

Sub. H.B. 33
As Passed by the Senate
AGOCD31

_____ moved to amend as follows:

In line 5 of the title, after "109.112," insert "109.42,;" 1
after "109.572," insert "109.68," 2

In line 61 of the title, after "2930.16," insert "2933.82," 3

In line 243 of the title, after "2329.261," insert 4
"2933.821," 5

In line 765, after "109.112," insert "109.42,;" after 6
"109.572," insert "109.68," 7

In line 807, after "2930.16," insert "2933.82" 8

In line 940, after "2329.261," insert "2933.821," 9

After line 2597, insert: 10

"**Sec. 109.42.** (A) The attorney general shall prepare and have 11
printed a pamphlet that contains a compilation of all 12
constitutional provisions and statutes relative to victim's rights 13
in which the attorney general lists and explains the 14
constitutional provisions and statutes in the form of a victim's 15
bill of rights. The attorney general shall make the pamphlet 16
available to all sheriffs, marshals, municipal corporation and 17
township police departments, constables, and other law enforcement 18

agencies, to all prosecuting attorneys, city directors of law, 19
village solicitors, and other similar chief legal officers of 20
municipal corporations, and to organizations that represent or 21
provide services for victims of crime. The victim's bill of rights 22
set forth in the pamphlet shall contain a description of all of 23
the rights of victims that are provided for in the Ohio 24
Constitution, or in Chapter 2930. or any other section of the 25
Revised Code and shall include, but not be limited to, all of the 26
following: 27

(1) The right of a victim and a victim's representative, if 28
applicable, to attend a proceeding before a grand jury, in a 29
juvenile delinquency case, or in a criminal case without being 30
discharged from the victim's or victim's representative's 31
employment, having the victim's or victim's representative's 32
employment terminated, having the victim's or victim's 33
representative's pay decreased or withheld, or otherwise being 34
punished, penalized, or threatened as a result of time lost from 35
regular employment because of the victim's or victim's 36
representative's attendance at the proceeding, as set forth in 37
section 2151.211, 2930.18, 2939.121, or 2945.451 of the Revised 38
Code; 39

(2) The potential availability pursuant to section 2151.359 40
or 2152.61 of the Revised Code of a forfeited recognizance to pay 41
damages caused by a child when the delinquency of the child or 42
child's violation of probation or community control is found to be 43
proximately caused by the failure of the child's parent or 44
guardian to subject the child to reasonable parental authority or 45
to faithfully discharge the conditions of probation or community 46
control; 47

(3) The availability of awards of reparations pursuant to 48

sections 2743.51 to 2743.72 of the Revised Code for injuries 49
caused by criminal offenses; 50

(4) The opportunity to obtain a court order, pursuant to 51
section 2945.04 of the Revised Code, to prevent or stop the 52
commission of the offense of intimidation of a crime victim or 53
witness or an offense against the person or property of the 54
complainant, or of the complainant's ward or child; 55

(5) The right of the victim and the victim's representative 56
pursuant to the Ohio Constitution and sections 2151.38, 2929.20, 57
2930.10, 2930.16, and 2930.17 of the Revised Code to receive 58
notice of a pending motion for judicial release or other early 59
release of the person who committed the offense against the 60
victim, to make a statement orally, in writing, or both at the 61
court hearing on the motion, and to be notified of the court's 62
decision on the motion; 63

(6) The right of the victim and the victim's representative, 64
if applicable, pursuant to the Ohio Constitution and section 65
2930.16, 2967.12, 2967.26, 2967.271, or 5139.56 of the Revised 66
Code to receive notice of any pending commutation, pardon, parole, 67
transitional control, discharge, other form of authorized release, 68
post-release control, or supervised release for the person who 69
committed the offense against the victim or any application for 70
release of that person and to send a written statement relative to 71
the victimization and the pending action to the adult parole 72
authority or the release authority of the department of youth 73
services; 74

(7) The right of the victim to bring a civil action pursuant 75
to sections 2969.01 to 2969.06 of the Revised Code to obtain money 76
from the offender's profit fund; 77

(8) The right, pursuant to section 3109.09 of the Revised 78

Code, to maintain a civil action to recover compensatory damages 79
 not exceeding ten thousand dollars and costs from the parent of a 80
 minor who willfully damages property through the commission of an 81
 act that would be a theft offense, as defined in section 2913.01 82
 of the Revised Code, if committed by an adult; 83

