

As Introduced

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Representative Fedor

**Cosponsors: Representatives Antonio, Bishoff, Boyd, Celebrezze, Gerberry,
Johnson, G., Lepore-Hagan, O'Brien, M., Patterson, Phillips, Sheehy, Smith, K.,
Sykes**

A BILL

To amend section 2901.07 of the Revised Code to
require DNA testing for misdemeanor convictions
of voyeurism, public indecency, procuring,
soliciting, loitering to engage in soliciting,
and prostitution. 1 2 3 4 5

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

Section 1. That section 2901.07 of the Revised Code be
amended to read as follows: 6 7

Sec. 2901.07. (A) As used in this section: 8

(1) "DNA analysis" and "DNA specimen" have the same
meanings as in section 109.573 of the Revised Code. 9 10

(2) "Jail" and "community-based correctional facility"
have the same meanings as in section 2929.01 of the Revised
Code. 11 12 13

(3) "Post-release control" has the same meaning as in
section 2967.01 of the Revised Code. 14 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 19
sheriff, the sheriff who made the arrest or who employs the 20
deputy sheriff who made the arrest; 21

(b) If the arrest was made by a law enforcement officer of 22
a law enforcement agency of a municipal corporation, the chief 23
of police, marshal, or other chief law enforcement officer of 24
the 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 31
trooper of the state highway patrol, the superintendent of the 32
state highway patrol; 33

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

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

(B) (1) (a) On and after July 1, 2011, a person who is 40
eighteen years of age or older and who is arrested on or after 41
July 1, 2011, for a felony offense shall submit to a DNA 42
specimen collection procedure administered by the head of the 43
arresting law enforcement agency. The head of the arresting law 44
enforcement agency shall cause the DNA specimen to be collected 45

from the person during the intake process at the jail, 46
community-based correctional facility, detention facility, or 47
law enforcement agency office or station to which the arrested 48
person is taken after the arrest. The head of the arresting law 49
enforcement agency shall cause the DNA specimen to be collected 50
in accordance with division (C) of this section. 51

(b) If a person who is charged with a felony on or after 52
July 1, 2011, has not been arrested and first appears before a 53
court or magistrate in response to a summons, or if the head of 54
the 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, 58
the court shall order the person to appear before the sheriff or 59
chief of police of the county or municipal corporation within 60
twenty-four hours to submit to a DNA specimen collection 61
procedure administered by the sheriff or chief of police. The 62
sheriff or chief of police shall cause the DNA specimen to be 63
collected from the person in accordance with division (C) of 64
this section. 65

(c) Every court with jurisdiction over a case involving a 66
person with respect to whom division (B)(1)(a) or (b) of this 67
section requires the head of a law enforcement agency or a 68
sheriff or chief of police to administer a DNA specimen 69
collection procedure upon the person shall inquire at the time 70
of the person's sentencing whether or not the person has 71
submitted to a DNA specimen collection procedure pursuant to 72
division (B)(1)(a) or (b) of this section for the original 73
arrest or court appearance upon which the sentence is based. If 74
the person has not submitted to a DNA specimen collection 75
procedure for the original arrest or court appearance upon which 76

the sentence is based, the court shall order the person to 77
appear before the sheriff or chief of police of the county or 78
municipal corporation within twenty-four hours to submit to a 79
DNA specimen collection procedure administered by the sheriff or 80
chief of police. The sheriff or chief of police shall cause the 81
DNA specimen to be collected in accordance with division (C) of 82
this section. 83

(d) If a person is in the custody of a law enforcement 84
agency or a detention facility, if the chief law enforcement 85
officer or chief administrative officer of the detention 86
facility discovers that a warrant has been issued or a bill of 87
information has been filed alleging the person to have committed 88
an offense other than the offense for which the person is in 89
custody, and if the other alleged offense is one for which a DNA 90
specimen is to be collected from the person pursuant to division 91
(B) (1) (a) or (b) of this section, the chief law enforcement 92
officer or chief administrative officer shall cause a DNA 93
specimen to be collected from the person in accordance with 94
division (C) of this section. 95

