

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 497

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records, to authorize the establishment of a DNA identification index, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 3, 1993

Mr. SIMON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records, to authorize the establishment of a DNA identification index, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DNA Identification  
5 Act of 1993”.

1 **SEC. 2. DNA IDENTIFICATION.**

2 (a) FUNDING TO IMPROVE THE QUALITY AND AVAIL-  
3 ABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT  
4 IDENTIFICATION PURPOSES.—

5 (1) DRUG CONTROL AND SYSTEM IMPROVE-  
6 MENT GRANT PROGRAM.—Section 501(b) of title I of  
7 the Omnibus Crime Control and Safe Streets Act of  
8 1968 (42 U.S.C. 3751(b)) is amended—

9 (A) by striking “and” at the end of para-  
10 graph (20);

11 (B) by striking the period at the end of  
12 paragraph (21) and inserting “; and”; and

13 (C) by adding at the end the following new  
14 paragraph:

15 “(23) developing or improving in a forensic lab-  
16 oratory a capability to analyze deoxyribonucleic acid  
17 (referred to in this title as ‘DNA’) for identification  
18 purposes.”.

19 (2) STATE APPLICATIONS.—Section 503(a) of  
20 title I of the Omnibus Crime Control and Safe  
21 Streets Act of 1968 (42 U.S.C. 3753(a)) is amended  
22 by adding at the end the following new paragraph:

23 “(12) If any part of a grant made under this  
24 part is to be used to develop or improve a DNA  
25 analysis capability in a forensic laboratory, a certifi-  
26 cation that—

1           “(A) DNA analyses performed at the lab-  
2           oratory will satisfy or exceed then current  
3           standards for a quality assurance program for  
4           DNA analysis issued by the Director of the  
5           Federal Bureau of Investigation under section  
6           2(b) of the DNA Identification Act of 1993;

7           “(B) DNA samples obtained by and DNA  
8           analyses performed at the laboratory will be  
9           made available only—

10           “(i) to criminal justice agencies, for  
11           law enforcement identification purposes;

12           “(ii) for criminal defense purposes, to  
13           a defendant, who shall have access to sam-  
14           ples and analyses performed in connection  
15           with the case in which the defendant is  
16           charged; and

17           “(iii) to others, if personally identifi-  
18           able information is removed, for a popu-  
19           lation statistics database, for identification  
20           research and protocol development pur-  
21           poses, or for quality control purposes; and

22           “(C) the laboratory and each analyst per-  
23           forming DNA analyses at the laboratory will  
24           undergo, at regular intervals not exceeding 180  
25           days, external proficiency testing by a DNA

1 proficiency testing program meeting the stand-  
2 ards issued under section 2(b) of the DNA  
3 Identification Act of 1993.”.

4 (3) AUTHORIZATION OF APPROPRIATIONS.—For  
5 each of fiscal years 1994, 1995, 1996, 1997, and  
6 1998 there are authorized to be appropriated  
7 \$10,000,000 for grants to the States for DNA  
8 analysis.

9 (b) QUALITY ASSURANCE AND PROFICIENCY TEST-  
10 ING STANDARDS.—

11 (1) PUBLICATION OF QUALITY ASSURANCE AND  
12 PROFICIENCY TESTING STANDARDS.—(A) Not later  
13 than 180 days after the date of enactment of this  
14 Act, the Director of the Federal Bureau of Inves-  
15 tigation shall appoint an advisory board on DNA  
16 quality assurance methods. The Director shall ap-  
17 point members of the board from among nomina-  
18 tions proposed by the head of the National Academy  
19 of Sciences and professional societies of crime lab-  
20 oratory officials. The advisory board shall include as  
21 members scientists from State and local forensic lab-  
22 oratories, molecular geneticists and population ge-  
23 neticists not affiliated with a forensic laboratory,  
24 and a representative from the National Institute of  
25 Standards and Technology. The advisory board shall

1 develop, and if appropriate, periodically revise, rec-  
2 ommended standards for quality assurance, includ-  
3 ing standards for testing the proficiency of forensic  
4 laboratories, and forensic analysts, in conducting  
5 analyses of DNA.

6 (B) The Director of the Federal Bureau of In-  
7 vestigation, after taking into consideration such rec-  
8 ommended standards, shall issue (and revise from  
9 time to time) standards for quality assurance, in-  
10 cluding standards for testing the proficiency of fo-  
11 rensic laboratories, and forensic analysts, in con-  
12 ducting analyses of DNA.

13 (C) The standards described in subparagraphs  
14 (A) and (B) shall specify criteria for quality assur-  
15 ance and proficiency tests to be applied to the var-  
16 ious types of DNA analyses used by forensic labora-  
17 tories. The standards shall also include a system for  
18 grading proficiency testing performance to determine  
19 whether a laboratory is performing acceptably.

20 (D) Until such time as the advisory board has  
21 made recommendations to the Director of the Fed-  
22 eral Bureau of Investigation and the Director has  
23 acted upon those recommendations, the quality as-  
24 surance guidelines adopted by the technical working

1 group on DNA analysis methods shall be deemed the  
2 Director's standards for purposes of this section.