(9) The right, pursuant to section 3109.10 of the Revised 84
 Code, to maintain a civil action to recover compensatory damages 85
 not exceeding ten thousand dollars and costs from the parent of a 86
 minor who willfully and maliciously assaults a person; 87

(10) The right of the victim, pursuant to section 2152.20, 88
 2152.203, 2929.18, 2929.28, or 2929.281 of the Revised Code, to 89
 receive restitution from an offender or a delinquent child; 90

(11) The right of a victim of domestic violence, including 91
 domestic violence in a dating relationship as defined in section 92
 3113.31 of the Revised Code, to seek the issuance of a civil 93
 protection order pursuant to that section, the right of a victim 94
 of a violation of section 2903.14, 2909.06, 2909.07, 2911.12, 95
 2911.211, or 2919.22 of the Revised Code, a violation of a 96
 substantially similar municipal ordinance, or an offense of 97
 violence who is a family or household member of the offender at 98
 the time of the offense to seek the issuance of a temporary 99
 protection order pursuant to section 2919.26 of the Revised Code, 100
 and the right of both types of victims to be accompanied by a 101
 victim advocate during court proceedings; 102

(12) The right of a victim of a sexually oriented offense or 103
 of a child-victim oriented offense that is committed by a person 104
 who is convicted of, pleads guilty to, or is adjudicated a 105
 delinquent child for committing the offense and who is in a 106
 category specified in division (B) of section 2950.10 of the 107
 Revised Code to receive, pursuant to that section, notice that the 108

person has registered with a sheriff under section 2950.04, 109
2950.041, or 2950.05 of the Revised Code and notice of the 110
person's name, the person's residence that is registered, and the 111
offender's school, institution of higher education, or place of 112
employment address or addresses that are registered, the person's 113
photograph, and a summary of the manner in which the victim must 114
make a request to receive the notice. As used in this division, 115
"sexually oriented offense" and "child-victim oriented offense" 116
have the same meanings as in section 2950.01 of the Revised Code. 117

(13) The right of a victim of certain sexually violent 118
offenses committed by an offender who also is convicted of or 119
pleads guilty to a sexually violent predator specification and who 120
is sentenced to a prison term pursuant to division (A)(3) of 121
section 2971.03 of the Revised Code, of a victim of a violation of 122
division (A)(1)(b) of section 2907.02 of the Revised Code 123
committed on or after January 2, 2007, by an offender who is 124
sentenced for the violation pursuant to division (B)(1)(a), (b), 125
or (c) of section 2971.03 of the Revised Code, of a victim of an 126
attempted rape committed on or after January 2, 2007, by an 127
offender who also is convicted of or pleads guilty to a 128
specification of the type described in section 2941.1418, 129
2941.1419, or 2941.1420 of the Revised Code and is sentenced for 130
the violation pursuant to division (B)(2)(a), (b), or (c) of 131
section 2971.03 of the Revised Code, and of a victim of an offense 132
that is described in division (B)(3)(a), (b), (c), or (d) of 133
section 2971.03 of the Revised Code and is committed by an 134
offender who is sentenced pursuant to one of those divisions to 135
receive, pursuant to section 2930.16 of the Revised Code, notice 136
of a hearing to determine whether to modify the requirement that 137
the offender serve the entire prison term in a state correctional 138
facility, whether to continue, revise, or revoke any existing 139

modification of that requirement, or whether to terminate the 140
prison term. As used in this division, "sexually violent offense" 141
and "sexually violent predator specification" have the same 142
meanings as in section 2971.01 of the Revised Code. 143

(14) The right of a victim of a sexually oriented offense to 144
information regarding the status of the sexual assault examination 145
kit collected from the victim pursuant to section 109.68 of the 146
Revised Code. 147

(B)(1)(a) A prosecuting attorney, assistant prosecuting 148
attorney, city director of law, assistant city director of law, 149
village solicitor, assistant village solicitor, or similar chief 150
legal officer of a municipal corporation or an assistant of any of 151
those officers who prosecutes an offense committed in this state, 152
upon first contact with the victim of the offense, the victim's 153
family, or the victim's dependents, shall give the victim, the 154
victim's family, or the victim's dependents a copy of the victim's 155
rights request form created under section 2930.04 of the Revised 156
Code, or a similar form that, at a minimum, contains all the 157
required information listed in that section, and the pamphlet 158
prepared pursuant to division (A) of this section and explain, 159
upon request, the information in the form and pamphlet to the 160
victim, the victim's family, or the victim's dependents. The 161
victim may receive either through the online version of the 162
pamphlet published to the attorney general's web site, or as a 163
paper copy, upon request. 164

