

As Introduced

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H. B. No. 467

Representative Strahorn

Cosponsors: Representatives Batchelder, Evans, Skindell, Williams, S.

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A B I L L

To amend sections 2152.74 and 2901.07 of the Revised Code to require the collection of a DNA specimen from all persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for a misdemeanor other than a misdemeanor for which a citation is issued.

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

Section 1. That sections 2152.74 and 2901.07 of the Revised Code be amended to read as follows:

Sec. 2152.74. (A) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

(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 20
services if committed to the department or by the chief 21
administrative officer of the detention facility, district 22
detention facility, school, camp, institution, or other facility 23
for delinquent children to which the child was committed or in 24
which the child was placed. If the court commits the child to the 25
department of youth services, the director of youth services shall 26
cause the DNA specimen to be collected from the child during the 27
intake process at an institution operated by or under the control 28
of the department. If the court commits the child to or places the 29
child in a detention facility, district detention facility, 30
school, camp, institution, or other facility for delinquent 31
children, the chief administrative officer of the detention 32
facility, district detention facility, school, camp, institution, 33
or facility to which the child is committed or in which the child 34
is placed shall cause the DNA specimen to be collected from the 35
child during the intake process for the detention facility, 36
district detention facility, school, camp, institution, or 37
facility. The DNA specimen shall be collected from the child in 38
accordance with division (C) of this section. 39

(2) If a child is adjudicated a delinquent child for 40
committing an act listed in division (D) of this section, is 41
committed to or placed in the department of youth services, a 42
detention facility or district detention facility, or a school, 43
camp, institution, or other facility for delinquent children, and 44
does not submit to a DNA specimen collection procedure pursuant to 45
division (B)(1) of this section, prior to the child's release from 46
the custody of the department of youth services, from the custody 47
of the detention facility or district detention facility, or from 48
the custody of the school, camp, institution, or facility, the 49
child shall submit to, and the director of youth services or the 50
chief administrator of the detention facility, district detention 51
facility, school, camp, institution, or facility to which the 52

child is committed or in which the child was placed shall 53
administer, a DNA specimen collection procedure at the institution 54
operated by or under the control of the department of youth 55
services or at the detention facility, district detention 56
facility, school, camp, institution, or facility to which the 57
child is committed or in which the child was placed. The DNA 58
specimen shall be collected in accordance with division (C) of 59
this section. 60

(3) If a child is adjudicated a delinquent child for 61
committing an act listed in division (D) of this section, is not 62
committed to or placed in the department of youth services, a 63
detention facility or district detention facility, or a school, 64
camp, institution, or other facility for delinquent children 65
described in division (A)(2) or (3) of section 2152.19 of the 66
Revised Code, and does not provide a DNA specimen pursuant to 67
division (B)(1) or (2) of this section, the juvenile court shall 68
order the child to report to the county probation department 69
immediately after disposition to submit to a DNA specimen 70
collection procedure administered by the chief administrative 71
officer of the county probation department. The DNA specimen shall 72
be collected from the child in accordance with division (C) of 73
this section. 74

(C) If the DNA specimen is collected by withdrawing blood 75
from the child or a similarly invasive procedure, a physician, 76
registered nurse, licensed practical nurse, duly licensed clinical 77
laboratory technician, or other qualified medical practitioner 78
shall collect in a medically approved manner the DNA specimen 79
required to be collected pursuant to division (B) of this section. 80
If the DNA specimen is collected by swabbing for buccal cells or a 81
similarly noninvasive procedure, this section does not require 82
that the DNA specimen be collected by a qualified medical 83
practitioner of that nature. No later than fifteen days after the 84

date of the collection of the DNA specimen, the director of youth 85
services ~~or~~, the chief administrative officer of the detention 86
facility, district detention facility, school, camp, institution, 87
or other facility for delinquent children to which the child is 88
committed or in which the child was placed, or the chief 89
administrative officer of a county probation department shall 90
cause the DNA specimen to be forwarded to the bureau of criminal 91
identification and investigation in accordance with procedures 92
established by the superintendent of the bureau under division (H) 93
of section 109.573 of the Revised Code. The bureau shall provide 94
the specimen vials, mailing tubes, labels, postage, and 95
instruction needed for the collection and forwarding of the DNA 96
specimen to the bureau. 97

