the expiration of 385  
the period prescribed in division (A) of that section or a second 386  
petition or successive petitions for similar relief on behalf of a 387  
petitioner unless division (A)(1) or (2) of this section applies: 388

(1) Both of the following apply: 389

(a) Either the petitioner shows that the petitioner was 390  
unavoidably prevented from discovery of the facts upon which the 391  
petitioner must rely to present the claim for relief, or, 392  
subsequent to the period prescribed in division (A)(2) of section 393  
2953.21 of the Revised Code or to the filing of an earlier 394  
petition, the United States Supreme Court recognized a new federal 395

or state right that applies retroactively to persons in the 396  
petitioner's situation, and the petition asserts a claim based on 397  
that right. 398

(b) The petitioner shows by clear and convincing evidence 399  
that, but for constitutional error at trial, no reasonable 400  
factfinder would have found the petitioner guilty of the offense 401  
of which the petitioner was convicted or, if the claim challenges 402  
a sentence of death that, but for constitutional error at the 403  
sentencing hearing, no reasonable factfinder would have found the 404  
petitioner eligible for the death sentence. 405

(2) The petitioner was convicted of, pleaded guilty to, or 406  
pleaded no contest to a felony, the petitioner is an inmate for 407  
whom DNA testing was performed under sections 2953.71 to 2953.81 408  
of the Revised Code ~~or under section 2953.82 of the Revised Code~~ 409  
and analyzed in the context of and upon consideration of all 410  
available admissible evidence related to the inmate's case as 411  
described in division (D) of section 2953.74 of the Revised Code, 412  
and the results of the DNA testing establish, by clear and 413  
convincing evidence, actual innocence of that felony offense or, 414  
if the person was sentenced to death, establish, by clear and 415  
convincing evidence, actual innocence of the aggravating 416  
circumstance or circumstances the person was found guilty of 417  
committing and that is or are the basis of that sentence of death. 418

As used in this division, "actual innocence" has the same 419  
meaning as in division (A)(1)(b) of section 2953.21 of the Revised 420  
Code. 421

(B) An order awarding or denying relief sought in a petition 422  
filed pursuant to section 2953.21 of the Revised Code is a final 423  
judgment and may be appealed pursuant to Chapter 2953. of the 424  
Revised Code. 425

**Sec. 2953.71.** As used in sections 2953.71 to 2953.83 of the 426

Revised Code:	427
(A) "Application" or "application for DNA testing" means a request through postconviction relief for the state to do DNA testing on biological material from <del>whichever of the following is applicable:</del>	428 429 430 431
<del>(1) The <u>the</u> case in which the inmate was convicted of, <u>pleaded guilty to, or pleaded no contest to</u> the offense for which the inmate is an eligible inmate and is requesting the DNA testing under sections 2953.71 to 2953.81 of the Revised Code:</del>	432 433 434 435
<del>(2) The case in which the inmate pleaded guilty or no contest to the offense for which the inmate is requesting the DNA testing under section 2953.82 of the Revised Code.</del>	436 437 438
(B) "Biological material" means any product of a human body containing DNA.	439 440
(C) "Chain of custody" means a record or other evidence that tracks a subject sample of biological material from the time the biological material was first obtained until the time it currently exists in its place of storage and, in relation to a DNA sample, a record or other evidence that tracks the DNA sample from the time it was first obtained until it currently exists in its place of storage. For purposes of this division, examples of when biological material or a DNA sample is first obtained include, but are not limited to, obtaining the material or sample at the scene of a crime, from a victim, from an inmate, or in any other manner or time as is appropriate in the facts and circumstances present.	441 442 443 444 445 446 447 448 449 450 451
(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question.	452 453
(E) "Custodian" means the person who is the primary representative of a custodial agency.	454 455
(F) "Eligible inmate" means an inmate who is eligible under	456

division (C) of section 2953.72 of the Revised Code to request DNA 457  
testing to be conducted under sections 2953.71 to 2953.81 of the 458  
Revised Code. 459

(G) "Exclusion" or "exclusion result" means a result of DNA 460  
testing that scientifically precludes or forecloses the subject 461  
inmate as a contributor of biological material recovered from the 462  
crime scene or victim in question, in relation to the offense for 463  
which the inmate is an eligible inmate and for which the sentence 464  
of death or prison term was imposed upon the inmate ~~or, regarding~~ 465  
~~a request for DNA testing made under section 2953.82 of the~~ 466  
~~Revised Code, in relation to the offense for which the inmate made~~ 467  
~~the request and for which the sentence of death or prison term was~~ 468  
~~imposed upon the inmate.~~ 469