(b) A law enforcement agency that investigates a criminal 165
offense or delinquent act committed in this state shall give the 166
victim of the criminal offense or delinquent act, the victim's 167
family, or the victim's dependents a copy of the form and pamphlet 168
prepared pursuant to division (A) of this section at one of the 169

following times:

170

(i) Upon first contact with the victim, the victim's family, 171
or the victim's dependents, a peace officer from the law 172
enforcement agency investigating the criminal offense or 173
delinquent act against the victim shall determine whether the 174
victim has access to the internet and whether the victim would 175
prefer to access the victim's rights pamphlet online or if the 176
victim requires a paper copy. The peace officer may give the 177
victim a paper copy upon first contact, if requested, or the peace 178
officer may provide the victim with the attorney general's 179
telephone number to access the pamphlet at a later time. The 180
attorney general shall provide a web site address at which a 181
printable version of the victim's rights pamphlet that can be 182
downloaded and printed locally may be found. The attorney general 183
shall provide limited paper copies of the victim's rights 184
pamphlets upon request to law enforcement agencies that order 185
copies directly from the attorney general and to law enforcement 186
agencies and prosecutors to provide to victims who do not have 187
internet access or who would prefer a paper copy. The attorney 188
general shall create a page within the attorney general's web site 189
that is easy to access and navigate that contains the entire 190
content of the victim's rights pamphlet and a link to the web site 191
address at which a printable version of the victim's rights 192
pamphlet may be found. 193

(ii) If the circumstances of the criminal offense or 194
delinquent act and the condition of the victim, the victim's 195
family, or the victim's dependents indicate that the victim, the 196
victim's family, or the victim's dependents will not be able to 197
understand the significance of the form and pamphlet upon first 198
contact with the agency, and if the agency anticipates that it 199
will have an additional contact with the victim, the victim's 200

family, or the victim's dependents, upon the agency's second 201
 contact with the victim, the victim's family, or the victim's 202
 dependents. 203

If the agency does not give the victim, the victim's family, 204
 or the victim's dependents a copy of the form and pamphlet upon 205
 first contact with them and does not have a second contact with 206
 the victim, the victim's family, or the victim's dependents, the 207
 agency shall mail a copy of the form and pamphlet to the victim, 208
 the victim's family, or the victim's dependents at their last 209
 known address. 210

(c)(i) The attorney general shall create an information card 211
 which contains all of the following: 212

(I) An outline list of victim's rights contained in the Ohio 213
 Constitution and Revised Code; 214

(II) A reference to the victim's rights request form; 215

(III) The attorney general's crime victim's services office 216
 telephone number, electronic mailing address, web site address, 217
 and contact address, and a description of how to access victim's 218
 rights information; 219

(IV) The Ohio crime victim's justice center's telephone 220
 number, electronic mailing address, and contact address, and the 221
 web site address for accessing the center's victim's rights 222
 toolkit. 223

(ii) Upon first contact with the victim, the law enforcement 224
 agency shall provide the victim with the information card. 225

(2) A law enforcement agency, a prosecuting attorney or 226
 assistant prosecuting attorney, or a city director of law, 227
 assistant city director of law, village solicitor, assistant 228
 village solicitor, or similar chief legal officer of a municipal 229

corporation that distributes a copy of the form and pamphlet 230
 prepared pursuant to division (A) of this section shall not be 231
 required to distribute a copy of an information card or other 232
 printed material provided by the clerk of the court of claims 233
 pursuant to section 2743.71 of the Revised Code. 234

(C) The cost of printing and distributing the form and 235
 pamphlet prepared pursuant to division (A) of this section shall 236
 be paid out of the reparations fund, created pursuant to section 237
 2743.191 of the Revised Code, in accordance with division (D) of 238
 that section. 239

(D) As used in this section: 240

(1) "Criminal offense," "delinquent act," and "victim's 241
 representative" have the same meanings as in section 2930.01 of 242
 the Revised Code; 243

