

As Introduced

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H. B. No. 266

Representatives Galonski, Miranda

**Cosponsors: Representatives O'Brien, Upchurch, Russo, Crossman, Boggs,
Howse, Miller, J., Weinstein, Lepore-Hagan, Smith, K., Leland, Brown, Sobecki,
Crawley, Lightbody**

A BILL

To amend sections 2305.111, 2901.13, 2907.02, and 1
2933.82 and to enact section 2305.118 of the 2
Revised Code to eliminate the period of 3
limitation for the criminal prosecution of a 4
person for rape and for a civil action brought 5
by a victim of conduct that would constitute 6
rape, to extend the period of limitations for a 7
civil action by a victim of childhood sexual 8
abuse other than rape, and to eliminate the 9
spousal exception for the offense of rape. 10

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

Section 1. That sections 2305.111, 2901.13, 2907.02, and 11
2933.82 be amended and section 2305.118 of the Revised Code be 12
enacted to read as follows: 13

Sec. 2305.111. (A) As used in this section: 14

(1) "Childhood sexual abuse" means any conduct that 15
constitutes any of the violations identified in division (A)(1) 16

(a) or (b) of this section and would constitute a criminal offense under the specified section or division of the Revised Code, if the victim of the violation is at the time of the violation a child under eighteen years of age or a child with a developmental disability or physical impairment under twenty-one years of age. The court need not find that any person has been convicted of or pleaded guilty to the offense under the specified section or division of the Revised Code in order for the conduct that is the violation constituting the offense to be childhood sexual abuse for purposes of this division. This division applies to any of the following violations committed in the following specified circumstances:

(a) A violation ~~of section 2907.02 or~~ of division (A) (1), (5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 of the Revised Code;

(b) A violation of section 2907.05 or 2907.06 of the Revised Code if, at the time of the violation, any of the following apply:

(i) The actor is the victim's natural parent, adoptive parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim.

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim.

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor

is not enrolled in and does not attend that school. 46

(iv) The actor is a teacher, administrator, coach, or 47
other person in authority employed by or serving in an 48
institution of higher education, and the victim is enrolled in 49
or attends that institution. 50

(v) The actor is the victim's athletic or other type of 51
coach, is the victim's instructor, is the leader of a scouting 52
troop of which the victim is a member, or is a person with 53
temporary or occasional disciplinary control over the victim. 54

(vi) The actor is a mental health professional, the victim 55
is a mental health client or patient of the actor, and the actor 56
induces the victim to submit by falsely representing to the 57
victim that the sexual contact involved in the violation is 58
necessary for mental health treatment purposes. 59

(vii) The victim is confined in a detention facility, and 60
the actor is an employee of that detention facility. 61

(viii) The actor is a cleric, and the victim is a member 62
of, or attends, the church or congregation served by the cleric. 63

(2) "Cleric" has the same meaning as in section 2317.02 of 64
the Revised Code. 65

(3) "Mental health client or patient" has the same meaning 66
as in section 2305.51 of the Revised Code. 67

(4) "Mental health professional" has the same meaning as 68
in section 2305.115 of the Revised Code. 69

(5) "Sexual contact" has the same meaning as in section 70
2907.01 of the Revised Code. 71

(6) "Victim" means, except as provided in division (B) of 72

this section, a victim of childhood sexual abuse. 73

(B) Except as provided in section 2305.115 of the Revised 74
Code and subject to division (C) of this section, an action for 75
assault or battery shall be brought within one year after the 76
cause of the action accrues. For purposes of this section, a 77
cause of action for assault or battery accrues upon the later of 78
the following: 79

(1) The date on which the alleged assault or battery 80
occurred; 81

(2) If the plaintiff did not know the identity of the 82
person who allegedly committed the assault or battery on the 83
date on which it allegedly occurred, the earlier of the 84
following dates: 85

(a) The date on which the plaintiff learns the identity of 86
that person; 87

(b) The date on which, by the exercise of reasonable 88
diligence, the plaintiff should have learned the identity of 89
that person. 90

(C) ~~An~~ (1) Subject to division (D) of this section, an 91
action shall be brought at any time until the victim reaches 92
fifty-five years of age if both of the following apply: 93