(H) "Extracting personnel" means medically approved personnel 470  
who are employed to physically obtain an inmate DNA specimen for 471  
purposes of DNA testing under sections 2953.71 to 2953.81 ~~or~~ 472  
~~section 2953.82~~ of the Revised Code. 473

(I) "Inclusion" or "inclusion result" means a result of DNA 474  
testing that scientifically cannot exclude, or that holds 475  
accountable, the subject inmate as a contributor of biological 476  
material recovered from the crime scene or victim in question, in 477  
relation to the offense for which the inmate is an eligible inmate 478  
and for which the sentence of death or prison term was imposed 479  
upon the inmate ~~or, regarding a request for DNA testing made under~~ 480  
~~section 2953.82 of the Revised Code, in relation to the offense~~ 481  
~~for which the inmate made the request and for which the sentence~~ 482  
~~of death or prison term was imposed upon the inmate.~~ 483

(J) "Inconclusive" or "inconclusive result" means a result of 484  
DNA testing that is rendered when a scientifically appropriate and 485  
definitive DNA analysis or result, or both, cannot be determined. 486  
487



(K) "Inmate" means an inmate in a prison who was sentenced by a court, or by a jury and a court, of this state.

(L) "Outcome determinative" means that had the results of DNA testing of the subject inmate been presented at the trial of the subject inmate requesting DNA testing and been found relevant and admissible with respect to the felony offense for which the inmate is an eligible inmate and is requesting the DNA testing ~~or for which the inmate is requesting the DNA testing under section 2953.82 of the Revised Code~~, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the inmate's case as described in division (D) of section 2953.74 of the Revised Code, there is a strong probability that no reasonable factfinder would have found the inmate guilty of that offense or, if the inmate was sentenced to death relative to that offense, would have found the inmate guilty of the aggravating circumstance or circumstances the inmate was found guilty of committing and that is or are the basis of that sentence of death.

(M) "Parent sample" means the biological material first obtained from a crime scene or a victim of an offense for which an inmate is an eligible inmate ~~or for which the inmate is requesting the DNA testing under section 2953.82 of the Revised Code~~, and from which a sample will be presently taken to do a DNA comparison to the DNA of the subject inmate under sections 2953.71 to 2953.81 ~~or section 2953.82 of the Revised Code~~.

(N) "Prison" has the same meaning as in section 2929.01 of the Revised Code.

(O) "Prosecuting attorney" means the prosecuting attorney who, or whose office, prosecuted the case in which the subject inmate was convicted of the offense for which the inmate is an eligible inmate and is requesting the DNA testing ~~or for which the inmate is requesting the DNA testing under section 2953.82 of the~~

~~Revised Code.~~ 520

(P) "Prosecuting authority" means the prosecuting attorney or 521  
the attorney general. 522

(Q) "Reasonable diligence" means a degree of diligence that 523  
is comparable to the diligence a reasonable person would employ in 524  
searching for information regarding an important matter in the 525  
person's own life. 526

(R) "Testing authority" means a laboratory at which DNA 527  
testing will be conducted under sections 2953.71 to 2953.81 ~~or~~ 528  
~~section 2953.82~~ of the Revised Code. 529

**Sec. 2953.72.** (A) Any eligible inmate who wishes to request 530  
DNA testing under sections 2953.71 to 2953.81 of the Revised Code 531  
shall submit an application for the testing to the court of common 532  
pleas specified in section 2953.73 of the Revised Code, on a form 533  
prescribed by the attorney general for this purpose. The eligible 534  
inmate shall submit the application in accordance with the 535  
procedures set forth in section 2953.73 of the Revised Code. The 536  
eligible inmate shall specify on the application the offense or 537  
offenses for which the inmate is an eligible inmate and is 538  
requesting the DNA testing. Along with the application, the 539  
eligible inmate shall submit an acknowledgment that is on a form 540  
prescribed by the attorney general for this purpose and that is 541  
signed by the inmate. The acknowledgment shall set forth all of 542  
the following: 543

