

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 124

Representatives Galonski, Miranda

**Cosponsors: Representatives Baker, Dell'Aquila, Forhan, Grim, Isaacsohn, Miller,
A., Mohamed, Somani, Thomas, C., Upchurch**

A BILL

To amend sections 2305.111, 2901.13, and 2933.82 1
and to enact section 2305.119 of the Revised 2
Code to eliminate the period of limitation for 3
the criminal prosecution of a person for rape 4
and for a civil action brought by a victim of 5
conduct that would constitute rape and to extend 6
the period of limitation for a civil action by a 7
victim of childhood sexual abuse other than 8
rape. 9

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

Section 1. That sections 2305.111, 2901.13, and 2933.82 be 10
amended and section 2305.119 of the Revised Code be enacted to 11
read as follows: 12

Sec. 2305.111. (A) As used in this section: 13

(1) "Childhood sexual abuse" means any conduct that 14
constitutes any of the violations identified in division (A)(1) 15
(a) or (b) of this section and would constitute a criminal 16
offense under the specified section or division of the Revised 17

Code, if the victim of the violation is at the time of the 18
violation a child under eighteen years of age or a child with a 19
developmental disability or physical impairment under twenty-one 20
years of age. The court need not find that any person has been 21
convicted of or pleaded guilty to the offense under the 22
specified section or division of the Revised Code in order for 23
the conduct that is the violation constituting the offense to be 24
childhood sexual abuse for purposes of this division. This 25
division applies to any of the following violations committed in 26
the following specified circumstances: 27

(a) A violation ~~of section 2907.02 or~~ of division (A) (1), 28
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 29
of the Revised Code; 30

(b) A violation of section 2907.05 or 2907.06 of the 31
Revised Code if, at the time of the violation, any of the 32
following apply: 33

(i) The actor is the victim's natural parent, adoptive 34
parent, or stepparent or the guardian, custodian, or person in 35
loco parentis of the victim. 36

(ii) The victim is in custody of law or a patient in a 37
hospital or other institution, and the actor has supervisory or 38
disciplinary authority over the victim. 39

(iii) The actor is a teacher, administrator, coach, or 40
other person in authority employed by or serving in a school for 41
which the state board of education prescribes minimum standards 42
pursuant to division (D) of section 3301.07 of the Revised Code, 43
the victim is enrolled in or attends that school, and the actor 44
is not enrolled in and does not attend that school. 45

(iv) The actor is a teacher, administrator, coach, or 46

other person in authority employed by or serving in an 47
institution of higher education, and the victim is enrolled in 48
or attends that institution. 49

(v) The actor is the victim's athletic or other type of 50
coach, is the victim's instructor, is the leader of a scouting 51
troop of which the victim is a member, or is a person with 52
temporary or occasional disciplinary control over the victim. 53

(vi) The actor is a mental health professional, the victim 54
is a mental health client or patient of the actor, and the actor 55
induces the victim to submit by falsely representing to the 56
victim that the sexual contact involved in the violation is 57
necessary for mental health treatment purposes. 58

(vii) The victim is confined in a detention facility, and 59
the actor is an employee of that detention facility. 60

(viii) The actor is a cleric, and the victim is a member 61
of, or attends, the church or congregation served by the cleric. 62

(2) "Cleric" has the same meaning as in section 2317.02 of 63
the Revised Code. 64

(3) "Mental health client or patient" has the same meaning 65
as in section 2305.51 of the Revised Code. 66

(4) "Mental health professional" has the same meaning as 67
in section 2305.115 of the Revised Code. 68

(5) "Sexual contact" has the same meaning as in section 69
2907.01 of the Revised Code. 70

(6) "Victim" means, except as provided in division (B) of 71
this section, a victim of childhood sexual abuse. 72

(B) Except as provided in section 2305.115 of the Revised 73

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

(1) The date on which the alleged assault or battery 79
occurred; 80

(2) If the plaintiff did not know the identity of the 81
person who allegedly committed the assault or battery on the 82
date on which it allegedly occurred, the earlier of the 83
following dates: 84