(a) The action is an action for assault or battery brought 94
by a victim of childhood sexual abuse based on childhood sexual 95
abuse, or an action brought by a victim of childhood sexual 96
abuse asserting any claim resulting from childhood sexual abuse, 97
shall be brought within twelve years after the cause of action 98
accrues. 99

(b) The action is against a perpetrator of the childhood 100

~~sexual abuse or an entity that negligently facilitated that~~ 101
~~sexual abuse. For purposes of this section, a cause of action~~ 102
~~for assault or battery based on childhood sexual abuse, or a~~ 103
~~cause of action for a claim resulting from childhood sexual~~ 104
~~abuse, accrues upon the date on which the victim reaches the age~~ 105
~~of majority. If the defendant in~~ 106

(2) In an action brought by a victim of childhood sexual 107
abuse asserting a claim resulting from childhood sexual abuse 108
that occurs on or after August 3, 2006, if the defendant has 109
fraudulently concealed from the plaintiff facts that form the 110
basis of the claim, the running of the limitations period with 111
regard to that claim is tolled until the time when the plaintiff 112
discovers or in the exercise of due diligence should have 113
discovered those facts and the plaintiff discovers those facts 114
after reaching fifty-five years of age, the plaintiff may bring 115
an action asserting a claim resulting from the childhood sexual 116
abuse not later than three years after the date of the discovery 117
of those facts that form the basis of the claim. 118

(D) If, on the effective date of this amendment, a cause 119
of action for assault or battery based on childhood sexual abuse 120
or a claim resulting from childhood sexual abuse is barred due 121
to the expiration of the applicable period of limitation of that 122
action or claim that was in effect prior to the effective date 123
of this amendment, that cause of action or claim shall be 124
revived and an action for assault or battery by the victim of 125
the childhood sexual abuse based on childhood sexual abuse or a 126
claim resulting from childhood sexual abuse asserted by the 127
victim of that childhood sexual abuse may be commenced within 128
three years after the effective date of this amendment. 129

Sec. 2305.118. Notwithstanding any other section of the 130

Revised Code to the contrary, there is no period of limitations 131
for a civil action brought by a victim of conduct that would 132
constitute either of the following against the person who 133
committed that conduct: 134

(A) A violation of section 2907.02 of the Revised Code; 135

(B) Conspiracy to commit, complicity in committing, or 136
attempting to commit a violation of section 2907.02 of the 137
Revised Code. 138

Sec. 2901.13. (A) (1) Except as provided in division (A) 139
(2), (3), or (4) of this section or as otherwise provided in 140
this section, a prosecution shall be barred unless it is 141
commenced within the following periods after an offense is 142
committed: 143

(a) For a felony, six years; 144

(b) For a misdemeanor other than a minor misdemeanor, two 145
years; 146

(c) For a minor misdemeanor, six months. 147

(2) There is no period of limitation for the prosecution 148
of ~~a~~ any of the following offenses: 149

(a) A violation of section 2903.01 ~~or, 2903.02, or 2907.02~~ 150
of the Revised Code; 151

(b) A conspiracy to commit, attempt to commit, or 152
complicity in committing a violation of section 2907.02 of the 153
Revised Code. 154

(3) Except as otherwise provided in divisions (B) to (J) 155
of this section, a prosecution of any of the following offenses 156
shall be barred unless it is commenced within twenty years after 157

the offense is committed: 158

(a) A violation of section 2903.03, 2903.04, 2905.01, 159
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 160
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 161
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 162
section 2903.11 or 2903.12 of the Revised Code if the victim is 163
a peace officer, a violation of section 2903.13 of the Revised 164
Code that is a felony, or a violation of former section 2907.12 165
of the Revised Code; 166

(b) A conspiracy to commit, attempt to commit, or 167
complicity in committing a violation set forth in division (A) 168
(3) (a) of this section. 169

(4) Except as otherwise provided in divisions (D) to (L) 170
of this section, a prosecution of a violation of section ~~2907.02~~ 171
~~or~~ 2907.03 of the Revised Code or a conspiracy to commit, 172
attempt to commit, or complicity in committing a violation of 173
~~either that~~ section shall be barred unless it is commenced 174
within twenty-five years after the offense is committed. 175

