

A public hearing will be held by the Office of Attorney General Mike DeWine on Tuesday, August 2nd, 2011 at 11:30 a.m. in the Lobby Hearing Room of the Rhodes State Office Tower, located at 30 East Broad Street, Columbus, Ohio 43215.

The purpose of the hearing is to solicit comment on the following proposed new rules:

Rule 109:5-5-01 titled “Definitions” (New)

When used in Chapter 109:5-5 of the Administrative Code:

- (A) "DNA analysis," "DNA database," "DNA record" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.
- (B) "Computerized criminal history" means bureau of criminal identification and investigation's fingerprint-based criminal history database records collected, maintained and disseminated pursuant to sections 109.57, 109.571 and 109.60 of the Revised Code, including records maintained or received through the Ohio law enforcement gateway database, the Ohio law enforcement automated data system and livescan data system.
- (C) "Agency" and "agencies" means law enforcement agencies and criminal justice agencies that are authorized to collect arrestee and convicted offender DNA samples under section 2901.07 of the Revised Code.

Rule 109:5-5-02 titled “Arrestee and convicted offender DNA collection and submission procedures” (New)

- (A) When collecting arrestee and convicted offender DNA samples pursuant to section 2901.07 of the Revised Code, law enforcement and criminal justice agencies shall:

Verify the arrestee/offender's identity via demographic and fingerprint data.

- (1) To verify the identity of the individual via demographic data, agencies should obtain and compare data on government-issued photo identification and demographic data stored in a law enforcement database with computerized criminal history access, such as OHLEG or LEADS.
 - (2) To verify the arrestee/offender's identity via fingerprint data, agencies should submit the individual's fingerprints through a law enforcement system with automated fingerprint identification system access, such as livescan or rapid ID and obtain automated fingerprint comparison results from the system.
- (B) When a DNA sample is collected pursuant to section 2901.07 of the Revised Code and submitted to the bureau of criminal identification and investigation:

- (1) If an acceptable DNA profile and record is developed from the sample, the bureau will denote a positive response in the DNA collection form field on the individual's computerized criminal history record;
 - (2) The bureau of criminal identification and investigation will determine whether DNA sample collection has failed and will denote a negative response in the DNA collection form field on an individual's computerized criminal history if a DNA sample collection did not produce a valid DNA profile.
- (C) If the collecting agency verifies through an arrestee or convicted offender's computerized criminal history that a DNA specimen pursuant to section 2901.07 of the Revised Code has been previously collected from the individual due to a prior arrest or conviction, an additional DNA sample is not required to be collected.
- (D) If the collecting agency verifies through an arrestee or convicted offender's computerized criminal history that a DNA specimen pursuant to section 2901.07 of the Revised Code has been previously collected from the individual due to a prior arrest or conviction, but that the prior DNA specimen collection is no longer denoted in the computerized criminal history, the agency shall cause another DNA specimen to be taken from the arrestee/convicted offender.
- (E) If a DNA specimen previously collected pursuant to section 2901.07 of the Revised Code due to a prior arrest or conviction has failed and the previous specimen cannot be used by the bureau of criminal identification and investigation for analysis, the agency shall cause an additional DNA specimen to be collected from the individual.

All interested parties are invited to attend the hearing and present oral and/or written testimony. Written comments may also be submitted prior to the hearing to the attention of Amber Aimar, Policy and Public Affairs Section, Office of the Ohio Attorney General Mike DeWine, 30 East Broad Street, Columbus, Ohio 43215, or Amber.Aimar@OhioAttorneyGeneral.gov no later than Monday, August 1st, 2011.