



Ohio Revised Code

Section 2953.79 Obtaining sample from applicant.

Effective: July 6, 2010

Legislation: Senate Bill 77 - 128th General Assembly

(A) If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised Code and if the application is accepted and DNA testing is to be performed, a sample of biological material shall be obtained from the offender in accordance with this section, to be compared with the parent sample of biological material collected from the crime scene or the victim of the offense for which the offender is an eligible offender and requested the DNA testing. The offender's filing of the application constitutes the offender's consent to the obtaining of the sample of biological material from the offender. The testing authority shall obtain the sample of biological material from the offender in accordance with medically accepted procedures.

(B) If DNA testing is to be performed for an offender as described in division (A) of this section, the court shall require the state to coordinate with the department of rehabilitation and correction or the other state agency or entity of local government with custody of the offender, whichever is applicable, as to the time and place at which the sample of biological material will be obtained from the offender. If the offender is in prison or is in custody in another facility at the time the DNA testing is to be performed, the sample of biological material shall be obtained from the offender at the facility in which the offender is housed, and the department of rehabilitation and correction or the other state agency or entity of local government with custody of the offender, whichever is applicable, shall make the offender available at the specified time. The court shall require the state to provide notice to the offender and to the offender's counsel of the date on which, and the time and place at which, the sample will be so obtained.

The court also shall require the state to coordinate with the testing authority regarding the obtaining of the sample from the offender.

(C)(1) If DNA testing is to be performed for an offender as described in division (A) of this section, and the offender refuses to submit to the collection of the sample of biological material from the offender or hinders the state from obtaining a sample of biological material from the offender, the court shall rescind its prior acceptance of the application for DNA testing for the offender and deny



the application.

(2) For purposes of division (C)(1) of this section:

(a) An offender's "refusal to submit to the collection of a sample of biological material from the offender" includes, but is not limited to, the offender's rejection of the physical manner in which a sample of the offender's biological material is to be taken.

(b) An offender's "hindrance of the state in obtaining a sample of biological material from the offender" includes, but is not limited to, the offender being physically or verbally uncooperative or antagonistic in the taking of a sample of the offender's biological material.

(D) The extracting personnel shall make the determination as to whether an eligible offender for whom DNA testing is to be performed is refusing to submit to the collection of a sample of biological material from the offender or is hindering the state from obtaining a sample of biological material from the offender at the time and date of the scheduled collection of the sample. If the extracting personnel determine that an offender is refusing to submit to the collection of a sample or is hindering the state from obtaining a sample, the extracting personnel shall document in writing the conditions that constitute the refusal or hindrance, maintain the documentation, and notify the court of the offender's refusal or hindrance.