(1) That sections 2953.71 to 2953.81 of the Revised Code 544  
contemplate applications for DNA testing of eligible inmates at a 545  
stage of a prosecution or case after the inmate has been sentenced 546  
to a prison term or a sentence of death, that any exclusion or 547  
inclusion result of DNA testing rendered pursuant to those 548  
sections may be used by a party in any proceeding as described in 549  
section 2953.81 of the Revised Code, and that all requests for any 550

DNA testing made at trial will continue to be handled by the 551  
prosecuting attorney in the case; 552

(2) That the process of conducting postconviction DNA testing 553  
for an eligible inmate under sections 2953.71 to 2953.81 of the 554  
Revised Code begins when the inmate submits an application under 555  
section 2953.73 of the Revised Code and the acknowledgment 556  
described in this section; 557

(3) That the eligible inmate must submit the application and 558  
acknowledgment to the court of common pleas that heard the case in 559  
which the inmate was convicted of, pleaded guilty to, or pleaded 560  
no contest to the offense for which the inmate is an eligible 561  
offender and is requesting the DNA testing; 562

(4) That the state has established a set of criteria set 563  
forth in section 2953.74 of the Revised Code by which eligible 564  
inmate applications for DNA testing will be screened and that a 565  
judge of a court of common pleas upon receipt of a properly filed 566  
application and accompanying acknowledgment will apply those 567  
criteria to determine whether to accept or reject the application; 568

(5) That the results of DNA testing conducted under sections 569  
2953.71 to 2953.81 of the Revised Code will be provided as 570  
described in section 2953.81 of the Revised Code to all parties in 571  
the postconviction proceedings and will be reported to various 572  
courts; 573

(6) That, if DNA testing is conducted with respect to an 574  
inmate under sections 2953.71 to 2953.81 of the Revised Code, the 575  
state will not offer the inmate a retest if an inclusion result is 576  
achieved relative to the testing and that, if the state were to 577  
offer a retest after an inclusion result, the policy would create 578  
an atmosphere in which endless testing could occur and in which 579  
postconviction proceedings could be stalled for many years; 580

(7) That, if the court rejects an eligible inmate's 581

application for DNA testing because the inmate does not satisfy 582  
the acceptance criteria described in division (A)(4) of this 583  
section, the court will not accept or consider subsequent 584  
applications; 585

(8) That the acknowledgment memorializes the provisions of 586  
sections 2953.71 to 2953.81 of the Revised Code with respect to 587  
the application of postconviction DNA testing to inmates, that 588  
those provisions do not give any inmate any additional 589  
constitutional right that the inmate did not already have, that 590  
the court has no duty or obligation to provide postconviction DNA 591  
testing to inmates, that the court of common pleas has the sole 592  
discretion subject to an appeal as described in this division to 593  
determine whether an inmate is an eligible inmate and whether an 594  
eligible inmate's application for DNA testing satisfies the 595  
acceptance criteria described in division (A)(4) of this section 596  
and whether the application should be accepted or rejected, that 597  
if the court of common pleas rejects an eligible inmate's 598  
application, the inmate may seek leave of the supreme court to 599  
appeal the rejection to that court if the inmate was sentenced to 600  
death for the offense for which the inmate is requesting the DNA 601  
testing and, if the inmate was not sentenced to death for that 602  
offense, may appeal the rejection to the court of appeals, and 603  
that no determination otherwise made by the court of common pleas 604  
in the exercise of its discretion regarding the eligibility of an 605  
inmate or regarding postconviction DNA testing under those 606  
provisions is reviewable by or appealable to any court; 607

(9) That the manner in which sections 2953.71 to 2953.81 of 608  
the Revised Code with respect to the offering of postconviction 609  
DNA testing to inmates are carried out does not confer any 610  
constitutional right upon any inmate, that the state has 611  
established guidelines and procedures relative to those provisions 612  
to ensure that they are carried out with both justice and 613

efficiency in mind, and that an inmate who participates in any 614  
phase of the mechanism contained in those provisions, including, 615  
but not limited to, applying for DNA testing and being rejected, 616  
having an application for DNA testing accepted and not receiving 617  
the test, or having DNA testing conducted and receiving 618  
unfavorable results, does not gain as a result of the 619  
participation any constitutional right to challenge, or, except as 620  
provided in division (A)(8) of this section, any right to any 621  
review or appeal of, the manner in which those provisions are 622  
carried out; 623