(2) "Victim advocate" has the same meaning as in section 244
 2919.26 of the Revised Code." 245

After line 3195, insert: 246

"Sec. 109.68. (A) As used in this section, "victim" means a 247
 person from whom a sexual assault examination kit was collected. 248

(B) In consultation with the attorney general's advisory 249
 group on sexual assault examination kit tracking, the attorney 250
 general shall develop recommendations for establishing a statewide 251
 sexual assault examination kit tracking system. Based on those 252
 recommendations, the attorney general shall create, operate, and 253
 maintain the statewide tracking system and shall identify and 254
 allocate money for that purpose from the appropriate funds 255
 available to the attorney general. 256

~~(B)~~(C) The attorney general may contract with state or 257

private entities, including private software and technology 258
providers, for the creation, operation, and maintenance of the 259
statewide tracking system. The tracking system shall do all of the 260
following: 261

(1) Track the status of sexual assault examination kits from 262
the collection site through the criminal justice process, 263
including the initial collection at medical facilities, inventory 264
and storage by law enforcement agencies, analysis at crime 265
laboratories, and storage or destruction after completion of 266
analysis; 267

(2) Allow all entities that receive, maintain, store, or 268
preserve sexual assault examination kits to update the status and 269
location of the kits; 270

(3) Allow individuals to anonymously access the statewide 271
tracking system regarding the location and status of their sexual 272
assault examination kit. 273

~~(C)~~(D)(1) A victim may request the following from the 274
appropriate official with custody of the kit: 275

(a) Information regarding the testing date and results of the 276
kit; 277

(b) Whether a DNA profile was obtained from the kit; 278

(c) Whether a match was found to that DNA profile in state or 279
federal databases; 280

(d) The estimated destruction date of the kit. 281

The victim is entitled to receive this information in 282
writing, by electronic mail, or by telephone, as designated by the 283
victim. 284

(2) A victim who has requested information regarding the 285

tracking of the victim's sexual assault examination kit shall be 286
informed by the appropriate official with custody of the kit when 287
there is any change in the status of the case, including if the 288
case has been closed or reopened. 289

(3) A victim may request written notification from the 290
appropriate official with custody of the kit notice of the 291
destruction or disposal date of the kit and shall receive that 292
notice not later than sixty days before the date of the intended 293
destruction or disposal. 294

(4) A victim may request further preservation of the sexual 295
assault examination kit or its probative contents beyond the 296
intended destruction or disposal date as provided under section 297
2933.82 of the Revised Code, for a period of up to thirty years. 298

(5) In responding to a victim's request under divisions 299
(D)(1) to (4) of this section, the appropriate official with 300
custody of the kit also shall provide the victim with information 301
about the victim's right to apply for an award of reparations 302
pursuant to section 2743.56 of the Revised Code. 303

(E) Not later than one year after creation of the statewide 304
tracking system, all entities in the chain of custody of sexual 305
assault examination kits shall participate in the system. 306

~~(D)~~(F) The attorney general may adopt rules under Chapter 307
119. of the Revised Code to facilitate the implementation of the 308
statewide sexual assault examination kit tracking system pursuant 309
to this section. Except as provided in division (B)(3) of this 310
section, information contained in the statewide tracking system is 311
confidential and not subject to public disclosure." 312

After line 38109, insert: 313

| | |
|--|-----|
| "Sec. 2933.82. (A) As used in this section: | 314 |
| (1)(a) "Biological evidence" means any of the following: | 315 |
| (i) The contents of a sexual assault examination kit; | 316 |
| (ii) Any item that contains blood, semen, hair, saliva, skin | 317 |
| tissue, fingernail scrapings, bone, bodily fluids, or any other | 318 |
| identifiable biological material that was collected as part of a | 319 |
| criminal investigation or delinquent child investigation and that | 320 |
| reasonably may be used to incriminate or exculpate any person for | 321 |
| an offense or delinquent act. | 322 |
| (b) The definition of "biological evidence" set forth in | 323 |
| division (A)(1)(a) of this section applies whether the material in | 324 |
| question is cataloged separately, such as on a slide or swab or in | 325 |
| a test tube, or is present on other evidence, including, but not | 326 |
| limited to, clothing, ligatures, bedding or other household | 327 |
| material, drinking cups or containers, or cigarettes. | 328 |
| (2) "Biological material" has the same meaning as in section | 329 |
| 2953.71 of the Revised Code. | 330 |
| (3) "DNA," "DNA analysis," "DNA database," "DNA record," and | 331 |
| "DNA specimen" have the same meanings as in section 109.573 of the | 332 |
| Revised Code. | 333 |
| (4) "Prosecutor" has the same meaning as in section 2935.01 | 334 |
| of the Revised Code. | 335 |
| (5) "Governmental evidence-retention entity" means all of the | 336 |
| following: | 337 |
| (a) Any law enforcement agency, prosecutor's office, court, | 338 |
| public hospital, crime laboratory, or other governmental or public | 339 |
| entity or individual within this state that is charged with the | 340 |
| collection, storage, or retrieval of biological evidence; | 341 |

