



Diana C. Fox

Bill Analysis
Legislative Service Commission

H.B. 525

125th General Assembly
(As Introduced)

Reps. Latta, Faber, McGregor, Hughes, Slaby, Gilb, Schmidt

BILL SUMMARY

- Requires DNA testing of all convicted felons who are sentenced to a prison term, term of imprisonment, or community residential sanction and all children who are adjudicated delinquent children for committing acts that would be felonies if committed by adults and who are committed to or placed in a Department of Youth Services facility or other type of juvenile facility.
- Permits funds in the Crime Victims Reparations Fund to be used for the payment of costs related to the collection and analysis of DNA specimens collected in relation to felonies for which DNA specimens are not collected under existing law.

CONTENT AND OPERATION

DNA testing of delinquent children

Operation of the bill

The bill requires the Director of Youth Services, if a delinquent child is committed to the Department, or the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which a delinquent child was committed or in which the child was placed to collect a DNA specimen from a child who is adjudicated a delinquent child for committing any of the following acts (R.C. 2152.74(B) and (D)):

- (1) Any act that would be a felony if committed by an adult;

(2) A violation of any law that would be a misdemeanor if committed by an adult and that arose out of the same facts and circumstances and same act as did a charge against the child for one of the following:

(a) Commission of aggravated murder, murder, kidnapping, rape, sexual battery, gross sexual imposition, or aggravated burglary that previously was dismissed or amended;

(b) Commission of the former offense of felonious sexual penetration that previously was dismissed or amended.

(3) Commission of the offense of abduction or interference with custody that would have constituted the former offense of child stealing and would be a misdemeanor if committed by an adult;

(4) Complicity in committing unlawful sexual conduct with a minor if the violation would be a misdemeanor if committed by an adult.

The bill also specifies that the applicable entity need not collect DNA specimens in relation to a violation that would be a felony if committed by an adult and that is not a violation for which specimens must be collected under current law, discussed below, until the Superintendent of the Bureau of Criminal Identification and Investigation gives state juvenile justice system¹ agencies notification that the state DNA laboratory is prepared to accept DNA specimens of that nature (R.C. 2152.74(F)).

Current law

Current law contains a more limited list of offenses that require the Director of Youth Services or the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to collect a DNA specimen from a delinquent child. Under current law, DNA specimens are required for a child who is adjudicated a delinquent child for committing any of the following acts (R.C. 2152.74(D)):

(1) Aggravated murder, murder, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated robbery, robbery, aggravated burglary, and burglary;

¹ The "juvenile justice system" includes all the functions of the juvenile courts, the Department of Youth Services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children (R.C. 181.51(C), not in the bill).

(2) The former offense of felonious sexual penetration;

(3) An attempt to commit aggravated murder, murder, rape, sexual battery, gross sexual imposition, or the former offense of felonious sexual penetration;

(4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child for:

(a) A violation of aggravated murder, murder, kidnapping, rape, sexual battery, gross sexual imposition, or aggravated burglary that previously was dismissed or amended;

(b) A violation of the former offense of felonious sexual penetration that previously was dismissed or amended.

(5) Abduction or interference with custody that would have constituted the former offense of child stealing;

(6) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child for the offense of felonious assault, aggravated robbery, robbery, or burglary that previously was dismissed or amended;

(7) Conspiracy to commit aggravated murder, murder, kidnapping, aggravated robbery, robbery, aggravated burglary, or burglary;

(8) Complicity to commit aggravated murder, murder, felonious assault, kidnapping, rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, aggravated robbery, robbery, aggravated burglary, burglary, or the former offense of felonious sexual penetration.

DNA testing of adult offenders

Operation of the bill

The bill requires the Director of Rehabilitation and Correction, for an offender serving a prison term in a state correctional facility, or the chief administrative officer of a jail or other detention facility in which a person is serving a term of imprisonment or community residential sanction to collect a DNA specimen if the person is convicted of or pleads guilty to one of the following offenses (R.C. 2901.07(B)(1) and (D)):

(1) Any felony;

(2) Unlawful sexual conduct with a minor that is a misdemeanor offense;

(3) Attempted unlawful sexual conduct with a minor that is a misdemeanor offense;

(4) A misdemeanor violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person for:

(a) Commission of aggravated murder, murder, kidnapping, rape, sexual battery, gross sexual imposition, unlawful sexual conduct with a minor, or aggravated burglary that previously was dismissed or amended;

(b) A violation of the former offense of felonious sexual penetration that previously was dismissed or amended.