(10) That the most basic aspect of sections 2953.71 to 624  
2953.81 of the Revised Code is that, in order for DNA testing to 625  
occur, there must be an inmate sample against which other evidence 626  
may be compared, that, if an eligible inmate's application is 627  
accepted but the inmate subsequently refuses to submit to the 628  
collection of the sample of biological material from the inmate or 629  
hinders the state from obtaining a sample of biological material 630  
from the inmate, the goal of those provisions will be frustrated, 631  
and that an inmate's refusal or hindrance shall cause the court to 632  
rescind its prior acceptance of the application for DNA testing 633  
for the inmate and deny the application; 634

~~(11) That, if the inmate is an inmate who pleaded guilty or 635  
no contest to a felony offense and who is using the application 636  
and acknowledgment to request DNA testing under section 2953.82 of 637  
the Revised Code, all references in the acknowledgment to an 638  
"eligible inmate" are considered to be references to, and apply 639  
to, the inmate and all references in the acknowledgment to 640  
"sections 2953.71 to 2953.81 of the Revised Code" are considered 641  
to be references to "section 2953.82 of the Revised Code."~~ 642

(B) The attorney general shall prescribe a form to be used to 643  
make an application for DNA testing under division (A) of this 644  
section and section 2953.73 of the Revised Code and a form to be 645

used to provide the acknowledgment described in division (A) of 646  
this section. The forms shall include all information described in 647  
division (A) of this section, spaces for an inmate to insert all 648  
information necessary to complete the forms, including, but not 649  
limited to, specifying the offense or offenses for which the 650  
inmate is an eligible inmate and is requesting the DNA testing ~~or~~ 651  
~~for which the inmate is requesting the DNA testing under section~~ 652  
~~2953.82 of the Revised Code, and any other information or material~~ 653  
the attorney general determines is necessary or relevant. ~~The~~ 654  
~~forms also shall be used to make an application requesting DNA~~ 655  
~~testing under section 2953.82 of the Revised Code, and the~~ 656  
~~attorney general shall ensure that they are sufficient for that~~ 657  
~~type of use, and that they include all information and spaces~~ 658  
~~necessary for that type of use.~~ The attorney general shall 659  
distribute copies of the prescribed forms to the department of 660  
rehabilitation and correction, the department shall ensure that 661  
each prison in which inmates are housed has a supply of copies of 662  
the forms, and the department shall ensure that copies of the 663  
forms are provided free of charge to any inmate who requests them. 664

(C)~~(1)~~ An inmate is eligible to request DNA testing to be 665  
conducted under sections 2953.71 to 2953.81 of the Revised Code 666  
only if all of the following apply: 667

~~(a)~~(1) The offense for which the inmate claims to be an 668  
eligible inmate is a felony, and the inmate was convicted by a 669  
judge or jury of that offense or the inmate pleaded guilty or no 670  
contest to that offense. 671

~~(b)~~(2) The inmate was sentenced to a prison term or sentence 672  
of death for the felony described in division (C)(1)~~(a)~~ of this 673  
section and is in prison serving that prison term or under that 674  
sentence of death. 675

~~(c)~~(3) On the date on which the application is filed, the 676  
inmate has at least one year remaining on the prison term 677

described in division (C)~~(1)(b)~~(2) of this section, or the inmate 678  
is in prison under a sentence of death as described in that 679  
division. 680

~~(2) An inmate is not an eligible inmate under division (C)(1)~~ 681  
~~of this section regarding any offense to which the inmate pleaded~~ 682  
~~guilty or no contest.~~ 683

**Sec. 2953.73.** (A) An eligible inmate who wishes to request 684  
DNA testing to be conducted under sections 2953.71 to 2953.81 of 685  
the Revised Code shall submit an application for DNA testing on a 686  
form prescribed by the attorney general for this purpose and shall 687  
submit the form to the court of common pleas that sentenced the 688  
inmate for the offense for which the inmate is an eligible inmate 689  
and is requesting DNA testing. 690

(B) If an eligible inmate submits an application for DNA 691  
testing under division (A) of this section, upon the submission of 692  
the application, all of the following apply: 693

(1) The eligible inmate shall serve a copy of the application 694  
on the prosecuting attorney and the attorney general. 695

(2) The application shall be assigned to the judge of that 696  
court of common pleas who was the trial judge in the case in which 697  
the eligible inmate was convicted of, pleaded guilty to, or 698  
pleaded no contest to the offense for which the inmate is 699  
requesting DNA testing, or, if that judge no longer is a judge of 700  
that court, it shall be assigned according to court rules. The 701  
judge to whom the application is assigned shall decide the 702  
application. The application shall become part of the file in the 703  
case. 704