(b) Any official or employee of any entity or individual 342
described in division (A)(5)(a) of this section. 343

(B)(1) Each governmental evidence-retention entity that 344
secures any sexual assault examination kit in relation to an 345
investigation or prosecution of a criminal offense or delinquent 346
act that is a violation of section 2905.32 of the Revised Code, or 347
any biological evidence in relation to an investigation or 348
prosecution of a criminal offense or delinquent act that is a 349
violation of section 2903.01, 2903.02, or 2903.03, a violation of 350
section 2903.04 or 2903.06 that is a felony of the first or second 351
degree, a violation of section 2907.02 or 2907.03 or division 352
(A)(4) or (B) of section 2907.05 of the Revised Code, or an 353
attempt to commit a violation of section 2907.02 of the Revised 354
Code shall secure the biological evidence for whichever of the 355
following periods of time is applicable: 356

(a) For a violation of section 2903.01 or 2903.02 of the 357
Revised Code, for the period of time that the offense or act 358
remains unsolved; 359

(b) For a violation of section 2903.03 or 2905.32, a 360
violation of section 2903.04 or 2903.06 that is a felony of the 361
first or second degree, a violation of section 2907.02 or 2907.03 362
or of division (A)(4) or (B) of section 2907.05 of the Revised 363
Code, or an attempt to commit a violation of section 2907.02 of 364
the Revised Code, for a period of thirty years if the offense or 365
act remains unsolved; 366

(c) If any person is convicted of or pleads guilty to the 367
offense, or is adjudicated a delinquent child for committing the 368
delinquent act, for the earlier of the following: (i) the 369
expiration of the latest of the following periods of time that 370
apply to the person: the period of time that the person is 371

incarcerated, is in a department of youth services institution or 372
other juvenile facility, is under a community control sanction for 373
that offense, is under any order of disposition for that act, is 374
on probation or parole for that offense, is under judicial release 375
or supervised release for that act, is under post-release control 376
for that offense, is involved in civil litigation in connection 377
with that offense or act, or is subject to registration and other 378
duties imposed for that offense or act under sections 2950.04, 379
2950.041, 2950.05, and 2950.06 of the Revised Code or (ii) thirty 380
years. If after the period of thirty years the person remains 381
incarcerated, then the governmental evidence-retention entity 382
shall secure the biological evidence until the person is released 383
from incarceration or dies. 384

(2)(a) A law enforcement agency shall review all of its 385
records and reports pertaining to its investigation of any offense 386
specified in division (B)(1) of this section, except a violation 387
of section 2905.32 of the Revised Code, as soon as possible after 388
March 23, 2015. A law enforcement agency shall review all of its 389
records and reports pertaining to its investigation of any 390
violation of section 2905.32 of the Revised Code as soon as 391
possible after ~~the effective date of this amendment~~ April 4, 2023. 392
If the law enforcement agency's review determines that one or more 393
persons may have committed or participated in an offense specified 394
in division (B)(1) of this section or another offense committed 395
during the course of an offense specified in division (B)(1) of 396
this section and the agency is in possession of a sexual assault 397
examination kit secured during the course of the agency's 398
investigation, as soon as possible, but not later than one year 399
after March 23, 2015, or, in the case of a violation of section 400
2905.32 of the Revised Code, not later than one year after ~~the~~ 401
~~effective date of this amendment~~ April 4, 2023, the agency shall 402

forward the contents of the kit to the bureau of criminal 403
identification and investigation or another crime laboratory for a 404
DNA analysis of the contents of the kit if a DNA analysis has not 405
previously been performed on the contents of the kit. The law 406
enforcement agency shall consider the period of time remaining 407
under section 2901.13 of the Revised Code for commencing the 408
prosecution of a criminal offense related to the DNA specimens 409
from the kit as well as other relevant factors in prioritizing the 410
forwarding of the contents of sexual assault examination kits. 411