(B) (1) Except as otherwise provided in division (B) (2) of 176
this section, if the period of limitation provided in division 177
(A) (1) or (3) of this section has expired, prosecution shall be 178
commenced for an offense of which an element is fraud or breach 179
of a fiduciary duty, within one year after discovery of the 180
offense either by an aggrieved person, or by the aggrieved 181
person's legal representative who is not a party to the offense. 182

(2) If the period of limitation provided in division (A) 183
(1) or (3) of this section has expired, prosecution for a 184
violation of section 2913.49 of the Revised Code shall be 185
commenced within five years after discovery of the offense 186

either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense. 187
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(C) (1) If the period of limitation provided in division (A) (1) or (3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time: 189
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(a) For an offense involving misconduct in office by a public servant, at any time while the accused remains a public servant, or within two years thereafter; 193
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(b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter. 196
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(2) As used in this division: 201

(a) An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of section 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of section 102.03, division (A) of section 2921.02, division (A) or (B) of section 2921.43, or division (F) or (G) of section 3517.13 of the Revised Code, that is directly related to an offense involving misconduct in office of a public servant. 202
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(b) "Public servant" has the same meaning as in section 2921.01 of the Revised Code. 210
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(D) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of section ~~2907.02~~ or 2907.03 of the Revised Code is determined to match another DNA record that is of an identifiable person and 212
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if the time of the determination is later than twenty-five years 216
after the offense is committed, prosecution of that person for a 217
violation of ~~the~~that section may be commenced within five years 218
after the determination is complete. 219

(2) If a DNA record made in connection with the criminal 220
investigation of the commission of a violation of section 221
~~2907.02 or~~ 2907.03 of the Revised Code is determined to match 222
another DNA record that is of an identifiable person and if the 223
time of the determination is within twenty-five years after the 224
offense is committed, prosecution of that person for a violation 225
of ~~the~~that section may be commenced within the longer of 226
twenty-five years after the offense is committed or five years 227
after the determination is complete. 228

(3) As used in this division, "DNA record" has the same 229
meaning as in section 109.573 of the Revised Code. 230

(E) An offense is committed when every element of the 231
offense occurs. In the case of an offense of which an element is 232
a continuing course of conduct, the period of limitation does 233
not begin to run until such course of conduct or the accused's 234
accountability for it terminates, whichever occurs first. 235

(F) A prosecution is commenced on the date an indictment 236
is returned or an information filed, or on the date a lawful 237
arrest without a warrant is made, or on the date a warrant, 238
summons, citation, or other process is issued, whichever occurs 239
first. A prosecution is not commenced by the return of an 240
indictment or the filing of an information unless reasonable 241
diligence is exercised to issue and execute process on the same. 242
A prosecution is not commenced upon issuance of a warrant, 243
summons, citation, or other process, unless reasonable diligence 244
is exercised to execute the same. 245

(G) The period of limitation shall not run during any time	246
when the corpus delicti remains undiscovered.	247
(H) The period of limitation shall not run during any time	248
when the accused purposely avoids prosecution. Proof that the	249
accused departed this state or concealed the accused's identity	250
or whereabouts is prima-facie evidence of the accused's purpose	251
to avoid prosecution.	252
(I) The period of limitation shall not run during any time	253
a prosecution against the accused based on the same conduct is	254
pending in this state, even though the indictment, information,	255
or process that commenced the prosecution is quashed or the	256
proceedings on the indictment, information, or process are set	257
aside or reversed on appeal.	258
(J) The period of limitation for a violation of any	259
provision of Title XXIX of the Revised Code that involves a	260
physical or mental wound, injury, disability, or condition of a	261
nature that reasonably indicates abuse or neglect of a child	262
under eighteen years of age or of a child with a developmental	263
disability or physical impairment under twenty-one years of age	264
shall not begin to run until either of the following occurs:	265
(1) The victim of the offense reaches the age of majority.	266
(2) A public children services agency, or a municipal or	267
county peace officer that is not the parent or guardian of the	268
child, in the county in which the child resides or in which the	269
abuse or neglect is occurring or has occurred has been notified	270
that abuse or neglect is known, suspected, or believed to have	271
occurred.	272
(K) As used in this section, "peace officer" has the same	273
meaning as in section 2935.01 of the Revised Code.	274