(a) The date on which the plaintiff learns the identity of 85
that person; 86

(b) The date on which, by the exercise of reasonable 87
diligence, the plaintiff should have learned the identity of 88
that person. 89

~~(C) An~~ (C) (1) Subject to division (D) of this section, an 90
action shall be brought at any time until the victim reaches 91
fifty-five years of age if both of the following apply: 92

(a) The action is an action for assault or battery brought 93
by a victim of childhood sexual abuse based on childhood sexual 94
abuse, or an action brought by a victim of childhood sexual 95
abuse asserting any claim resulting from childhood sexual abuse, 96
~~shall be brought within twelve years after the cause of action~~ 97
~~accrues.~~ 98

(b) The action is against a perpetrator of the childhood 99
sexual abuse or an entity that negligently facilitated that 100
sexual abuse. ~~For purposes of this section, a cause of action~~ 101
~~for assault or battery based on childhood sexual abuse, or a~~ 102

~~cause of action for a claim resulting from childhood sexual- 103
abuse, accrues upon the date on which the victim reaches the age- 104
of majority. If the defendant in- 105~~

(2) In an action brought by a victim of childhood sexual 106
abuse asserting a claim resulting from childhood sexual abuse 107
that occurs on or after August 3, 2006, if the defendant has 108
fraudulently concealed from the plaintiff facts that form the 109
basis of the claim, ~~the running of the limitations period with- 110
regard to that claim is tolled until the time when the plaintiff- 111
discovers or in the exercise of due diligence should have- 112
discovered those facts~~ and the plaintiff discovers those facts 113
after reaching fifty-five years of age, the plaintiff may bring 114
an action asserting a claim resulting from the childhood sexual 115
abuse not later than three years after the date of the discovery 116
of those facts that form the basis of the claim. 117

(D) If, on the effective date of this amendment, a cause 118
of action for assault or battery based on childhood sexual abuse 119
or a claim resulting from childhood sexual abuse is barred due 120
to the expiration of the applicable period of limitation of that 121
action or claim that was in effect prior to the effective date 122
of this amendment, that cause of action or claim shall be 123
revived and an action for assault or battery by the victim of 124
the childhood sexual abuse based on childhood sexual abuse or a 125
claim resulting from childhood sexual abuse asserted by the 126
victim of that childhood sexual abuse may be commenced within 127
three years after the effective date of this amendment. 128

Sec. 2305.119. Notwithstanding any other section of the 129
Revised Code to the contrary, there is no period of limitations 130
for a civil action brought by a victim of conduct that would 131
constitute either of the following against the person who 132

<u>committed that conduct:</u>	133
<u>(A) A violation of section 2907.02 of the Revised Code;</u>	134
<u>(B) Conspiracy to commit, complicity in committing, or</u>	135
<u>attempting to commit a violation of section 2907.02 of the</u>	136
<u>Revised Code.</u>	137
Sec. 2901.13. (A) (1) Except as provided in division (A)	138
(2), (3), (4), or (5) of this section or as otherwise provided	139
in this section, a prosecution shall be barred unless it is	140
commenced within the following periods after an offense is	141
committed:	142
(a) For a felony, six years;	143
(b) For a misdemeanor other than a minor misdemeanor, two	144
years;	145
(c) For a minor misdemeanor, six months.	146
(2) There is no period of limitation for the prosecution	147
of a	148
violation of section 2903.01 or , <u>2903.02, or 2907.02</u> of	149
the Revised Code or for the prosecution of a conspiracy to	150
commit, attempt to commit, or complicity in committing a	151
violation of section 2903.01 or , <u>2903.02, or 2907.02</u> of the	152
Revised Code.	153
(3) Except as otherwise provided in divisions (B) to (J)	154
of this section, a prosecution of any of the following offenses	155
shall be barred unless it is commenced within twenty years after	156
the offense is committed:	157
(a) A violation of section 2903.03, 2903.04, 2905.01,	158
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23,	159

2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 160
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 161
section 2903.11 or 2903.12 of the Revised Code if the victim is 162
a peace officer, a violation of section 2903.13 of the Revised 163
Code that is a felony, or a violation of former section 2907.12 164
of the Revised Code; 165