(C) If an eligible inmate submits an application for DNA 705  
testing under division (A) of this section, regardless of whether 706  
the inmate has commenced any federal habeas corpus proceeding 707

relative to the case in which the inmate was convicted of, pleaded 708  
guilty to, or pleaded no contest to the offense for which the 709  
inmate is an eligible inmate and is requesting DNA testing, any 710  
response to the application by the prosecuting attorney or the 711  
attorney general shall be filed not later than forty-five days 712  
after the date on which the eligible inmate submits the 713  
application. The prosecuting attorney or the attorney general, or 714  
both, may, but are not required to, file a response to the 715  
application. If the prosecuting attorney or the attorney general 716  
files a response under this division, the prosecuting attorney or 717  
attorney general, whoever filed the response, shall serve a copy 718  
of the response on the eligible inmate. 719

(D) If an eligible inmate submits an application for DNA 720  
testing under division (A) of this section, the court shall make 721  
the determination as to whether the application should be accepted 722  
or rejected. The court shall expedite its review of the 723  
application. The court shall make the determination in accordance 724  
with the criteria and procedures set forth in sections 2953.74 to 725  
2953.81 of the Revised Code and, in making the determination, 726  
shall consider the application, the supporting affidavits, and the 727  
documentary evidence and, in addition to those materials, shall 728  
consider all the files and records pertaining to the proceedings 729  
against the applicant, including, but not limited to, the 730  
indictment, the court's journal entries, the journalized records 731  
of the clerk of the court, and the court reporter's transcript and 732  
all responses to the application filed under division (C) of this 733  
section by a prosecuting attorney or the attorney general, unless 734  
the application and the files and records show the applicant is 735  
not entitled to DNA testing, in which case the application may be 736  
denied. The court is not required to conduct an evidentiary 737  
hearing in conducting its review of, and in making its 738  
determination as to whether to accept or reject, the application. 739  
Upon making its determination, the court shall enter a judgment 740



and order that either accepts or rejects the application and that 741  
includes within the judgment and order the reasons for the 742  
acceptance or rejection as applied to the criteria and procedures 743  
set forth in sections 2953.71 to 2953.81 of the Revised Code. The 744  
court shall send a copy of the judgment and order to the eligible 745  
inmate who filed it, the prosecuting attorney, and the attorney 746  
general. 747

(E) A judgment and order of a court entered under division 748  
(D) of this section is appealable only as provided in this 749  
division. If an eligible inmate submits an application for DNA 750  
testing under section 2953.73 of the Revised Code and the court of 751  
common pleas rejects the application under division (D) of this 752  
section, one of the following applies: 753

(1) If the inmate was sentenced to death for the offense for 754  
which the inmate claims to be an eligible inmate and is requesting 755  
DNA testing, the inmate may seek leave of the supreme court to 756  
appeal the rejection to the supreme court. Courts of appeals do 757  
not have jurisdiction to review any rejection if the inmate was 758  
sentenced to death for the offense for which the inmate claims to 759  
be an eligible inmate and is requesting DNA testing. 760

(2) If the inmate was not sentenced to death for the offense 761  
for which the inmate claims to be an eligible inmate and is 762  
requesting DNA testing, the rejection is a final appealable order, 763  
and the inmate may appeal it to the court of appeals of the 764  
district in which is located that court of common pleas. 765

(F) Notwithstanding any provision of law regarding fees and 766  
costs, no filing fee shall be required of, and no court costs 767  
shall be assessed against, an eligible offender who is indigent 768  
and who submits an application under this section. 769

(G) If a court rejects an eligible inmate's application for 770  
DNA testing under division (D) of this section, unless the 771

rejection is overturned on appeal, no court shall require the 772  
state to administer a DNA test under sections 2953.71 to 2953.81 773  
of the Revised Code on the eligible inmate. 774

**Sec. 2953.74.** (A) If an eligible inmate submits an 775  
application for DNA testing under section 2953.73 of the Revised 776  
Code and a prior definitive DNA test has been conducted regarding 777  
the same biological evidence that the inmate seeks to have tested, 778  
the court shall reject the inmate's application. If an eligible 779  
inmate files an application for DNA testing and a prior 780  
inconclusive DNA test has been conducted regarding the same 781  
biological evidence that the inmate seeks to have tested, the 782  
court shall review the application and has the discretion, on a 783  
case-by-case basis, to either accept or reject the application. 784  
The court may direct a testing authority to provide the court with 785  
information that the court may use in determining whether prior 786  
DNA test results were definitive or inconclusive and whether to 787  
accept or reject an application in relation to which there were 788  
prior inconclusive DNA test results. 789

