

Union Calendar No. 484

110TH CONGRESS
2D SESSION

H. R. 5057

[Report No. 110-757]

To reauthorize the Debbie Smith DNA Backlog Grant Program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2008

Mrs. MALONEY of New York (for herself, Mr. CONYERS, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

JULY 14, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reauthorize the Debbie Smith DNA Backlog Grant Program.

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 “Debbie Smith Reau-
5 thorization Act of 2008”.

1 **SEC. 2. REAUTHORIZATION OF THE DEBBIE SMITH DNA**
 2 **BACKLOG GRANT PROGRAM.**

3 Section 2 of the DNA Analysis Backlog Elimination
 4 Act of 2000 (42 U.S.C. 14135) is amended—

5 (1) in subsection (c)(3)—

6 (A) by striking subparagraphs (A) through
 7 (D);

8 (B) by redesignating subparagraph (E) as
 9 subparagraph (A); and

10 (C) by inserting after subparagraph (A)
 11 (as so redesignated) the following new subpara-
 12 graph:

13 “(B) For each of the fiscal years 2010
 14 through 2014, not less than 40 percent of the
 15 grant amounts shall be awarded for purposes
 16 under subsection (a)(2) of this section.”; and

17 (2) by amending subsection (j) to read as fol-
 18 lows:

19 “(j) **AUTHORIZATION OF APPROPRIATIONS.**—There
 20 are authorized to be appropriated to the Attorney General
 21 for grants under subsection (a) of this section
 22 \$151,000,000 for each of the fiscal years 2009 through
 23 2014.”.

24 **SECTION 1. SHORT TITLE.**

25 *This Act may be cited as the “Debbie Smith Reauthor-*
 26 *ization Act of 2008”.*

1 **SEC. 2. REAUTHORIZATION OF THE DEBBIE SMITH DNA**
2 **BACKLOG GRANT PROGRAM.**

3 (a) *AMENDMENTS.*—Section 2 of the DNA Analysis
4 Backlog Elimination Act of 2000 (42 U.S.C. 14135) is
5 amended—

6 (1) in subsection (a)—

7 (A) by redesignating paragraphs (3)
8 through (5) as paragraphs (4) through (6), re-
9 spectively;

10 (B) by inserting after paragraph (2) the fol-
11 lowing new paragraph:

12 “(3) To carry out, for inclusion in such Com-
13 bined DNA Index System, DNA analyses of samples
14 from missing or unidentified persons, including sam-
15 ples from the remains, personal effects, or biological
16 relatives of such persons.”;

17 (C) in paragraph (4) (as redesignated by
18 subparagraph (A)), by striking “paragraph (1)
19 or (2)” and inserting “paragraph (1), (2), or
20 (3)”; and

21 (D) in paragraph (5) (as so redesignated),
22 by striking “in paragraph (1)” and inserting
23 “in paragraphs (1) and (3)”;

24 (2) in subsection (b)—

25 (A) in paragraph (6), by striking “and”
26 after the semicolon;

1 (B) in paragraph (7), by striking the period
2 and inserting “; and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(8) provide assurances that the State or unit of
6 local government has implemented, or will implement
7 not later than 2 years after the date of such applica-
8 tion, a process under which the State or unit, respec-
9 tively, provides for the collection, for purposes of in-
10 clusion in the Combined DNA Index System of the
11 Federal Bureau of Investigation, of DNA samples
12 from all felons who are imprisoned in a prison of
13 such State or unit, respectively, (including all felons
14 imprisoned in such prison or unit, respectively, as of
15 the date of the enactment of the Debbie Smith Reau-
16 thorization Act of 2008).”;

17 (3) in subsection (c)(3)—

18 (A) by striking subparagraphs (A) through
19 (D);

20 (B) by redesignating subparagraph (E) as
21 subparagraph (A); and

22 (C) by inserting after subparagraph (A) (as
23 so redesignated) the following new subparagraph:

24 “(B) For each of the fiscal years 2010
25 through 2014, not less than 40 percent of the

1 *grant amounts shall be awarded for purposes*
2 *under subsection (a)(2) of this section.”; and*

3 *(4) by amending subsection (j) to read as follows:*

4 “(j) *AUTHORIZATION OF APPROPRIATIONS.—There is*
5 *authorized to be appropriated to the Attorney General for*
6 *grants under subsection (a)—*

7 “(1) \$151,000,000 for fiscal year 2009; and

8 “(2) \$200,000,000 for each of the fiscal years
9 2010 through 2014.”.