(L) The amendments to divisions (A) and (D) of this 275
section apply to a violation of section ~~2907.02~~ or 2907.03 of 276
the Revised Code committed on and after July 16, 2015, and apply 277
to a violation of either of those sections committed prior to 278
July 16, 2015, if prosecution for that violation was not barred 279
under this section as it existed on the day prior to July 16, 280
2015. 281

Sec. 2907.02. (A) (1) No person shall engage in sexual 282
conduct with another ~~who is not the spouse of the offender or~~ 283
~~who is the spouse of the offender but is living separate and~~ 284
~~apart from the offender,~~ when any of the following applies: 285

(a) For the purpose of preventing resistance, the offender 286
substantially impairs the other person's judgment or control by 287
administering any drug, intoxicant, or controlled substance to 288
the other person surreptitiously or by force, threat of force, 289
or deception. 290

(b) The other person is less than thirteen years of age, 291
whether or not the offender knows the age of the other person. 292

(c) The other person's ability to resist or consent is 293
substantially impaired because of a mental or physical condition 294
or because of advanced age, and the offender knows or has 295
reasonable cause to believe that the other person's ability to 296
resist or consent is substantially impaired because of a mental 297
or physical condition or because of advanced age. 298

(2) No person shall engage in sexual conduct with another 299
when the offender purposely compels the other person to submit 300
by force or threat of force. 301

(B) Whoever violates this section is guilty of rape, a 302
felony of the first degree. If the offender under division (A) 303

(1) (a) of this section substantially impairs the other person's judgment or control by administering any controlled substance, as defined in section 3719.01 of the Revised Code, to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the definite prison terms prescribed for a felony of the first degree in division (A) (1) (b) of section 2929.14 of the Revised Code that is not less than five years, except that if the violation is committed on or after March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the first degree in division (A) (1) (a) of section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A) (1) (b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A) (1)

(b) of this section previously has been convicted of or pleaded 336
guilty to violating division (A) (1) (b) of this section or to 337
violating an existing or former law of this state, another 338
state, or the United States that is substantially similar to 339
division (A) (1) (b) of this section, if the offender during or 340
immediately after the commission of the offense caused serious 341
physical harm to the victim, or if the victim under division (A) 342
(1) (b) of this section is less than ten years of age, in lieu of 343
sentencing the offender to a prison term or term of life 344
imprisonment pursuant to section 2971.03 of the Revised Code, 345
except as otherwise provided in this division, the court may 346
impose upon the offender a term of life without parole. If the 347
court imposes a term of life without parole pursuant to this 348
division, division (F) of section 2971.03 of the Revised Code 349
applies, and the offender automatically is classified a tier III 350
sex offender/child-victim offender, as described in that 351
division. A court shall not impose a term of life without parole 352
on an offender for rape if the offender was under eighteen years 353
of age at the time of the offense. 354

(C) A victim need not prove physical resistance to the 355
offender in prosecutions under this section. 356

(D) Evidence of specific instances of the victim's sexual 357
activity, opinion evidence of the victim's sexual activity, and 358
reputation evidence of the victim's sexual activity shall not be 359
admitted under this section unless it involves evidence of the 360
origin of semen, pregnancy, or disease, or the victim's past 361
sexual activity with the offender, and only to the extent that 362
the court finds that the evidence is material to a fact at issue 363
in the case and that its inflammatory or prejudicial nature does 364
not outweigh its probative value. 365

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(E) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(F) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

(G) It is not a defense to a charge under division (A) (2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.