(B) If an eligible inmate submits an application for DNA 790  
testing under section 2953.73 of the Revised Code, the court may 791  
accept the application only if one of the following applies: 792

(1) The inmate did not have a DNA test taken at the trial 793  
stage in the case in which the inmate was convicted of, pleaded 794  
guilty to, or pleaded no contest to the offense for which the 795  
inmate is an eligible inmate and is requesting the DNA testing 796  
regarding the same biological evidence that the inmate seeks to 797  
have tested, the inmate shows that DNA exclusion when analyzed in 798  
the context of and upon consideration of all available admissible 799  
evidence related to the subject inmate's case as described in 800  
division (D) of this section would have been outcome determinative 801  
at that trial stage in that case, and, at the time of the trial 802

stage in that case, DNA testing was not generally accepted, the 803  
results of DNA testing were not generally admissible in evidence, 804  
or DNA testing was not yet available. 805

(2) The inmate had a DNA test taken at the trial stage in the 806  
case in which the inmate was convicted of, pleaded guilty to, or 807  
pleaded no contest to the offense for which the inmate is an 808  
eligible inmate and is requesting the DNA testing regarding the 809  
same biological evidence that the inmate seeks to have tested, the 810  
test was not a prior definitive DNA test that is subject to 811  
division (A) of this section, and the inmate shows that DNA 812  
exclusion when analyzed in the context of and upon consideration 813  
of all available admissible evidence related to the subject 814  
inmate's case as described in division (D) of this section would 815  
have been outcome determinative at the trial stage in that case. 816

(C) If an eligible inmate submits an application for DNA 817  
testing under section 2953.73 of the Revised Code, the court may 818  
accept the application only if all of the following apply: 819

(1) The court determines pursuant to section 2953.75 of the 820  
Revised Code that biological material was collected from the crime 821  
scene or the victim of the offense for which the inmate is an 822  
eligible inmate and is requesting the DNA testing and that the 823  
parent sample of that biological material against which a sample 824  
from the inmate can be compared still exists at that point in 825  
time. 826

(2) The testing authority determines all of the following 827  
pursuant to section 2953.76 of the Revised Code regarding the 828  
parent sample of the biological material described in division 829  
(C)(1) of this section: 830

(a) The parent sample of the biological material so collected 831  
contains scientifically sufficient material to extract a test 832  
sample. 833

(b) The parent sample of the biological material so collected 834  
is not so minute or fragile as to risk destruction of the parent 835  
sample by the extraction described in division (C)(2)(a) of this 836  
section; provided that the court may determine in its discretion, 837  
on a case-by-case basis, that, even if the parent sample of the 838  
biological material so collected is so minute or fragile as to 839  
risk destruction of the parent sample by the extraction, the 840  
application should not be rejected solely on the basis of that 841  
risk. 842

(c) The parent sample of the biological material so collected 843  
has not degraded or been contaminated to the extent that it has 844  
become scientifically unsuitable for testing, and the parent 845  
sample otherwise has been preserved, and remains, in a condition 846  
that is scientifically suitable for testing. 847

(3) The court determines that, at the trial stage in the case 848  
in which the inmate was convicted of, pleaded guilty to, or 849  
pleaded no contest to the offense for which the inmate is an 850  
eligible inmate and is requesting the DNA testing, the identity of 851  
the person who committed the offense was an issue. 852

(4) The court determines that one or more of the defense 853  
theories asserted by the inmate at the trial stage in the case 854  
described in division (C)(3) of this section or in a retrial of 855  
that case in a court of this state was of such a nature that, if 856  
DNA testing is conducted and an exclusion result is obtained, the 857  
exclusion result will be outcome determinative. 858

(5) The court determines that, if DNA testing is conducted 859  
and an exclusion result is obtained, the results of the testing 860  
will be outcome determinative regarding that inmate. 861

(6) The court determines pursuant to section 2953.76 of the 862  
Revised Code from the chain of custody of the parent sample of the 863  
biological material to be tested and of any test sample extracted 864

from the parent sample, and from the totality of circumstances 865  
involved, that the parent sample and the extracted test sample are 866  
the same sample as collected and that there is no reason to 867  
believe that they have been out of state custody or have been 868  
tampered with or contaminated since they were collected. 869