(5) Misdemeanor abduction or misdemeanor interference with custody that would have constituted the former offense of child stealing;

(6) A sexually oriented offense or a child-victim oriented offense that is a misdemeanor if, in relation to that offense, the offender has been adjudicated a sexual predator or a child-victim predator;

(7) Complicity in committing the offense of unlawful sexual conduct with a minor if the offense is a misdemeanor.

The bill also specifies that the Director of Rehabilitation and Correction or chief administrative officer need not collect DNA specimens in relation to any felony offense that is not an offense for which specimens must be collected under current law, discussed below, until the Superintendent of the Bureau of Criminal Identification and Investigation gives state criminal justice system² agencies notification that the state DNA laboratory is prepared to accept DNA specimens of that nature (R.C. 2901.07(F)).

² *The "criminal justice system" includes all the functions of the following: the state highway patrol, county sheriff offices, municipal and township police departments, and all other law enforcement agencies; the courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases; the prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases and the county and joint county public defenders and other public defender agencies or offices; the Department of Rehabilitation and Correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders; any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders; any public or private agency, the purposes of which include assistance to crime victims or witnesses (R.C. 181.51(B)(1), not in the bill).*

Current law

Current law contains a more limited list of offenses that require the Director of Rehabilitation and Correction or the chief administrative officer of a jail or other detention facility to collect a DNA specimen. Under current law, a DNA specimen is required if the person is convicted of or pleads guilty to one of the following felony or misdemeanor offenses (R.C. 2901.07(B)(1) and (D)):

(1) Aggravated murder, murder, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, unlawful sexual conduct with a minor, aggravated robbery, robbery, aggravated burglary, and burglary;

(2) The former offense of felonious sexual penetration;

(3) An attempt to commit aggravated murder, murder, rape, sexual battery, gross sexual imposition, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person for:

(a) Commission of aggravated murder, murder, kidnapping, rape, sexual battery, gross sexual imposition, unlawful sexual conduct with a minor, or aggravated burglary that previously was dismissed or amended;

(b) Commission of the former offense of felonious sexual penetration that previously was dismissed or amended.

(5) Abduction or interference with custody that would have constituted the former offense of child stealing;

(6) A sexually oriented offense or a child-victim oriented offense if, in relation to that offense, the offender has been adjudicated a sexual predator or a child-victim predator;

(7) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person for the offense of felonious assault, aggravated robbery, robbery, or burglary that previously was dismissed or amended;

(8) Conspiracy to commit aggravated murder, murder, kidnapping, aggravated robbery, robbery, aggravated burglary, or burglary;

(9) Complicity to commit aggravated murder, murder, felonious assault, kidnapping, rape, sexual battery, unlawful sexual conduct with a minor, gross

sexual imposition, aggravated robbery, robbery, aggravated burglary, burglary, or the former offense of felonious sexual penetration.

Payment from the Reparations Fund for DNA collection and analysis

Under current law, one of the permissible uses for the Reparations Fund is for the payment of costs of administering a DNA specimen collection procedure described above in "**DNA testing of delinquent children**" and "**DNA testing of adult offenders**," performing DNA analyses of those specimens, and entering the resulting DNA records regarding those analyses into the existing DNA database for one of the following offenses (R.C. 2743.191(A)(1)(k), cross-referencing R.C. 2152.74(E) and 2901.07(E)):

- (1) Felonious assault, aggravated robbery, robbery, or burglary;
- (2) An attempt to commit aggravated murder or murder;
- (3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child or adult for felonious assault, aggravated robbery, robbery, or burglary;
- (4) Conspiracy to commit aggravated murder, murder, kidnapping, aggravated robbery, robbery, aggravated burglary, or burglary;
- (5) Complicity to commit aggravated murder, murder, felonious assault, kidnapping, rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, aggravated robbery, robbery, aggravated burglary, burglary, or the former offense of felonious sexual penetration.

The bill expands the list of offenses for which Reparations funds may be used for the payment of costs of administering a DNA specimen collection procedure described above in "**DNA testing of delinquent children**" and "**DNA testing of adult offenders**," performing DNA analyses into the existing DNA database of those specimens, and entering the resulting DNA records regarding those analyses for one of the following offenses to include any felony not listed in (1) through (5), above (R.C. 2743.191(A)(1)(k)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-08-04	p. 2136

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