Sec. 2933.82. (A) As used in this section:

(1) (a) "Biological evidence" means any of the following:

(i) The contents of a sexual assault examination kit;

(ii) Any item that contains blood, semen, hair, saliva, 395
skin tissue, fingernail scrapings, bone, bodily fluids, or any 396
other identifiable biological material that was collected as 397
part of a criminal investigation or delinquent child 398
investigation and that reasonably may be used to incriminate or 399
exculpate any person for an offense or delinquent act. 400

(b) The definition of "biological evidence" set forth in 401
division (A) (1) (a) of this section applies whether the material 402
in question is cataloged separately, such as on a slide or swab 403
or in a test tube, or is present on other evidence, including, 404
but not limited to, clothing, ligatures, bedding or other 405
household material, drinking cups or containers, or cigarettes. 406

(2) "Biological material" has the same meaning as in 407
section 2953.71 of the Revised Code. 408

(3) "DNA," "DNA analysis," "DNA database," "DNA record," 409
and "DNA specimen" have the same meanings as in section 109.573 410
of the Revised Code. 411

(4) "Prosecutor" has the same meaning as in section 412
2935.01 of the Revised Code. 413

(5) "Governmental evidence-retention entity" means all of 414
the following: 415

(a) Any law enforcement agency, prosecutor's office, 416
court, public hospital, crime laboratory, or other governmental 417
or public entity or individual within this state that is charged 418
with the collection, storage, or retrieval of biological 419
evidence; 420

(b) Any official or employee of any entity or individual 421
described in division (A) (5) (a) of this section. 422

(B) (1) Each governmental evidence-retention entity that 423
secures any biological evidence in relation to an investigation 424
or prosecution of a criminal offense or delinquent act that is a 425
violation of section 2903.01, 2903.02, or 2903.03, a violation 426
of section 2903.04 or 2903.06 that is a felony of the first or 427
second degree, a violation of section 2907.02 or 2907.03 or 428
division (A) (4) or (B) of section 2907.05 of the Revised Code, 429
or an attempt to commit a violation of section 2907.02 of the 430
Revised Code shall secure the biological evidence for whichever 431
of the following periods of time is applicable: 432

(a) For a violation of section 2903.01 ~~or, 2903.02, or~~ 2907.02 of the Revised Code, or an attempt to commit a violation 433
of section 2907.02 of the Revised Code, for the period of time 434
that the offense or act remains unsolved; 435
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(b) For a violation of section 2903.03, a violation of 437
section 2903.04 or 2903.06 that is a felony of the first or 438
second degree, a violation of section ~~2907.02 or 2907.03 or of~~ 439
division (A) (4) or (B) of section 2907.05 of the Revised Code, 440
~~or an attempt to commit a violation of section 2907.02 of the~~ 441
~~Revised Code,~~ for a period of thirty years if the offense or act 442
remains unsolved; 443

(c) If any person is convicted of or pleads guilty to the 444
offense, or is adjudicated a delinquent child for committing the 445
delinquent act, for the earlier of the following: (i) the 446
expiration of the latest of the following periods of time that 447
apply to the person: the period of time that the person is 448
incarcerated, is in a department of youth services institution 449
or other juvenile facility, is under a community control 450
sanction for that offense, is under any order of disposition for 451
that act, is on probation or parole for that offense, is under 452

judicial release or supervised release for that act, is under 453
post-release control for that offense, is involved in civil 454
litigation in connection with that offense or act, or is subject 455
to registration and other duties imposed for that offense or act 456
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 457
Revised Code or (ii) thirty years. If after the period of thirty 458
years the person remains incarcerated, then the governmental 459
evidence-retention entity shall secure the biological evidence 460
until the person is released from incarceration or dies. 461

(2) (a) A law enforcement agency shall review all of its 462
records and reports pertaining to its investigation of any 463
offense specified in division (B) (1) of this section as soon as 464
possible after March 23, 2015. If the law enforcement agency's 465
review determines that one or more persons may have committed or 466
participated in an offense specified in division (B) (1) of this 467
section or another offense committed during the course of an 468
offense specified in division (B) (1) of this section and the 469
agency is in possession of a sexual assault examination kit 470
secured during the course of the agency's investigation, as soon 471
as possible, but not later than one year after March 23, 2015, 472
the agency shall forward the contents of the kit to the bureau 473
of criminal identification and investigation or another crime 474
laboratory for a DNA analysis of the contents of the kit if a 475
DNA analysis has not previously been performed on the contents 476
of the kit. The law enforcement agency shall consider the period 477
of time remaining under section 2901.13 of the Revised Code for 478
commencing the prosecution of a criminal offense related to the 479
DNA specimens from the kit as well as other relevant factors in 480
prioritizing the forwarding of the contents of sexual assault 481
examination kits. 482