(2) Regardless of when the conviction occurred or the 96
guilty plea was entered, a person who has been convicted of, is 97
convicted of, has pleaded guilty to, or pleads guilty to a 98
felony offense, who is sentenced to a prison term or to a 99
community residential sanction in a jail or community-based 100
correctional facility for that offense pursuant to section 101
2929.16 of the Revised Code, and who does not provide a DNA 102
specimen pursuant to division (B) (1) of this section, and a 103
person who has been convicted of, is convicted of, has pleaded 104
guilty to, or pleads guilty to a misdemeanor offense listed in 105
division (D) of this section, who is sentenced to a term of 106
imprisonment for that offense, and who does not provide a DNA 107

specimen pursuant to division (B)(1) of this section, shall 108
submit to a DNA specimen collection procedure administered by 109
the director of rehabilitation and correction or the chief 110
administrative officer of the jail or other detention facility 111
in which the person is serving the term of imprisonment. If the 112
person serves the prison term in a state correctional 113
institution, the director of rehabilitation and correction shall 114
cause the DNA specimen to be collected from the person during 115
the intake process at the reception facility designated by the 116
director. If the person serves the community residential 117
sanction or term of imprisonment in a jail, a community-based 118
correctional facility, or another county, multicounty, 119
municipal, municipal-county, or multicounty-municipal detention 120
facility, the chief administrative officer of the jail, 121
community-based correctional facility, or detention facility 122
shall cause the DNA specimen to be collected from the person 123
during the intake process at the jail, community-based 124
correctional facility, or detention facility. The DNA specimen 125
shall be collected in accordance with division (C) of this 126
section. 127

(3) Regardless of when the conviction occurred or the 128
guilty plea was entered, if a person has been convicted of, is 129
convicted of, has pleaded guilty to, or pleads guilty to a 130
felony offense or a misdemeanor offense listed in division (D) 131
of this section, is serving a prison term, community residential 132
sanction, or term of imprisonment for that offense, and does not 133
provide a DNA specimen pursuant to division (B)(1) or (2) of 134
this section, prior to the person's release from the prison 135
term, community residential sanction, or imprisonment, the 136
person shall submit to, and the director of rehabilitation and 137
correction or the chief administrative officer of the jail, 138

community-based correctional facility, or detention facility in 139
which the person is serving the prison term, community 140
residential sanction, or term of imprisonment shall administer, 141
a DNA specimen collection procedure at the state correctional 142
institution, jail, community-based correctional facility, or 143
detention facility in which the person is serving the prison 144
term, community residential sanction, or term of imprisonment. 145
The DNA specimen shall be collected in accordance with division 146
(C) of this section. 147

(4) (a) Regardless of when the conviction occurred or the 148
guilty plea was entered, if a person has been convicted of, is 149
convicted of, has pleaded guilty to, or pleads guilty to a 150
felony offense or a misdemeanor offense listed in division (D) 151
of this section and the person is on probation, released on 152
parole, under transitional control, on community control, on 153
post-release control, or under any other type of supervised 154
release under the supervision of a probation department or the 155
adult parole authority for that offense, and did not provide a 156
DNA specimen pursuant to division (B) (1), (2), or (3) of this 157
section, the person shall submit to a DNA specimen collection 158
procedure administered by the chief administrative officer of 159
the probation department or the adult parole authority. The DNA 160
specimen shall be collected in accordance with division (C) of 161
this section. If the person refuses to submit to a DNA specimen 162
collection procedure as provided in this division, the person 163
may be subject to the provisions of section 2967.15 of the 164
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- 167
based correctional facility, or state correctional institution 168
for a violation of the terms and conditions of the probation, 169

parole, transitional control, other release, or post-release 170
control, if the person was or will be serving a term of 171
imprisonment, prison term, or community residential sanction for 172
committing a felony offense or for committing a misdemeanor 173
offense listed in division (D) of this section, and if the 174
person did not provide a DNA specimen pursuant to division (B) 175
(1), (2), (3), or (4) (a) of this section, the person shall 176
submit to, and the director of rehabilitation and correction or 177
the chief administrative officer of the jail or community-based 178
correctional facility shall administer, a DNA specimen 179
collection procedure at the jail, community-based correctional 180
facility, or state correctional institution in which the person 181
is serving the term of imprisonment, prison term, or community 182
residential sanction. The DNA specimen shall be collected from 183
the person in accordance with division (C) of this section. 184