(b) If an investigation is initiated on or after March 23, 412
2015, or, in the case of a violation of section 2905.32 of the 413
Revised Code, on or after ~~the effective date of this amendment~~ 414
April 4, 2023, and if a law enforcement agency investigating an 415
offense specified in division (B)(1) of this section determines 416
that one or more persons may have committed or participated in an 417
offense specified in division (B)(1) of this section or another 418
offense committed during the course of an offense specified in 419
division (B)(1) of this section, the law enforcement agency shall 420
forward the contents of a sexual assault examination kit in the 421
agency's possession to the bureau or another crime laboratory 422
within thirty days for a DNA analysis of the contents of the kit. 423

(c) A law enforcement agency shall be considered in the 424
possession of a sexual assault examination kit that is not in the 425
law enforcement agency's possession for purposes of divisions 426
(B)(2)(a) and (b) of this section if the sexual assault 427
examination kit contains biological evidence related to the law 428
enforcement agency's investigation of an offense specified in 429
division (B)(1) of this section and is in the possession of 430
another government evidence-retention entity. The law enforcement 431
agency shall be responsible for retrieving the sexual assault 432
examination kit from the government evidence-retention entity and 433

forwarding the contents of the kit to the bureau or another crime
laboratory as required under divisions (B)(2)(a) and (b) of this
section.

(d)(i) The bureau or a laboratory under contract with the
bureau pursuant to division (B)(5) of section 109.573 of the
Revised Code shall perform a DNA analysis of the contents of any
sexual assault examination kit forwarded to the bureau pursuant to
division (B)(2)(a) or (b) of this section as soon as possible
after the bureau receives the contents of the kit. The bureau
shall enter the resulting DNA record into a DNA database. If the
DNA analysis is performed by a laboratory under contract with the
bureau, the laboratory shall forward the biological evidence to
the bureau immediately after the laboratory performs the DNA
analysis. A crime laboratory shall perform a DNA analysis of the
contents of any sexual assault examination kit forwarded to the
crime laboratory pursuant to division (B)(2)(a) or (b) of this
section as soon as possible after the crime laboratory receives
the contents of the kit and shall enter the resulting DNA record
into a DNA database subject to the applicable DNA index system
standards.

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

(e) The failure of any law enforcement agency to comply with
any time limit specified in this section shall not create, and
shall not be construed as creating, any basis or right to appeal,

claim for or right to postconviction relief, or claim for or right 464
to a new trial or any other claim or right to relief by any 465
person. 466

(f) All governmental evidence-retention entities shall submit 467
reports regarding sexual assault examination kit inventory to the 468
attorney general as required under section 2933.821 of the Revised 469
Code. 470

(3) This section applies to sexual assault examination kits 471
in the possession of any governmental evidence-retention entity 472
during an investigation or prosecution of a criminal offense or 473
delinquent act that is a violation of section 2905.32 of the 474
Revised Code, and any evidence likely to contain biological 475
material that was in the possession of any governmental 476
evidence-retention entity during the investigation and prosecution 477
of a criminal case or delinquent child case involving a violation 478
of section 2903.01, 2903.02, or 2903.03, a violation of section 479
2903.04 or 2903.06 that is a felony of the first or second degree, 480
a violation of section 2907.02 or 2907.03 or of division (A)(4) or 481
(B) of section 2907.05 of the Revised Code, or an attempt to 482
commit a violation of section 2907.02 of the Revised Code. 483

(4) A governmental evidence-retention entity that possesses 484
biological evidence shall retain the biological evidence in the 485
amount and manner sufficient to develop a DNA record from the 486
biological material contained in or included on the evidence. 487

(5) Upon written request by the defendant in a criminal case 488
or the alleged delinquent child in a delinquent child case 489
involving a violation of section 2903.01, 2903.02, 2903.03, or 490
2905.32, a violation of section 2903.04 or 2903.06 that is a 491
felony of the first or second degree, a violation of section 492
2907.02 or 2907.03 or of division (A)(4) or (B) of section 2907.05 493

of the Revised Code, or an attempt to commit a violation of 494
section 2907.02 of the Revised Code, a governmental 495
evidence-retention entity that possesses biological evidence shall 496
prepare an inventory of the biological evidence that has been 497
preserved in connection with the defendant's criminal case or the 498
alleged delinquent child's delinquent child case. 499

