

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 268**

**Senator Eklund**

**Cosponsors: Senators Seitz, Patton, LaRose, Jones**

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**A B I L L**

To amend section 2901.07 of the Revised Code to 1  
provide for the taking of a DNA sample from a 2  
person who is charged with a felony but not 3  
arrested for the offense or whose DNA sample 4  
related to a felony offense was not taken when 5  
required. 6

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

**Section 1.** That section 2901.07 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 2901.07.** (A) As used in this section: 9

(1) "DNA analysis" and "DNA specimen" have the same meanings 10  
as in section 109.573 of the Revised Code. 11

(2) "Jail" and "community-based correctional facility" have 12  
the same meanings as in section 2929.01 of the Revised Code. 13

(3) "Post-release control" has the same meaning as in section 14  
2967.01 of the Revised Code. 15

(4) "Head of the arresting law enforcement agency" means 16  
whichever of the following is applicable regarding the arrest in 17  
question: 18

(a) If the arrest was made by a sheriff or a deputy sheriff, 19  
the sheriff who made the arrest or who employs the deputy sheriff 20  
who made the arrest; 21

(b) If the arrest was made by a law enforcement officer of a 22  
law enforcement agency of a municipal corporation, the chief of 23  
police, marshal, or other chief law enforcement officer of the 24  
agency that employs the officer who made the arrest; 25

(c) If the arrest was made by a constable or a law 26  
enforcement officer of a township police department or police 27  
district police force, the constable who made the arrest or the 28  
chief law enforcement officer of the department or agency that 29  
employs the officer who made the arrest; 30

(d) If the arrest was made by the superintendent or a trooper 31  
of the state highway patrol, the superintendent of the state 32  
highway patrol; 33

(e) If the arrest was made by a law enforcement officer not 34  
identified in division (A)(4)(a), (b), (c), or (d) of this 35  
section, the chief law enforcement officer of the law enforcement 36  
agency that employs the officer who made the arrest. 37

(5) "Detention facility" has the same meaning as in section 38  
2921.01 of the Revised Code. 39

(B)(1)(a) On and after July 1, 2011, a person who is eighteen 40  
years of age or older and who is arrested on or after July 1, 41  
2011, for a felony offense shall submit to a DNA specimen 42  
collection procedure administered by the head of the arresting law 43  
enforcement agency. The head of the arresting law enforcement 44  
agency shall cause the DNA specimen to be collected from the 45  
person during the intake process at the jail, community-based 46  
correctional facility, detention facility, or law enforcement 47  
agency office or station to which the arrested person is taken 48  
after the arrest. The head of the arresting law enforcement agency 49

shall cause the DNA specimen to be collected in accordance with 50  
division (C) of this section. 51

(b) If a person who is charged with a felony on or after July 52  
1, 2011, has not been arrested and first appears before a court or 53  
magistrate in response to a summons, or if the head of the 54  
arresting law enforcement agency has not administered a DNA 55  
specimen collection procedure upon the person arrested for a 56  
felony in accordance with division (B)(1)(a) of this section by 57  
the time of the arraignment or first appearance of the person, the 58  
court shall order the person to appear before the sheriff or chief 59  
of police of the county or municipal corporation in which the 60  
person resides within twenty-four hours to submit to a DNA 61  
specimen collection procedure administered by the sheriff or chief 62  
of police. The sheriff or chief of police shall cause the DNA 63  
specimen to be collected from the person at the facility at which 64  
is located the sheriff's or chief's office. The sheriff or chief 65  
of police shall cause the DNA specimen to be collected in 66  
accordance with division (C) of this section. 67

(c) Every court with jurisdiction over a case involving a 68  
person with respect to whom division (B)(1)(a) or (b) of this 69  
section requires the head of a law enforcement agency or a sheriff 70  
or chief of police to administer a DNA specimen collection 71  
procedure upon the person shall inquire at the time of the 72  
person's sentencing whether or not the person has submitted to a 73  
DNA specimen collection procedure pursuant to division (B)(1)(a) 74  
or (b) of this section for the original arrest or court appearance 75  
upon which the sentence is based. If the person has not submitted 76  
to a DNA specimen collection procedure for the original arrest or 77  
court appearance upon which the sentence is based, the court shall 78  
order the person to appear before the sheriff or chief of police 79  
of the county or municipal corporation in which the person resides 80  
within twenty-four hours to submit to a DNA specimen collection 81

procedure administered by the sheriff or chief of police. The 82  
sheriff or chief of police shall cause the DNA specimen to be 83  
collected in accordance with division (C) of this section. 84

(d) If a person is in the custody of a law enforcement agency 85  
or a detention facility, if the chief law enforcement officer or 86  
chief administrative officer of the detention facility discovers 87  
that a warrant has been issued or a bill of information has been 88  
filed alleging the person to have committed an offense other than 89  
the offense for which the person is in custody, and if the other 90  
alleged offense is one for which a DNA specimen is to be collected 91  
from the person pursuant to division (B)(1)(a) or (b) of this 92  
section, the chief law enforcement officer or chief administrative 93  
officer shall cause a DNA specimen to be collected from the person 94  
at the facility at which is located the law enforcement agency or 95  
at the detention facility, whichever is applicable. The chief law 96  
enforcement officer or chief administrative officer shall cause 97  
the DNA specimen to be collected in accordance with division (C) 98  
of this section. 99