3 (2) ADMINISTRATION OF THE ADVISORY  
4 BOARD.—For administrative purposes, the advisory  
5 board appointed under paragraph (1) shall be con-  
6 sidered to be an advisory board to the Director of  
7 the Federal Bureau of Investigation. Section 14 of  
8 the Federal Advisory Committee Act (5 U.S.C.  
9 App.) shall not apply with respect to the advisory  
10 board appointed under subsection (a). The board  
11 shall cease to exist on the date that is 5 years after  
12 the date on which initial appointments are made to  
13 the board, unless the existence of the board is ex-  
14 tended by the Director of the Federal Bureau of  
15 Investigation.

16 (c) INDEX TO FACILITATE LAW ENFORCEMENT EX-  
17 CHANGE OF DNA IDENTIFICATION INFORMATION.—

18 (1) IN GENERAL.—The Director of the Federal  
19 Bureau of Investigation may establish an index of—

20 (A) DNA identification records of persons  
21 convicted of crimes;

22 (B) analyses of DNA samples recovered  
23 from crime scenes; and

24 (C) analyses of DNA samples recovered  
25 from unidentified human remains.

1           (2) CONTENTS.—The index established under  
2 paragraph (1) shall include only information on  
3 DNA identification records and DNA analyses that  
4 are—

5           (A) based on analyses performed in accord-  
6 ance with publicly available standards that sat-  
7 isfy or exceed the guidelines for a quality assur-  
8 ance program for DNA analysis, issued by the  
9 Director of the Federal Bureau of Investigation  
10 under subsection (b);

11           (B) prepared by laboratories and DNA an-  
12 alysts that undergo, at regular intervals not ex-  
13 ceeding 180 days, external proficiency testing  
14 by a DNA proficiency testing program meeting  
15 the standards issued under subsection (b); and

16           (C) maintained by Federal, State, and  
17 local criminal justice agencies pursuant to rules  
18 that allow disclosure of stored DNA samples  
19 and DNA analyses only—

20           (i) to criminal justice agencies, for law  
21 enforcement identification purposes;

22           (ii) for criminal defense purposes, to a  
23 defendant, who shall have access to sam-  
24 ples and analyses performed in connection

1 with the case in which the defendant is  
2 charged; or

3 (iii) to others, if personally identifi-  
4 able information is removed, for a popu-  
5 lation statistics database, for identification  
6 research and protocol development pur-  
7 poses, or for quality control purposes.

8 (3) FAILURE TO MEET REQUIREMENTS.—The  
9 exchange of records authorized by this subsection is  
10 subject to cancellation if the quality control and pri-  
11 vacy requirements described in paragraph (2) are  
12 not met.

13 (d) FEDERAL BUREAU OF INVESTIGATION.—

14 (1) PROFICIENCY TESTING REQUIREMENTS.—

15 (A) Personnel at the Federal Bureau of Investiga-  
16 tion who perform DNA analyses shall undergo, at  
17 regular intervals not exceeding 180 days, external  
18 proficiency testing by a DNA proficiency testing pro-  
19 gram meeting the standards issued under subsection  
20 (b). Not later than 1 year after the date of enact-  
21 ment of this Act, the Director of the Federal Bureau  
22 of Investigation shall arrange for periodic blind ex-  
23 ternal tests to determine the proficiency of DNA  
24 analysis performed at the Federal Bureau of Inves-  
25 tigation laboratory. As used in this subparagraph,

1 the term “blind external test” means a test that is  
2 presented to the laboratory through a second agency  
3 and appears to the analysts to involve routine  
4 evidence.

5 (B) For each of the 5 years following the date  
6 of enactment of this Act, the Director of the Federal  
7 Bureau of Investigation shall submit to the Commit-  
8 tee on the Judiciary of the House of Representatives  
9 and the Committee on the Judiciary of the Senate  
10 an annual report on the results of each of the tests  
11 described in subparagraph (A).

12 (2) PRIVACY PROTECTION STANDARDS.—(A)  
13 Except as provided in subparagraph (B), the results  
14 of DNA tests performed for a Federal law enforce-  
15 ment agency for law enforcement purposes may be  
16 disclosed only—

17 (i) to criminal justice agencies for law en-  
18 forcement identification purposes; or

19 (ii) for criminal defense purposes, to a de-  
20 fendant, who shall have access to samples and  
21 analyses performed in connection with the case  
22 in which the defendant is charged.

23 (B) If personally identifiable information is re-  
24 moved, test results may be disclosed for a population  
25 statistics database, for identification research and

1 protocol development purposes, or for quality control  
2 purposes.

3 (3) CRIMINAL PENALTIES.—(A) Whoever—

4 (i) by virtue of employment or official posi-  
5 tion, has possession of, or access to, individually  
6 identifiable DNA information indexed in a  
7 database created or maintained by any Federal  
8 law enforcement agency; and

9 (ii) willfully discloses such information in  
10 any manner to any person or agency not enti-  
11 tled to receive it,

12 shall be fined not more than \$100,000.

13 (B) Whoever, without authorization, willfully  
14 obtains DNA samples or individually identifiable  
15 DNA information indexed in a database created or  
16 maintained by any Federal law enforcement agency  
17 shall be fined not more than \$100,000.

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Federal Bureau  
20 of Investigation \$2,000,000 for each of fiscal years 1994,  
21 1995, 1996, 1997, and 1998 to carry out subsections (b),  
22 (c), and (d).

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