(D) The director of youth services ~~and~~, the chief 98
administrative officer of a detention facility, district detention 99
facility, school, camp, institution, or other facility for 100
delinquent children, and the chief administrative officer of a 101
county probation department shall cause a DNA specimen to be 102
collected in accordance with divisions (B) and (C) of this section 103
from each child in its custody who is adjudicated a delinquent 104
child for committing any of the following acts: 105

(1) An act that would be a felony if committed by an adult; 106

(2) A violation of any law that would be a misdemeanor if 107
committed by an adult and that arose out of the same facts and 108
circumstances and same act as did a charge against the child of a 109
violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 110
2907.05, or 2911.11 of the Revised Code that previously was 111
dismissed or amended or as did a charge against the child of a 112
violation of section 2907.12 of the Revised Code as it existed 113
prior to September 3, 1996, that previously was dismissed or 114
amended; 115

(3) A violation of section 2919.23 of the Revised Code that 116

would be a misdemeanor if committed by an adult and that would 117
have been a violation of section 2905.04 of the Revised Code as it 118
existed prior to July 1, 1996, had the violation been committed 119
prior to that date; 120

(4) A violation of section 2923.03 of the Revised Code 121
involving complicity in committing a violation of section 2907.04 122
of the Revised Code that would be a misdemeanor if committed by an 123
adult; 124

(5) An act committed on and after the effective date of this 125
amendment that would be a misdemeanor if committed by an adult, 126
other than a misdemeanor for which a citation was issued pursuant 127
to section 2935.26 of the Revised Code. 128

Sec. 2901.07. (A) As used in this section: 129

(1) "DNA analysis" and "DNA specimen" have the same meanings 130
as in section 109.573 of the Revised Code. 131

(2) "Jail" and "community-based correctional facility" have 132
the same meanings as in section 2929.01 of the Revised Code. 133

(3) "Post-release control" has the same meaning as in section 134
2967.01 of the Revised Code. 135

(B)(1) Regardless of when the conviction occurred or the 136
guilty plea was entered, a person who has been convicted of, is 137
convicted of, has pleaded guilty to, or pleads guilty to a felony 138
offense and who is sentenced to a prison term or to a community 139
residential sanction in a jail or community-based correctional 140
facility for that offense pursuant to section 2929.16 of the 141
Revised Code, and a person who has been convicted of, is convicted 142
of, has pleaded guilty to, or pleads guilty to a misdemeanor 143
offense listed in division (D) of this section and who is 144
sentenced to a term of imprisonment for that offense shall submit 145
to a DNA specimen collection procedure administered by the 146

director of rehabilitation and correction or the chief 147
administrative officer of the jail or other detention facility in 148
which the person is serving the term of imprisonment. If the 149
person serves the prison term in a state correctional institution, 150
the director of rehabilitation and correction shall cause the DNA 151
specimen to be collected from the person during the intake process 152
at the reception facility designated by the director. If the 153
person serves the community residential sanction or term of 154
imprisonment in a jail, a community-based correctional facility, 155
or another county, multicounty, municipal, municipal-county, or 156
multicounty-municipal detention facility, the chief administrative 157
officer of the jail, community-based correctional facility, or 158
detention facility shall cause the DNA specimen to be collected 159
from the person during the intake process at the jail, 160
community-based correctional facility, or detention facility. The 161
DNA specimen shall be collected in accordance with division (C) of 162
this section. 163