(2) Regardless of when the conviction occurred or the guilty 100  
plea was entered, a person who has been convicted of, is convicted 101  
of, has pleaded guilty to, or pleads guilty to a felony offense, 102  
who is sentenced to a prison term or to a community residential 103  
sanction in a jail or community-based correctional facility for 104  
that offense pursuant to section 2929.16 of the Revised Code, and 105  
who does not provide a DNA specimen pursuant to division (B)(1) of 106  
this section, and a person who has been convicted of, is convicted 107  
of, has pleaded guilty to, or pleads guilty to a misdemeanor 108  
offense listed in division (D) of this section, who is sentenced 109  
to a term of imprisonment for that offense, and who does not 110  
provide a DNA specimen pursuant to division (B)(1) of this 111  
section, shall submit to a DNA specimen collection procedure 112  
administered by the director of rehabilitation and correction or 113

the chief administrative officer of the jail or other detention 114  
facility in which the person is serving the term of imprisonment. 115  
If the person serves the prison term in a state correctional 116  
institution, the director of rehabilitation and correction shall 117  
cause the DNA specimen to be collected from the person during the 118  
intake process at the reception facility designated by the 119  
director. If the person serves the community residential sanction 120  
or term of imprisonment in a jail, a community-based correctional 121  
facility, or another county, multicounty, municipal, 122  
municipal-county, or multicounty-municipal detention facility, the 123  
chief administrative officer of the jail, community-based 124  
correctional facility, or detention facility shall cause the DNA 125  
specimen to be collected from the person during the intake process 126  
at the jail, community-based correctional facility, or detention 127  
facility. The DNA specimen shall be collected in accordance with 128  
division (C) of this section. 129

(3) Regardless of when the conviction occurred or the guilty 130  
plea was entered, if a person has been convicted of, is convicted 131  
of, has pleaded guilty to, or pleads guilty to a felony offense or 132  
a misdemeanor offense listed in division (D) of this section, is 133  
serving a prison term, community residential sanction, or term of 134  
imprisonment for that offense, and does not provide a DNA specimen 135  
pursuant to division (B)(1) or (2) of this section, prior to the 136  
person's release from the prison term, community residential 137  
sanction, or imprisonment, the person shall submit to, and the 138  
director of rehabilitation and correction or the chief 139  
administrative officer of the jail, community-based correctional 140  
facility, or detention facility in which the person is serving the 141  
prison term, community residential sanction, or term of 142  
imprisonment shall administer, a DNA specimen collection procedure 143  
at the state correctional institution, jail, community-based 144  
correctional facility, or detention facility in which the person 145  
is serving the prison term, community residential sanction, or 146

term of imprisonment. The DNA specimen shall be collected in 147  
accordance with division (C) of this section. 148

(4)(a) Regardless of when the conviction occurred or the 149  
guilty plea was entered, if a person has been convicted of, is 150  
convicted of, has pleaded guilty to, or pleads guilty to a felony 151  
offense or a misdemeanor offense listed in division (D) of this 152  
section and the person is on probation, released on parole, under 153  
transitional control, on community control, on post-release 154  
control, or under any other type of supervised release under the 155  
supervision of a probation department or the adult parole 156  
authority for that offense, and did not provide a DNA specimen 157  
pursuant to division (B)(1), (2), or (3) of this section, the 158  
person shall submit to a DNA specimen collection procedure 159  
administered by the chief administrative officer of the probation 160  
department or the adult parole authority. The DNA specimen shall 161  
be collected in accordance with division (C) of this section. If 162  
the person refuses to submit to a DNA specimen collection 163  
procedure as provided in this division, the person may be subject 164  
to the provisions of section 2967.15 of the Revised Code. 165

(b) If a person to whom division (B)(4)(a) of this section 166  
applies is sent to jail or is returned to a jail, community-based 167  
correctional facility, or state correctional institution for a 168  
violation of the terms and conditions of the probation, parole, 169  
transitional control, other release, or post-release control, if 170  
the person was or will be serving a term of imprisonment, prison 171  
term, or community residential sanction for committing a felony 172  
offense or for committing a misdemeanor offense listed in division 173  
(D) of this section, and if the person did not provide a DNA 174  
specimen pursuant to division (B)(1), (2), (3), or (4)(a) of this 175  
section, the person shall submit to, and the director of 176  
rehabilitation and correction or the chief administrative officer 177  
of the jail or community-based correctional facility shall 178

administer, a DNA specimen collection procedure at the jail, 179  
community-based correctional facility, or state correctional 180  
institution in which the person is serving the term of 181  
imprisonment, prison term, or community residential sanction. The 182  
DNA specimen shall be collected from the person in accordance with 183  
division (C) of this section. 184