(b) If an investigation is initiated on or after March 23, 483

2015, and if a law enforcement agency investigating an offense 484
specified in division (B) (1) of this section determines that one 485
or more persons may have committed or participated in an offense 486
specified in division (B) (1) of this section or another offense 487
committed during the course of an offense specified in division 488
(B) (1) of this section, the law enforcement agency shall forward 489
the contents of a sexual assault examination kit in the agency's 490
possession to the bureau or another crime laboratory within 491
thirty days for a DNA analysis of the contents of the kit. 492

(c) A law enforcement agency shall be considered in the 493
possession of a sexual assault examination kit that is not in 494
the law enforcement agency's possession for purposes of 495
divisions (B) (2) (a) and (b) of this section if the sexual 496
assault examination kit contains biological evidence related to 497
the law enforcement agency's investigation of an offense 498
specified in division (B) (1) of this section and is in the 499
possession of another government evidence-retention entity. The 500
law enforcement agency shall be responsible for retrieving the 501
sexual assault examination kit from the government evidence- 502
retention entity and forwarding the contents of the kit to the 503
bureau or another crime laboratory as required under divisions 504
(B) (2) (a) and (b) of this section. 505

(d) (i) The bureau or a laboratory under contract with the 506
bureau pursuant to division (B) (5) of section 109.573 of the 507
Revised Code shall perform a DNA analysis of the contents of any 508
sexual assault examination kit forwarded to the bureau pursuant 509
to division (B) (2) (a) or (b) of this section as soon as possible 510
after the bureau receives the contents of the kit. The bureau 511
shall enter the resulting DNA record into a DNA database. If the 512
DNA analysis is performed by a laboratory under contract with 513
the bureau, the laboratory shall forward the biological evidence 514

to the bureau immediately after the laboratory performs the DNA 515
analysis. A crime laboratory shall perform a DNA analysis of the 516
contents of any sexual assault examination kit forwarded to the 517
crime laboratory pursuant to division (B) (2) (a) or (b) of this 518
section as soon as possible after the crime laboratory receives 519
the contents of the kit and shall enter the resulting DNA record 520
into a DNA database subject to the applicable DNA index system 521
standards. 522

(ii) Upon the completion of the DNA analysis by the bureau 523
or a crime laboratory under contract with the bureau under this 524
division, the bureau shall return the contents of the sexual 525
assault examination kit to the law enforcement agency. The law 526
enforcement agency shall secure the contents of the sexual 527
assault examination kit in accordance with division (B) (1) of 528
this section, as applicable. 529

(e) The failure of any law enforcement agency to comply 530
with any time limit specified in this section shall not create, 531
and shall not be construed as creating, any basis or right to 532
appeal, claim for or right to postconviction relief, or claim 533
for or right to a new trial or any other claim or right to 534
relief by any person. 535

(3) This section applies to evidence likely to contain 536
biological material that was in the possession of any 537
governmental evidence-retention entity during the investigation 538
and prosecution of a criminal case or delinquent child case 539
involving a violation of section 2903.01, 2903.02, or 2903.03, a 540
violation of section 2903.04 or 2903.06 that is a felony of the 541
first or second degree, a violation of section 2907.02 or 542
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 543
Revised Code, or an attempt to commit a violation of section 544

2907.02 of the Revised Code. 545

(4) A governmental evidence-retention entity that 546
possesses biological evidence shall retain the biological 547
evidence in the amount and manner sufficient to develop a DNA 548
record from the biological material contained in or included on 549
the evidence. 550

(5) Upon written request by the defendant in a criminal 551
case or the alleged delinquent child in a delinquent child case 552
involving a violation of section 2903.01, 2903.02, or 2903.03, a 553
violation of section 2903.04 or 2903.06 that is a felony of the 554
first or second degree, a violation of section 2907.02 or 555
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 556
Revised Code, or an attempt to commit a violation of section 557
2907.02 of the Revised Code, a governmental evidence-retention 558
entity that possesses biological evidence shall prepare an 559
inventory of the biological evidence that has been preserved in 560
connection with the defendant's criminal case or the alleged 561
delinquent child's delinquent child case. 562