(b) A conspiracy to commit, attempt to commit, or 166
complicity in committing a violation set forth in division (A) 167
(3) (a) of this section. 168

(4) Except as otherwise provided in divisions (D) to (L) 169
of this section, a prosecution of a violation of section ~~2907.02~~ 170
~~or~~ 2907.03 of the Revised Code or a conspiracy to commit, 171
attempt to commit, or complicity in committing a violation of 172
~~either that~~ section shall be barred unless it is commenced 173
within twenty-five years after the offense is committed. 174

(5) (a) Except as otherwise provided in divisions (A) (5) (b) 175
and (E) to (I) of this section, a prosecution of a violation of 176
section 2907.13 of the Revised Code shall be barred unless it is 177
commenced within five years after the offense is committed. 178

(b) Prosecution that would otherwise be barred under 179
division (A) (5) (a) of this section may be commenced within five 180
years after the date of the discovery of the offense by either 181
an aggrieved person or the aggrieved person's legal 182
representative who is not a party to the offense. 183

(c) As used in division (B) (5) (b) of this section, 184
"aggrieved person" includes any of the following individuals 185
with regard to a violation of section 2907.13 of the Revised 186
Code: 187

(i) A patient who was the victim of the violation; 188

(ii) The spouse or surviving spouse of a patient who was the victim of the violation;	189 190
(iii) Any child born as a result of the violation.	191
(B) (1) Except as otherwise provided in division (B) (2) of this section, if the period of limitation provided in division (A) (1) or (3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by the aggrieved person's legal representative who is not a party to the offense.	192 193 194 195 196 197 198
(2) If the period of limitation provided in division (A) (1) or (3) of this section has expired, prosecution for a violation of section 2913.49 of the Revised Code shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.	199 200 201 202 203 204
(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:	205 206 207 208
(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;	209 210 211
(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.	212 213 214 215 216
(2) As used in this division:	217

(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.

(b) "Public servant" has the same meaning as in section 2921.01 of the Revised Code.

(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 if the time of the determination is later than twenty-five years after the offense is committed, prosecution of that person for a violation of ~~the that~~ section may be commenced within five years after the determination is complete.

(2) 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 if the time of the determination is within twenty-five years after the offense is committed, prosecution of that person for a violation of ~~the that~~ section may be commenced within the longer of twenty-five years after the offense is committed or five years after the determination is complete.

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

(E) An offense is committed when every element of the 247
offense occurs. In the case of an offense of which an element is 248
a continuing course of conduct, the period of limitation does 249
not begin to run until such course of conduct or the accused's 250
accountability for it terminates, whichever occurs first. 251

(F) A prosecution is commenced on the date an indictment 252
is returned or an information filed, or on the date a lawful 253
arrest without a warrant is made, or on the date a warrant, 254
summons, citation, or other process is issued, whichever occurs 255
first. A prosecution is not commenced by the return of an 256
indictment or the filing of an information unless reasonable 257
diligence is exercised to issue and execute process on the same. 258
A prosecution is not commenced upon issuance of a warrant, 259
summons, citation, or other process, unless reasonable diligence 260
is exercised to execute the same. 261

(G) The period of limitation shall not run during any time 262
when the corpus delicti remains undiscovered. 263

(H) The period of limitation shall not run during any time 264
when the accused purposely avoids prosecution. Proof that the 265
accused departed this state or concealed the accused's identity 266
or whereabouts is prima-facie evidence of the accused's purpose 267
to avoid prosecution. 268

(I) The period of limitation shall not run during any time 269
a prosecution against the accused based on the same conduct is 270
pending in this state, even though the indictment, information, 271
or process that commenced the prosecution is quashed or the 272
proceedings on the indictment, information, or process are set 273
aside or reversed on appeal. 274

(J) The period of limitation for a violation of any 275

provision of Title XXIX of the Revised Code that involves a 276
physical or mental wound, injury, disability, or condition of a 277
nature that reasonably indicates abuse or neglect of a child 278
under eighteen years of age or of a child with a developmental 279
disability or physical impairment under twenty-one years of age 280
shall not begin to run until either of the following occurs: 281