(2) Regardless of when the conviction occurred or the guilty 164
plea was entered, if a person has been convicted of, is convicted 165
of, has pleaded guilty to, or pleads guilty to a felony offense or 166
a misdemeanor offense listed in division (D) of this section, is 167
serving a prison term, community residential sanction, or term of 168
imprisonment for that offense, and does not provide a DNA specimen 169
pursuant to division (B)(1) of this section, prior to the person's 170
release from the prison term, community residential sanction, or 171
imprisonment, the person shall submit to, and the director of 172
rehabilitation and correction or the chief administrative officer 173
of the jail, community-based correctional facility, or detention 174
facility in which the person is serving the prison term, community 175
residential sanction, or term of imprisonment shall administer, a 176
DNA specimen collection procedure at the state correctional 177
institution, jail, community-based correctional facility, or 178
detention facility in which the person is serving the prison term, 179

community residential sanction, or term of imprisonment. The DNA 180
specimen shall be collected in accordance with division (C) of 181
this section. 182

(3)(a) Regardless of when the conviction occurred or the 183
guilty plea was entered, if a person has been convicted of, is 184
convicted of, has pleaded guilty to, or pleads guilty to a felony 185
offense or a misdemeanor offense listed in division (D) of this 186
section and the person is on probation, released on parole, under 187
transitional control, on community control, on post-release 188
control, or under any other type of supervised release under the 189
supervision of a probation department or the adult parole 190
authority for that offense, the person shall submit to a DNA 191
specimen collection procedure administered by the chief 192
administrative officer of the probation department or the adult 193
parole authority. The DNA specimen shall be collected in 194
accordance with division (C) of this section. If the person 195
refuses to submit to a DNA specimen collection procedure as 196
provided in this division, the person may be subject to the 197
provisions of section 2967.15 of the Revised Code. 198

(b) If a person to whom division (B)(3)(a) of this section 199
applies is sent to jail or is returned to a jail, community-based 200
correctional facility, or state correctional institution for a 201
violation of the terms and conditions of the probation, parole, 202
transitional control, other release, or post-release control, if 203
the person was or will be serving a term of imprisonment, prison 204
term, or community residential sanction for committing a felony 205
offense or for committing a misdemeanor offense listed in division 206
(D) of this section, and if the person did not provide a DNA 207
specimen pursuant to division (B)(1), (2) or (3)(a) of this 208
section, the person shall submit to, and the director of 209
rehabilitation and correction or the chief administrative officer 210
of the jail or community-based correctional facility shall 211

administer, a DNA specimen collection procedure at the jail, 212
community-based correctional facility, or state correctional 213
institution in which the person is serving the term of 214
imprisonment, prison term, or community residential sanction. The 215
DNA specimen shall be collected from the person in accordance with 216
division (C) of this section. 217

(4) Regardless of when the conviction occurred or the guilty 218
plea was entered, if a person has been convicted of, is convicted 219
of, has pleaded guilty to, or pleads guilty to a felony offense or 220
a misdemeanor offense listed in division (D) of this section, the 221
person is not sentenced to a prison term, a community residential 222
sanction in a jail or community-based correctional facility, a 223
term of imprisonment, or any type of supervised release under the 224
supervision of a probation department or the adult parole 225
authority, and the person does not provide a DNA specimen pursuant 226
to division (B)(1), (2), (3)(a), or (3)(b) of this section, the 227
sentencing court shall order the person to report to the county 228
probation department immediately after sentencing to submit to a 229
DNA specimen collection procedure administered by the chief 230
administrative officer of the county probation office. If the 231
person is incarcerated at the time of sentencing, the person shall 232
submit to a DNA specimen collection procedure administered by the 233
director of rehabilitation and correction or the chief 234
administrative officer of the jail or other detention facility in 235
which the person is incarcerated. The DNA specimen shall be 236
collected in accordance with division (C) of this section. 237

(5)(a) If a person does not provide a DNA specimen pursuant 238
to division (B)(1), (2), (3)(a), (3)(b), or (4) of this section a 239
person who, on and after the effective date of this amendment, is 240
convicted of or pleads guilty to any offense that is a 241
misdemeanor, other than a misdemeanor for which a citation was 242
issued pursuant to section 2935.26 of the Revised Code, shall 243

submit to a DNA specimen collection procedure as follows: 244

(i) If the person is sentenced to a term of imprisonment for 245
that offense, the person shall submit, during the intake process, 246
to a DNA specimen collection procedure administered by the chief 247
administrative officer of the jail or other detention facility in 248
which the person is serving the term of imprisonment. 249