(6) Except as otherwise provided in division (B) (8) of 563
this section, a governmental evidence-retention entity that 564
possesses biological evidence that includes biological material 565
may destroy the evidence before the expiration of the applicable 566
period of time specified in division (B) (1) of this section if 567
all of the following apply: 568

(a) No other provision of federal or state law requires 569
the state to preserve the evidence. 570

(b) The governmental evidence-retention entity, by 571
certified mail, return receipt requested, provides notice of 572
intent to destroy the evidence to all of the following: 573

(i) All persons who remain in custody, incarcerated, in a department of youth services institution or other juvenile facility, under a community control sanction, under any order of disposition, on probation or parole, under judicial release or supervised release, under post-release control, involved in civil litigation, or subject to registration and other duties imposed for that offense or act under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code as a result of a criminal conviction, delinquency adjudication, or commitment related to the evidence in question;	574 575 576 577 578 579 580 581 582 583
(ii) The attorney of record for each person who is in custody in any circumstance described in division (B) (6) (b) (i) of this section if the attorney of record can be located;	584 585 586
(iii) The state public defender;	587
(iv) The office of the prosecutor of record in the case that resulted in the custody of the person in custody in any circumstance described in division (B) (6) (b) (i) of this section;	588 589 590
(v) The attorney general.	591
(c) No person who is notified under division (B) (6) (b) of this section does either of the following within one year after the date on which the person receives the notice:	592 593 594
(i) Files a motion for testing of evidence under sections 2953.71 to 2953.81 or section 2953.82 of the Revised Code;	595 596
(ii) Submits a written request for retention of evidence to the governmental evidence-retention entity that provided notice of its intent to destroy evidence under division (B) (6) (b) of this section.	597 598 599 600
(7) Except as otherwise provided in division (B) (8) of	601

this section, if, after providing notice under division (B) (6) 602
(b) of this section of its intent to destroy evidence, a 603
governmental evidence-retention entity receives a written 604
request for retention of the evidence from any person to whom 605
the notice is provided, the governmental evidence-retention 606
entity shall retain the evidence while the person referred to in 607
division (B) (6) (b) (i) of this section remains in custody, 608
incarcerated, in a department of youth services institution or 609
other juvenile facility, under a community control sanction, 610
under any order of disposition, on probation or parole, under 611
judicial release or supervised release, under post-release 612
control, involved in civil litigation, or subject to 613
registration and other duties imposed for that offense or act 614
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 615
Revised Code as a result of a criminal conviction, delinquency 616
adjudication, or commitment related to the evidence in question. 617

(8) A governmental evidence-retention entity that 618
possesses biological evidence that includes biological material 619
may destroy the evidence five years after a person pleads guilty 620
or no contest to a violation of section 2903.01, 2903.02, or 621
2903.03, a violation of section 2903.04 or 2903.06 that is a 622
felony of the first or second degree, a violation of section 623
2907.02, 2907.03, division (A) (4) or (B) of section 2907.05, or 624
an attempt to commit a violation of section 2907.02 of the 625
Revised Code and all appeals have been exhausted unless, upon a 626
motion to the court by the person who pleaded guilty or no 627
contest or the person's attorney and notice to those persons 628
described in division (B) (6) (b) of this section requesting that 629
the evidence not be destroyed, the court finds good cause as to 630
why that evidence must be retained. 631

(9) A governmental evidence-retention entity shall not be 632

required to preserve physical evidence pursuant to this section 633
that is of such a size, bulk, or physical character as to render 634
retention impracticable. When retention of physical evidence 635
that otherwise would be required to be retained pursuant to this 636
section is impracticable as described in this division, the 637
governmental evidence-retention entity that otherwise would be 638
required to retain the physical evidence shall remove and 639
preserve portions of the material evidence likely to contain 640
biological evidence related to the offense, in a quantity 641
sufficient to permit future DNA testing before returning or 642
disposing of that physical evidence. 643

(C) The office of the attorney general shall administer 644
and conduct training programs for law enforcement officers and 645
other relevant employees who are charged with preserving and 646
cataloging biological evidence regarding the methods and 647
procedures referenced in this section. 648

Section 2. That existing sections 2305.111, 2901.13, 649
2907.02, and 2933.82 of the Revised Code are hereby repealed. 650