(1) The victim of the offense reaches the age of majority. 282

(2) A public children services agency, or a municipal or 283
county peace officer that is not the parent or guardian of the 284
child, in the county in which the child resides or in which the 285
abuse or neglect is occurring or has occurred has been notified 286
that abuse or neglect is known, suspected, or believed to have 287
occurred. 288

(K) As used in this section, "peace officer" has the same 289
meaning as in section 2935.01 of the Revised Code. 290

(L) (1) The amendments to divisions (A) and (D) of this 291
section that took effect on July 16, 2015, apply to a violation 292
of section ~~2907.02 or 2907.03~~ of the Revised Code committed on 293
and after July 16, 2015, and apply to a violation of ~~either of~~ 294
~~those sections~~ that section committed prior to July 16, 2015, if 295
prosecution for that violation was not barred under this section 296
as it existed on the day prior to July 16, 2015. 297

(2) The amendment to division (A) (2) of this section that 298
takes effect on ~~the effective date of this amendment~~ April 4, 299
2023, applies to a conspiracy to commit, attempt to commit, or 300
complicity in committing a violation of section 2903.01 or 301
2903.02 of the Revised Code if the conspiracy, attempt, or 302
complicity is committed on or after ~~the effective date of this~~ 303
~~amendment~~ April 4, 2023, and applies to a conspiracy to commit, 304

attempt to commit, or complicity in committing a violation of 305
either of those sections if the conspiracy, attempt, or 306
complicity was committed prior to ~~that effective date~~ April 4, 307
2023, and prosecution for that conspiracy, attempt, or 308
complicity was not barred under this section as it existed on 309
the day prior to ~~that effective date~~ April 4, 2023. 310

Sec. 2933.82. (A) As used in this section: 311

(1) (a) "Biological evidence" means any of the following: 312

(i) The contents of a sexual assault examination kit; 313

(ii) Any item that contains blood, semen, hair, saliva, 314
skin tissue, fingernail scrapings, bone, bodily fluids, or any 315
other identifiable biological material that was collected as 316
part of a criminal investigation or delinquent child 317
investigation and that reasonably may be used to incriminate or 318
exculpate any person for an offense or delinquent act. 319

(b) The definition of "biological evidence" set forth in 320
division (A) (1) (a) of this section applies whether the material 321
in question is cataloged separately, such as on a slide or swab 322
or in a test tube, or is present on other evidence, including, 323
but not limited to, clothing, ligatures, bedding or other 324
household material, drinking cups or containers, or cigarettes. 325

(2) "Biological material" has the same meaning as in 326
section 2953.71 of the Revised Code. 327

(3) "DNA," "DNA analysis," "DNA database," "DNA record," 328
and "DNA specimen" have the same meanings as in section 109.573 329
of the Revised Code. 330

(4) "Prosecutor" has the same meaning as in section 331
2935.01 of the Revised Code. 332

(5) "Governmental evidence-retention entity" means all of 333
the following: 334

(a) Any law enforcement agency, prosecutor's office, 335
court, public hospital, crime laboratory, or other governmental 336
or public entity or individual within this state that is charged 337
with the collection, storage, or retrieval of biological 338
evidence; 339

(b) Any official or employee of any entity or individual 340
described in division (A) (5) (a) of this section. 341

(B) (1) Each governmental evidence-retention entity that 342
secures any sexual assault examination kit in relation to an 343
investigation or prosecution of a criminal offense or delinquent 344
act that is a violation of section 2905.32 of the Revised Code, 345
or any biological evidence in relation to an investigation or 346
prosecution of a criminal offense or delinquent act that is a 347
violation of section 2903.01, 2903.02, or 2903.03, a violation 348
of section 2903.04 or 2903.06 that is a felony of the first or 349
second degree, a violation of section 2907.02 or 2907.03 or 350
division (A) (4) or (B) of section 2907.05 of the Revised Code, 351
or an attempt to commit a violation of section 2907.02 of the 352
Revised Code shall secure the biological evidence for whichever 353
of the following periods of time is applicable: 354