(6) Except as otherwise provided in division (B)(8) of this 500
section, a governmental evidence-retention entity that possesses 501
biological evidence that includes biological material may destroy 502
the evidence before the expiration of the applicable period of 503
time specified in division (B)(1) of this section if all of the 504
following apply: 505

(a) No other provision of federal or state law requires the 506
state to preserve the evidence. 507

(b) The governmental evidence-retention entity, by certified 508
mail, return receipt requested, provides notice of intent to 509
destroy the evidence to all of the following: 510

(i) All persons who remain in custody, incarcerated, in a 511
department of youth services institution or other juvenile 512
facility, under a community control sanction, under any order of 513
disposition, on probation or parole, under judicial release or 514
supervised release, under post-release control, involved in civil 515
litigation, or subject to registration and other duties imposed 516
for that offense or act under sections 2950.04, 2950.041, 2950.05, 517
and 2950.06 of the Revised Code as a result of a criminal 518
conviction, delinquency adjudication, or commitment related to the 519
evidence in question; 520

(ii) The attorney of record for each person who is in custody 521
in any circumstance described in division (B)(6)(b)(i) of this 522
section if the attorney of record can be located; 523

| | |
|---|---|
| (iii) The state public defender; | 524 |
| (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; | 525 526 527 |
| (v) The attorney general. | 528 |
| (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: | 529 530 531 |
| (i) Files a motion for testing of evidence under sections 2953.71 to 2953.81 or section 2953.82 of the Revised Code; | 532 533 |
| (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. | 534 535 536 537 |
| (7) Except as otherwise provided in division (B)(8) of this section, if, after providing notice under division (B)(6)(b) of this section of its intent to destroy evidence, a governmental evidence-retention entity receives a written request for retention of the evidence from any person to whom the notice is provided, the governmental evidence-retention entity shall retain the evidence while the person referred to in division (B)(6)(b)(i) of this section remains 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 | 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 |

adjudication, or commitment related to the evidence in question. 553

(8) A governmental evidence-retention entity that possesses 554
biological evidence that includes biological material may destroy 555
the evidence five years after a person pleads guilty or no contest 556
to a violation of section 2903.01, 2903.02, 2903.03, or 2905.32, a 557
violation of section 2903.04 or 2903.06 that is a felony of the 558
first or second degree, a violation of section 2907.02, 2907.03, 559
division (A)(4) or (B) of section 2907.05, or an attempt to commit 560
a violation of section 2907.02 of the Revised Code and all appeals 561
have been exhausted unless, ~~upon~~ either of the following applies: 562

(a) Upon a motion to the court by the person who pleaded 563
guilty or no contest or the person's attorney and notice to those 564
persons described in division (B)(6)(b) of this section requesting 565
that the evidence not be destroyed, the court finds good cause as 566
to why that evidence must be retained. 567

(b) A victim submits a request pursuant to section 109.68 of 568
the Revised Code for further preservation of a sexual assault 569
examination kit or its probative contents beyond the intended 570
destruction or disposal date. 571

(9) A governmental evidence-retention entity shall not be 572
required to preserve physical evidence pursuant to this section 573
that is of such a size, bulk, or physical character as to render 574
retention impracticable. When retention of physical evidence that 575
otherwise would be required to be retained pursuant to this 576
section is impracticable as described in this division, the 577
governmental evidence-retention entity that otherwise would be 578
required to retain the physical evidence shall remove and preserve 579
portions of the material evidence likely to contain biological 580
evidence related to the offense, in a quantity sufficient to 581
permit future DNA testing before returning or disposing of that 582

physical evidence. 583

(C) The office of the attorney general shall administer and 584
conduct training programs for law enforcement officers and other 585
relevant employees who are charged with preserving and cataloging 586
biological evidence regarding the methods and procedures 587
referenced in this section. 588

Sec. 2933.821. (A) As used in this section, "governmental 589
evidence-retention entity" has the same meaning as in section 590
2933.82 of the Revised Code. 591