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

shall submit to a DNA specimen collection procedure administered 201
by the director of rehabilitation and correction or the chief 202
administrative officer of the jail or other detention facility 203
in which the person is incarcerated. The DNA specimen shall be 204
collected in accordance with division (C) of this section. 205

(C) If the DNA specimen is collected by withdrawing blood 206
from the person or a similarly invasive procedure, a physician, 207
registered nurse, licensed practical nurse, duly licensed 208
clinical laboratory technician, or other qualified medical 209
practitioner shall collect in a medically approved manner the 210
DNA specimen required to be collected pursuant to division (B) 211
of this section. If the DNA specimen is collected by swabbing 212
for buccal cells or a similarly noninvasive procedure, this 213
section does not require that the DNA specimen be collected by a 214
qualified medical practitioner of that nature. No later than 215
fifteen days after the date of the collection of the DNA 216
specimen, the head of the arresting law enforcement agency, the 217
sheriff or chief of police, the chief law enforcement officer, 218
or the chief administrative officer of the detention facility 219
regarding a DNA specimen taken pursuant to division (B) (1) of 220
this section, the director of rehabilitation and correction or 221
the chief administrative officer of the detention facility 222
regarding a DNA specimen taken pursuant to division (B) (2), (3), 223
or (4) (b) of this section, the chief administrative officer of 224
the probation department or the adult parole authority regarding 225
a DNA specimen taken pursuant to division (B) (4) (a) of this 226
section, or the chief administrative officer of the county 227
probation office, the director of rehabilitation and correction, 228
or the chief administrative officer of the detention facility 229
regarding a DNA specimen taken pursuant to division (B) (5) of 230
this section, whichever is applicable, shall cause the DNA 231

specimen to be forwarded to the bureau of criminal 232
identification and investigation in accordance with procedures 233
established by the superintendent of the bureau under division 234
(H) of section 109.573 of the Revised Code. The bureau shall 235
provide the specimen vials, mailing tubes, labels, postage, and 236
instructions needed for the collection and forwarding of the DNA 237
specimen to the bureau. 238

(D) The DNA specimen collection duty set forth in division 239
(B) (1) of this section applies to any person who is eighteen 240
years of age or older and who on or after July 1, 2011, is 241
arrested for or charged with any felony offense or is in any 242
other circumstance described in that division. The DNA specimen 243
collection duties set forth in divisions (B) (2), (3), (4) (a), 244
(4) (b), and (5) of this section apply to any person who has been 245
convicted of, is convicted of, has pleaded guilty to, or pleads 246
guilty to any felony offense or any of the following misdemeanor 247
offenses: 248

(1) A misdemeanor violation, an attempt to commit a 249
misdemeanor violation, or complicity in committing a misdemeanor 250
violation of section 2907.04 of the Revised Code; 251

(2) A misdemeanor violation of any law that arose out of 252
the same facts and circumstances and same act as did a charge 253
against the person of a violation of section 2903.01, 2903.02, 254
2905.01, 2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the 255
Revised Code that previously was dismissed or amended or as did 256
a charge against the person of a violation of section 2907.12 of 257
the Revised Code as it existed prior to September 3, 1996, that 258
previously was dismissed or amended; 259

(3) A misdemeanor violation of section 2919.23 of the 260
Revised Code that would have been a violation of section 2905.04 261

of the Revised Code as it existed prior to July 1, 1996, had it 262
been committed prior to that date; 263

(4) A sexually oriented offense or a child-victim oriented 264
offense, both as defined in section 2950.01 of the Revised Code, 265
that is a misdemeanor, if, in relation to that offense, the 266
offender is a tier III sex offender/child-victim offender, as 267
defined in section 2950.01 of the Revised Code; 268

(5) A misdemeanor violation of section 2907.08, 2907.09, 269
2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code. 270

(E) The director of rehabilitation and correction may 271
prescribe rules in accordance with Chapter 119. of the Revised 272
Code to collect a DNA specimen, as provided in this section, 273
from an offender whose supervision is transferred from another 274
state to this state in accordance with the interstate compact 275
for adult offender supervision described in section 5149.21 of 276
the Revised Code. 277

Section 2. That existing section 2901.07 of the Revised 278
Code is hereby repealed. 279