(a) For a violation of section 2903.01 ~~or~~, 2903.02, or 355
2907.02 of the Revised Code, or an attempt to commit a violation 356
of section 2907.02 of the Revised Code, for the period of time 357
that the offense or act remains unsolved; 358

(b) For a violation of section 2903.03 or 2905.32, a 359
violation of section 2903.04 or 2903.06 that is a felony of the 360
first or second degree, or a violation of section ~~2907.02 or~~ 361

2907.03 or ~~of~~ division (A) (4) or (B) of section 2907.05 of the 362
Revised Code, ~~or an attempt to commit a violation of section~~ 363
~~2907.02 of the Revised Code,~~ for a period of thirty years if the 364
offense or act remains unsolved; 365

(c) If any person is convicted of or pleads guilty to the 366
offense, or is adjudicated a delinquent child for committing the 367
delinquent act, for the earlier of the following: (i) the 368
expiration of the latest of the following periods of time that 369
apply to the person: the period of time that the person is 370
incarcerated, is in a department of youth services institution 371
or other juvenile facility, is under a community control 372
sanction for that offense, is under any order of disposition for 373
that act, is on probation or parole for that offense, is under 374
judicial release or supervised release for that act, is under 375
post-release control for that offense, is involved in civil 376
litigation in connection with that offense or act, or is subject 377
to registration and other duties imposed for that offense or act 378
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 379
Revised Code or (ii) thirty years. If after the period of thirty 380
years the person remains incarcerated, then the governmental 381
evidence-retention entity shall secure the biological evidence 382
until the person is released from incarceration or dies. 383

(2) (a) A law enforcement agency shall review all of its 384
records and reports pertaining to its investigation of any 385
offense specified in division (B) (1) of this section, except a 386
violation of section 2905.32 of the Revised Code, as soon as 387
possible after March 23, 2015. A law enforcement agency shall 388
review all of its records and reports pertaining to its 389
investigation of any violation of section 2905.32 of the Revised 390
Code as soon as possible after ~~the effective date of this~~ 391
~~amendment~~ April 4, 2023. If the law enforcement agency's review 392

determines that one or more persons may have committed or 393
participated in an offense specified in division (B)(1) of this 394
section or another offense committed during the course of an 395
offense specified in division (B)(1) of this section and the 396
agency is in possession of a sexual assault examination kit 397
secured during the course of the agency's investigation, as soon 398
as possible, but not later than one year after March 23, 2015, 399
or, in the case of a violation of section 2905.32 of the Revised 400
Code, not later than one year after ~~the effective date of this~~ 401
~~amendment~~ April 4, 2023, the agency shall forward the contents 402
of the kit to the bureau of criminal identification and 403
investigation or another crime laboratory for a DNA analysis of 404
the contents of the kit if a DNA analysis has not previously 405
been performed on the contents of the kit. The law enforcement 406
agency shall consider the period of time remaining under section 407
2901.13 of the Revised Code for commencing the prosecution of a 408
criminal offense related to the DNA specimens from the kit as 409
well as other relevant factors in prioritizing the forwarding of 410
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 417
an offense specified in division (B)(1) of this section or 418
another offense committed during the course of an offense 419
specified in division (B)(1) of this section, the law 420
enforcement agency shall forward the contents of a sexual 421
assault examination kit in the agency's possession to the bureau 422
or another crime laboratory within thirty days for a DNA 423

analysis of the contents of the kit. 424

(c) A law enforcement agency shall be considered in the 425
possession of a sexual assault examination kit that is not in 426
the law enforcement agency's possession for purposes of 427
divisions (B) (2) (a) and (b) of this section if the sexual 428
assault examination kit contains biological evidence related to 429
the law enforcement agency's investigation of an offense 430
specified in division (B) (1) of this section and is in the 431
possession of another government evidence-retention entity. The 432
law enforcement agency shall be responsible for retrieving the 433
sexual assault examination kit from the government evidence- 434
retention entity and forwarding the contents of the kit to the 435
bureau or another crime laboratory as required under divisions 436
(B) (2) (a) and (b) of this section. 437