(ii) If the person is not sentenced to a term of imprisonment 250
for that offense, the sentencing court shall order the person to 251
report to the county probation department immediately after 252
sentencing and submit to a DNA specimen collection procedure 253
administered by the chief administrative officer of the county 254
probation department. 255

(b) The DNA specimen collected pursuant to division (B)(5)(a) 256
of this section shall be collected in accordance with division (C) 257
of this section. 258

(C) If the DNA specimen is collected by withdrawing blood 259
from the person or a similarly invasive procedure, a physician, 260
registered nurse, licensed practical nurse, duly licensed clinical 261
laboratory technician, or other qualified medical practitioner 262
shall collect in a medically approved manner the DNA specimen 263
required to be collected pursuant to division (B) of this section. 264
If the DNA specimen is collected by swabbing for buccal cells or a 265
similarly noninvasive procedure, this section does not require 266
that the DNA specimen be collected by a qualified medical 267
practitioner of that nature. No later than fifteen days after the 268
date of the collection of the DNA specimen, the director of 269
rehabilitation and correction or the chief administrative officer 270
of the jail, community-based correctional facility, ~~or~~ other 271
county, multicounty, municipal, municipal-county, or 272
multicounty-municipal detention facility, or county probation 273
department, in which the person is serving the prison term, 274
community residential sanction, or term of imprisonment shall 275

cause the DNA specimen to be forwarded to the bureau of criminal 276
identification and investigation in accordance with procedures 277
established by the superintendent of the bureau under division (H) 278
of section 109.573 of the Revised Code. The bureau shall provide 279
the specimen vials, mailing tubes, labels, postage, and 280
instructions needed for the collection and forwarding of the DNA 281
specimen to the bureau. 282

(D) The director of rehabilitation and correction, the chief 283
administrative officer of the jail, community-based correctional 284
facility, or other county, multicounty, municipal, 285
municipal-county, or multicounty-municipal detention facility, or 286
the chief administrative officer of a county probation department 287
or the adult parole authority shall cause a DNA specimen to be 288
collected in accordance with divisions (B) and (C) of this section 289
from a person in its custody or under its supervision who has been 290
convicted of, is convicted of, has pleaded guilty to, or pleads 291
guilty to any felony offense or any of the following misdemeanor 292
offenses: 293

(1) A misdemeanor violation, an attempt to commit a 294
misdemeanor violation, or complicity in committing a misdemeanor 295
violation of section 2907.04 of the Revised Code; 296

(2) A misdemeanor violation of any law that arose out of the 297
same facts and circumstances and same act as did a charge against 298
the person of a violation of section 2903.01, 2903.02, 2905.01, 299
2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code 300
that previously was dismissed or amended or as did a charge 301
against the person of a violation of section 2907.12 of the 302
Revised Code as it existed prior to September 3, 1996, that 303
previously was dismissed or amended; 304

(3) A misdemeanor violation of section 2919.23 of the Revised 305
Code that would have been a violation of section 2905.04 of the 306
Revised Code as it existed prior to July 1, 1996, had it been 307

committed prior to that date; 308

(4) A sexually oriented offense or a child-victim oriented 309
offense, both as defined in section 2950.01 of the Revised Code, 310
that is a misdemeanor, if, in relation to that offense, the 311
offender is a tier III sex offender/child-victim offender, as 312
defined in section 2950.01 of the Revised Code. 313

(E) The director of rehabilitation and correction may 314
prescribe rules in accordance with Chapter 119. of the Revised 315
Code to collect a DNA specimen, as provided in this section, from 316
an offender whose supervision is transferred from another state to 317
this state in accordance with the interstate compact for adult 318
offender supervision described in section 5149.21 of the Revised 319
Code. 320

Section 2. That existing sections 2152.74 and 2901.07 of the 321
Revised Code are hereby repealed. 322