



## Ohio Revised Code

### Section 2953.71 Post conviction DNA testing definitions.

Effective: July 6, 2010

Legislation: Senate Bill 77 - 128th General Assembly

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As used in sections 2953.71 to 2953.83 of the Revised Code:

(A) "Application" or "application for DNA testing" means a request through postconviction relief for the state to do DNA testing on biological material from the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

(B) "Biological material" means any product of a human body containing DNA.

(C) "Chain of custody" means a record or other evidence that tracks a subject sample of biological material from the time the biological material was first obtained until the time it currently exists in its place of storage and, in relation to a DNA sample, a record or other evidence that tracks the DNA sample from the time it was first obtained until it currently exists in its place of storage. For purposes of this division, examples of when biological material or a DNA sample is first obtained include, but are not limited to, obtaining the material or sample at the scene of a crime, from a victim, from an offender, or in any other manner or time as is appropriate in the facts and circumstances present.

(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question.

(E) "Custodian" means the person who is the primary representative of a custodial agency.

(F) "Eligible offender" means an offender who is eligible under division (C) of section 2953.72 of the Revised Code to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code.

(G) "Exclusion" or "exclusion result" means a result of DNA testing that scientifically precludes or



forecloses the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the sentence of death or prison term was imposed upon the offender.

(H) "Extracting personnel" means medically approved personnel who are employed to physically obtain an offender's DNA specimen for purposes of DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

(I) "Inclusion" or "inclusion result" means a result of DNA testing that scientifically cannot exclude, or that holds accountable, the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the sentence of death or prison term was imposed upon the offender.

(J) "Inconclusive" or "inconclusive result" means a result of DNA testing that is rendered when a scientifically appropriate and definitive DNA analysis or result, or both, cannot be determined.

(K) "Offender" means a criminal offender who was sentenced by a court, or by a jury and a court, of this state.

(L) "Outcome determinative" means that had the results of DNA testing of the subject offender been presented at the trial of the subject offender requesting DNA testing and been found relevant and admissible with respect to the felony offense for which the offender is an eligible offender and is requesting the DNA testing, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the offender's case as described in division (D) of section 2953.74 of the Revised Code, there is a strong probability that no reasonable factfinder would have found the offender guilty of that offense or, if the offender was sentenced to death relative to that offense, would have found the offender guilty of the aggravating circumstance or circumstances the offender was found guilty of committing and that is or are the basis of that sentence of death.

(M) "Parent sample" means the biological material first obtained from a crime scene or a victim of an offense for which an offender is an eligible offender, and from which a sample will be presently taken to do a DNA comparison to the DNA of the subject offender under sections 2953.71 to



2953.81 of the Revised Code.

(N) "Prison" and "community control sanction" have the same meanings as in section 2929.01 of the Revised Code.

(O) "Prosecuting attorney" means the prosecuting attorney who, or whose office, prosecuted the case in which the subject offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing.

(P) "Prosecuting authority" means the prosecuting attorney or the attorney general.

(Q) "Reasonable diligence" means a degree of diligence that is comparable to the diligence a reasonable person would employ in searching for information regarding an important matter in the person's own life.

(R) "Testing authority" means a laboratory at which DNA testing will be conducted under sections 2953.71 to 2953.81 of the Revised Code.

(S) "Parole" and "post-release control" have the same meanings as in section 2967.01 of the Revised Code.

(T) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(U) "Definitive DNA test" means a DNA test that clearly establishes that biological material from the perpetrator of the crime was recovered from the crime scene and also clearly establishes whether or not the biological material is that of the eligible offender. A prior DNA test is not definitive if the eligible offender proves by a preponderance of the evidence that because of advances in DNA technology there is a possibility of discovering new biological material from the perpetrator that the prior DNA test may have failed to discover. Prior testing may have been a prior "definitive DNA test" as to some biological evidence but may not have been a prior "definitive DNA test" as to other biological evidence.