(B) Within one hundred eighty days after the effective date 592
of this section, and annually thereafter, all governmental 593
evidence-retention entities that receive, maintain, store, or 594
preserve sexual assault evidence kits shall submit a report 595
containing all of the following information to the attorney 596
general: 597

(1) The total number of all tested and untested sexual 598
assault examination kits in possession of each governmental 599
evidence-retention entity, and for each untested kit whether the 600
sexual assault was reported to law enforcement or whether the 601
victim chose not to file a report with law enforcement. 602

(2) If the governmental evidence-retention entity is a 603
medical facility, the date each untested sexual assault 604
examination kit was reported to law enforcement, if applicable, 605
and the date the kit was delivered to the medical facility. 606

(3) If the governmental evidence-retention entity is a law 607
enforcement agency, the date each untested sexual assault 608
examination kit was received from a medical facility, the date the 609
kit was submitted to a crime laboratory, or for any kit not 610
submitted to a crime laboratory, the reason the kit was not 611

submitted. 612

(4) If an untested sexual assault examination kit belongs to 613
another jurisdiction, the date that jurisdiction was notified and 614
the date the kit was retrieved by that jurisdiction, if 615
applicable. 616

(5) If the governmental evidence-retention entity is a crime 617
laboratory: 618

(a) The date each sexual assault examination kit was received 619
from law enforcement and from which agency the kit was received; 620

(b) The date the kit was tested, if applicable; 621

(c) The date the kit test results were entered into the 622
combined DNA index system maintained by the bureau of criminal 623
identification and investigation or other relevant state or local 624
DNA databases, if applicable, or if a DNA profile has not been 625
created, the reason it was not created; 626

(d) For untested kits, the reason the kit has not been 627
tested; 628

(e) The total number of kits in possession of the entity for 629
more than thirty days; 630

(f) The total number of kits destroyed and the reason for the 631
destruction. 632

(C) The attorney general shall compile the data from the 633
reports in a summary report. The summary report shall include a 634
list of all governmental evidence-retention entities that failed 635
to participate in the preparation of the report. The annual 636
summary report shall be made public on the attorney general's web 637
site, and shall be submitted to the governor, the speaker of the 638
house of representatives, and the president of the senate." 639

In line 124588, after "107.63," insert "109.112"; after 640
 "109.572," insert "109.68," 641

In line 124630, after "2930.16," insert "2933.82" 642

After line 281825, insert: 643

"Section 109.42 of the Revised Code as amended by both H.B. 644
 343 and S.B. 288 of the 134th General Assembly." 645

The motion was _____ agreed to.

SYNOPSIS

Sexual assault examination kits access and reporting 646

R.C. 109.42, 109.68, 2933.82, and 2933.821 647

Defines "victim" as a person from whom a sexual assault 648
 examination kit was collected. 649

Permits a victim to request the following from the 650
 appropriate official with custody of the sexual assault 651
 examination kit, to be delivered in writing, by electronic mail, 652
 or by telephone, as designated by the victim: 653

1. Information regarding the testing date and results of the 654
 kit; 655
2. Whether a DNA profile was obtained from the kit; 656
3. Whether a match was found to that DNA profile in state or 657
 federal databases; 658
4. The estimated destruction date of the kit. 659

Requires the appropriate official with custody of the kit to 660
 inform the victim when there is any change in the status of the 661

case, including if the case had been closed or reopened. 662

Permits a victim to request written notice of the destruction 663
or disposal date of the kit and requires delivery of that notice 664
not later than 60 days before the date of the intended destruction 665
or disposal. 666

Permits a victim to request further preservation of the kit 667
or its probative contents beyond the intended destruction or 668
disposal date for a period of up to 30 years. 669

Requires the appropriate official with custody of the kit to 670
also provide the victim with information about the victim's right 671
to apply for an award of reparations. 672

Requires governmental evidence-retention entities to submit 673
annual reports regarding sexual assault examination kit inventory 674
to the Attorney General. 675

Requires the Attorney General to compile data from the 676
governmental evidence-retention entities' annual reports into a 677
summary report, including a list of all governmental 678
evidence-retention entities that failed to participate in the 679
preparation of the report. 680

Requires the annual summary report to be made public on the 681
Attorney General's website, and to be submitted to the Governor, 682
the Speaker of the House of Representatives, and the President of 683
the Senate. 684