(5) Regardless of when the conviction occurred or the guilty 185  
plea was entered, if a person has been convicted of, is convicted 186  
of, has pleaded guilty to, or pleads guilty to a felony offense or 187  
a misdemeanor offense listed in division (D) of this section, the 188  
person is not sentenced to a prison term, a community residential 189  
sanction in a jail or community-based correctional facility, a 190  
term of imprisonment, or any type of supervised release under the 191  
supervision of a probation department or the adult parole 192  
authority, and the person does not provide a DNA specimen pursuant 193  
to division (B)(1), (2), (3), (4)(a), or (4)(b) of this section, 194  
the sentencing court shall order the person to report to the 195  
county probation department immediately after sentencing to submit 196  
to a DNA specimen collection procedure administered by the chief 197  
administrative officer of the county probation office. If the 198  
person is incarcerated at the time of sentencing, the person shall 199  
submit to a DNA specimen collection procedure administered by the 200  
director of rehabilitation and correction or the chief 201  
administrative officer of the jail or other detention facility in 202  
which the person is incarcerated. The DNA specimen shall be 203  
collected in accordance with division (C) of this section. 204

(C) If the DNA specimen is collected by withdrawing blood 205  
from the person or a similarly invasive procedure, a physician, 206  
registered nurse, licensed practical nurse, duly licensed clinical 207  
laboratory technician, or other qualified medical practitioner 208  
shall collect in a medically approved manner the DNA specimen 209  
required to be collected pursuant to division (B) of this section. 210

If the DNA specimen is collected by swabbing for buccal cells or a 211  
similarly noninvasive procedure, this section does not require 212  
that the DNA specimen be collected by a qualified medical 213  
practitioner of that nature. No later than fifteen days after the 214  
date of the collection of the DNA specimen, the head of the 215  
arresting law enforcement agency regarding a DNA specimen taken 216  
pursuant to division (B)(1) of this section, the director of 217  
rehabilitation and correction or the chief administrative officer 218  
of the jail, community-based correctional facility, or other 219  
county, multicounty, municipal, municipal-county, or 220  
multicounty-municipal detention facility in which the person is 221  
serving the prison term, community residential sanction, or term 222  
of imprisonment regarding a DNA specimen taken pursuant to 223  
division (B)(2), (3), or (4)(b) of this section, the chief 224  
administrative officer of the probation department or the adult 225  
parole authority regarding a DNA specimen taken pursuant to 226  
division (B)(4)(a) of this section, or the chief administrative 227  
officer of the county probation office, the director of 228  
rehabilitation and correction, or the chief administrative officer 229  
of the jail or other detention facility in which the person is 230  
incarcerated regarding a DNA specimen taken pursuant to division 231  
(B)(5) of this section, whichever is applicable, shall cause the 232  
DNA specimen to be forwarded to the bureau of criminal 233  
identification and investigation in accordance with procedures 234  
established by the superintendent of the bureau under division (H) 235  
of section 109.573 of the Revised Code. The bureau shall provide 236  
the specimen vials, mailing tubes, labels, postage, and 237  
instructions needed for the collection and forwarding of the DNA 238  
specimen to the bureau. 239

(D) The DNA specimen collection duty set forth in division 240  
(B)(1) of this section applies to any person who is eighteen years 241  
of age or older and who is arrested on or after July 1, 2011, for 242  
any felony offense. The DNA specimen collection duties set forth 243

in divisions (B)(2), (3), (4)(a), (4)(b), and (5) of this section 244  
apply to any person who has been convicted of, is convicted of, 245  
has pleaded guilty to, or pleads guilty to any felony offense or 246  
any of the following misdemeanor offenses: 247

(1) A misdemeanor violation, an attempt to commit a 248  
misdemeanor violation, or complicity in committing a misdemeanor 249  
violation of section 2907.04 of the Revised Code; 250

(2) A misdemeanor violation of any law that arose out of the 251  
same facts and circumstances and same act as did a charge against 252  
the person of a violation of section 2903.01, 2903.02, 2905.01, 253  
2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code 254  
that previously was dismissed or amended or as did a charge 255  
against the person of a violation of section 2907.12 of the 256  
Revised Code as it existed prior to September 3, 1996, that 257  
previously was dismissed or amended; 258

(3) A misdemeanor violation of section 2919.23 of the Revised 259  
Code that would have been a violation of section 2905.04 of the 260  
Revised Code as it existed prior to July 1, 1996, had it been 261  
committed prior to that date; 262

(4) A sexually oriented offense or a child-victim oriented 263  
offense, both as defined in section 2950.01 of the Revised Code, 264  
that is a misdemeanor, if, in relation to that offense, the 265  
offender is a tier III sex offender/child-victim offender, as 266  
defined in section 2950.01 of the Revised Code. 267

(E) The director of rehabilitation and correction may 268  
prescribe rules in accordance with Chapter 119. of the Revised 269  
Code to collect a DNA specimen, as provided in this section, from 270  
an offender whose supervision is transferred from another state to 271  
this state in accordance with the interstate compact for adult 272  
offender supervision described in section 5149.21 of the Revised 273  
Code. 274

**Section 2.** That existing section 2901.07 of the Revised Code 275  
is hereby repealed. 276