(d) (i) The bureau or a laboratory under contract with the 438
bureau pursuant to division (B) (5) of section 109.573 of the 439
Revised Code shall perform a DNA analysis of the contents of any 440
sexual assault examination kit forwarded to the bureau pursuant 441
to division (B) (2) (a) or (b) of this section as soon as possible 442
after the bureau receives the contents of the kit. The bureau 443
shall enter the resulting DNA record into a DNA database. If the 444
DNA analysis is performed by a laboratory under contract with 445
the bureau, the laboratory shall forward the biological evidence 446
to the bureau immediately after the laboratory performs the DNA 447
analysis. A crime laboratory shall perform a DNA analysis of the 448
contents of any sexual assault examination kit forwarded to the 449
crime laboratory pursuant to division (B) (2) (a) or (b) of this 450
section as soon as possible after the crime laboratory receives 451
the contents of the kit and shall enter the resulting DNA record 452
into a DNA database subject to the applicable DNA index system 453
standards. 454

(ii) Upon the completion of the DNA analysis by the bureau 455
or a crime laboratory under contract with the bureau under this 456
division, the bureau shall return the contents of the sexual 457
assault examination kit to the law enforcement agency. The law 458
enforcement agency shall secure the contents of the sexual 459
assault examination kit in accordance with division (B) (1) of 460
this section, as applicable. 461

(e) The failure of any law enforcement agency to comply 462
with any time limit specified in this section shall not create, 463
and shall not be construed as creating, any basis or right to 464
appeal, claim for or right to postconviction relief, or claim 465
for or right to a new trial or any other claim or right to 466
relief by any person. 467

(3) This section applies to sexual assault examination 468
kits in the possession of any governmental evidence-retention 469
entity during an investigation or prosecution of a criminal 470
offense or delinquent act that is a violation of section 2905.32 471
of the Revised Code, and any evidence likely to contain 472
biological material that was in the possession of any 473
governmental evidence-retention entity during the investigation 474
and prosecution of a criminal case or delinquent child case 475
involving a violation of section 2903.01, 2903.02, or 2903.03, a 476
violation of section 2903.04 or 2903.06 that is a felony of the 477
first or second degree, a violation of section 2907.02 or 478
2907.03 or of division (A) (4) or (B) of section 2907.05 of the 479
Revised Code, or an attempt to commit a violation of section 480
2907.02 of the Revised Code. 481

(4) A governmental evidence-retention entity that 482
possesses biological evidence shall retain the biological 483
evidence in the amount and manner sufficient to develop a DNA 484

record from the biological material contained in or included on 485
the evidence. 486

(5) Upon written request by the defendant in a criminal 487
case or the alleged delinquent child in a delinquent child case 488
involving a violation of section 2903.01, 2903.02, 2903.03, or 489
2905.32, a violation of section 2903.04 or 2903.06 that is a 490
felony of the first or second degree, a violation of section 491
2907.02 or 2907.03 or of division (A) (4) or (B) of section 492
2907.05 of the Revised Code, or an attempt to commit a violation 493
of section 2907.02 of the Revised Code, a governmental evidence- 494
retention entity that possesses biological evidence shall 495
prepare an inventory of the biological evidence that has been 496
preserved in connection with the defendant's criminal case or 497
the alleged delinquent child's delinquent child case. 498

(6) Except as otherwise provided in division (B) (8) of 499
this section, a governmental evidence-retention entity that 500
possesses biological evidence that includes biological material 501
may destroy the evidence before the expiration of the applicable 502
period of time specified in division (B) (1) of this section if 503
all of the following apply: 504

(a) No other provision of federal or state law requires 505
the state to preserve the evidence. 506

(b) The governmental evidence-retention entity, by 507
certified mail, return receipt requested, provides notice of 508
intent to destroy the evidence to all of the following: 509

(i) All persons who remain in custody, incarcerated, in a 510
department of youth services institution or other juvenile 511
facility, under a community control sanction, under any order of 512
disposition, on probation or parole, under judicial release or 513

supervised release, under post-release control, involved in 514
civil litigation, or subject to registration and other duties 515
imposed for that offense or act under sections 2950.04, 516
2950.041, 2950.05, and 2950.06 of the Revised Code as a result 517
of a criminal conviction, delinquency adjudication, or 518
commitment related to the evidence in question; 519