(D) If an eligible inmate submits an application for DNA 870  
testing under section 2953.73 of the Revised Code, the court, in 871  
determining whether the "outcome determinative" criterion 872  
described in divisions (B)(1) and (2) of this section has been 873  
satisfied, shall consider all available admissible evidence 874  
related to the subject inmate's case. 875

(E) If an eligible inmate submits an application for DNA 876  
testing under section 2953.73 of the Revised Code and the court 877  
accepts the application, the eligible inmate may request the court 878  
to order, or the court on its own initiative may order, the bureau 879  
of criminal identification and investigation to compare the 880  
results of DNA testing of biological material from an unidentified 881  
person other than the inmate that was obtained from the crime 882  
scene or from a victim of the offense for which the inmate has 883  
been approved for DNA testing to the combined DNA index system 884  
maintained by the federal bureau of investigation. 885

If the bureau, upon comparing the test results to the 886  
combined DNA index system, determines the identity of the person 887  
who is the contributor of the biological material, the bureau 888  
shall provide that information to the court that accepted the 889  
application, the inmate, and the prosecuting attorney. The inmate 890  
or the state may use the information for any lawful purpose. 891

If the bureau, upon comparing the test results to the 892  
combined DNA index system, is unable to determine the identity of 893  
the person who is the contributor of the biological material, the 894  
bureau may compare the test results to other previously obtained 895  
and acceptable DNA test results of any person whose identity is 896

known other than the eligible inmate. If the bureau, upon 897  
comparing the test results to the DNA test results of any person 898  
whose identity is known, determines that the person whose identity 899  
is known is the contributor of the biological material, the bureau 900  
shall provide that information to the court that accepted the 901  
application, the inmate, and the prosecuting attorney. The inmate 902  
or the state may use the information for any lawful purpose. 903

**Sec. 2953.75.** (A) If an eligible inmate submits an 904  
application for DNA testing under section 2953.73 of the Revised 905  
Code, the court shall require the prosecuting attorney to use 906  
reasonable diligence to determine whether biological material was 907  
collected from the crime scene or victim of the offense for which 908  
the inmate is an eligible inmate and is requesting the DNA testing 909  
against which a sample from the inmate can be compared and whether 910  
the parent sample of that biological material still exists at that 911  
point in time. In using reasonable diligence to make those 912  
determinations, the prosecuting attorney shall rely upon all 913  
relevant sources, including, but not limited to, all of the 914  
following: 915

(1) All prosecuting authorities in the case in which the 916  
inmate was convicted of, pleaded guilty to, or pleaded no contest 917  
to the offense for which the inmate is an eligible inmate and is 918  
requesting the DNA testing and in the appeals of, and 919  
postconviction proceedings related to, that case; 920

(2) All law enforcement authorities involved in the 921  
investigation of the offense for which the inmate is an eligible 922  
offender and is requesting the DNA testing; 923

(3) All custodial agencies involved at any time with the 924  
biological material in question; 925

(4) The custodian of all custodial agencies described in 926  
division (A)(3) of this section; 927

(5) All crime laboratories involved at any time with the biological material in question; 928  
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(6) All other reasonable sources. 930

(B) The prosecuting attorney shall prepare a report that contains the prosecuting attorney's determinations made under division (A) of this section and shall file a copy of the report with the court and provide a copy to the eligible inmate and the attorney general. 931  
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**Sec. 2953.83.** In any court proceeding under sections 2953.71 to ~~2953.82~~ 2953.81 of the Revised Code, the Rules of Criminal Procedure apply, except to the extent that sections 2953.71 to ~~2953.82~~ 2953.81 of the Revised Code provide a different procedure or to the extent that the Rules would by their nature be clearly inapplicable. 936  
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**Sec. 2953.84.** The provisions of sections 2953.71 to ~~2953.82~~ 2953.81 of the Revised Code by which an inmate may obtain postconviction DNA testing are not the exclusive means by which an inmate may obtain postconviction DNA testing, and the provisions of those sections do not limit or affect any other means by which an inmate may obtain postconviction DNA testing. 942  
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**Section 2.** That existing sections 109.573, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.74, 2953.75, 2953.83, and 2953.84 and section 2953.82 of the Revised Code are hereby repealed. 948  
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