(ii) The attorney of record for each person who is in 520
custody in any circumstance described in division (B) (6) (b) (i) 521
of this section if the attorney of record can be located; 522

(iii) The state public defender; 523

(iv) The office of the prosecutor of record in the case 524
that resulted in the custody of the person in custody in any 525
circumstance described in division (B) (6) (b) (i) of this section; 526

(v) The attorney general. 527

(c) No person who is notified under division (B) (6) (b) of 528
this section does either of the following within one year after 529
the date on which the person receives the notice: 530

(i) Files a motion for testing of evidence under sections 531
2953.71 to 2953.81 or section 2953.82 of the Revised Code; 532

(ii) Submits a written request for retention of evidence 533
to the governmental evidence-retention entity that provided 534
notice of its intent to destroy evidence under division (B) (6) 535
(b) of this section. 536

(7) Except as otherwise provided in division (B) (8) of 537
this section, if, after providing notice under division (B) (6) 538
(b) of this section of its intent to destroy evidence, a 539
governmental evidence-retention entity receives a written 540
request for retention of the evidence from any person to whom 541

the notice is provided, the governmental evidence-retention 542
entity shall retain the evidence while the person referred to in 543
division (B) (6) (b) (i) of this section remains in custody, 544
incarcerated, in a department of youth services institution or 545
other juvenile facility, under a community control sanction, 546
under any order of disposition, on probation or parole, under 547
judicial release or supervised release, under post-release 548
control, involved in civil litigation, or subject to 549
registration and other duties imposed for that offense or act 550
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 551
Revised Code as a result of a criminal conviction, delinquency 552
adjudication, or commitment related to the evidence in question. 553

(8) A governmental evidence-retention entity that 554
possesses biological evidence that includes biological material 555
may destroy the evidence five years after a person pleads guilty 556
or no contest to a violation of section 2903.01, 2903.02, 557
2903.03, or 2905.32, a violation of section 2903.04 or 2903.06 558
that is a felony of the first or second degree, a violation of 559
section 2907.02, 2907.03, division (A) (4) or (B) of section 560
2907.05, or an attempt to commit a violation of section 2907.02 561
of the Revised Code and all appeals have been exhausted unless, 562
upon a motion to the court by the person who pleaded guilty or 563
no contest or the person's attorney and notice to those persons 564
described in division (B) (6) (b) of this section requesting that 565
the evidence not be destroyed, the court finds good cause as to 566
why that evidence must be retained. 567

(9) A governmental evidence-retention entity shall not be 568
required to preserve physical evidence pursuant to this section 569
that is of such a size, bulk, or physical character as to render 570
retention impracticable. When retention of physical evidence 571
that otherwise would be required to be retained pursuant to this 572

section is impracticable as described in this division, the 573
governmental evidence-retention entity that otherwise would be 574
required to retain the physical evidence shall remove and 575
preserve portions of the material evidence likely to contain 576
biological evidence related to the offense, in a quantity 577
sufficient to permit future DNA testing before returning or 578
disposing of that physical evidence. 579

(C) The office of the attorney general shall administer 580
and conduct training programs for law enforcement officers and 581
other relevant employees who are charged with preserving and 582
cataloging biological evidence regarding the methods and 583
procedures referenced in this section. 584

Section 2. That existing sections 2305.111, 2901.13, and 585
2933.82 of the Revised Code are hereby repealed. 586

Section 3. Section 2901.13 of the Revised Code is 587
presented in this act as a composite of the section as amended 588
by both S.B. 16 and S.B. 288 of the 134th General Assembly. The 589
General Assembly, applying the principle stated in division (B) 590
of section 1.52 of the Revised Code that amendments are to be 591
harmonized if reasonably capable of simultaneous operation, 592
finds that the composite is the resulting version of the section 593
in effect prior to the effective date of the section as 594
presented in this act. 595