10 (b) *EFFECTIVE DATE.—The amendments made by*
11 *paragraph (2) of subsection (a) shall apply to grants made*
12 *on or after January 1, 2009.*

13 **SEC. 3. STUDY TO ASSESS THE DNA ANALYSIS BACKLOG.**

14 (a) *SENSE OF CONGRESS.—It is the sense of Congress*
15 *that—*

16 (1) *despite the funding provided for more than*
17 *5 fiscal years by the Federal Government to assist in*
18 *the reduction of the DNA analysis backlog, the backlog*
19 *continues to exist in many crime laboratories around*
20 *the country;*

21 (2) *as a consequence of the continuance of the*
22 *DNA analysis backlog, many violent crimes that*
23 *could be solved remain unsolved, and individuals who*
24 *have been wrongfully convicted who could be deter-*

1 *mined to be innocent through DNA testing remain in*
 2 *prison; and*

3 *(3) the causes of the DNA analysis backlog are*
 4 *complex and require a thorough and detailed study.*

5 *(b) STUDY REQUIRED.—The National Academy of*
 6 *Sciences shall, in consultation with no fewer than 3 forensic*
 7 *science practitioners from States and units of local govern-*
 8 *ment, conduct a study to determine the resources and other*
 9 *requirements necessary to eliminate the DNA analysis back-*
 10 *log and to prevent such a backlog from reoccurring after*
 11 *it has been eliminated.*

12 *(c) REPORT.—Not later than one year after the date*
 13 *of the enactment of this Act, the National Academy of*
 14 *Sciences shall submit to the Attorney General and to Con-*
 15 *gress a report on the results of the study conducted under*
 16 *subsection (b).*

17 *(d) AUTHORIZATION OF APPROPRIATIONS.—There is*
 18 *authorized to be appropriated to carry out this section*
 19 *\$2,000,000 for fiscal year 2009.*

20 **SEC. 4. INCENTIVES FOR PERMANENT STATE-GENERATED**
 21 **DNA FUNDING STREAMS.**

22 *(a) MATCHING FUNDS.—For each fiscal year begin-*
 23 *ning after the date of the enactment of this Act, each eligible*
 24 *DNA funding State, with respect to a funding mechanism*
 25 *described in subsection (b) implemented by such State, shall*

1 *be eligible for Federal matching funds to carry out such*
 2 *mechanism in an amount determined to be appropriate by*
 3 *the Attorney General.*

4 (b) *ELIGIBLE DNA FUNDING STATES DESCRIBED.—*
 5 *For purposes of this section, the term “eligible DNA funding*
 6 *State” means a State that demonstrates to the satisfaction*
 7 *of the Attorney General that the State has implemented*
 8 *(and applies) a permanent funding mechanism that gen-*
 9 *erates funds, whether by fees or penalties, that are allocated*
 10 *by the State only for purposes of the analysis of DNA sam-*
 11 *ples for law enforcement purposes.*

12 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 13 *authorized to be appropriated to carry out this section such*
 14 *sums as may be necessary for each of the fiscal years 2009*
 15 *through 2013.*

16 **SEC. 5. EVALUATION OF DNA INTEGRITY AND SECURITY.**

17 (a) *EVALUATION.—Not later than one year after the*
 18 *date of the enactment of this Act, and annually thereafter,*
 19 *the Attorney General shall evaluate the integrity and secu-*
 20 *rity of DNA collection and storage practices and procedures*
 21 *at a sample of crime laboratories in the United States to*
 22 *determine the extent to which DNA samples are tampered*
 23 *with or are otherwise contaminated in crime laboratories.*
 24 *Such sample shall be a representative sample of crime lab-*
 25 *oratories in the United States.*

1 (b) *REPORT.*—*The Attorney General shall annually re-*
 2 *port to Congress the findings of the evaluation conducted*
 3 *under subsection (a).*

4 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
 5 *authorized to be appropriated to carry out this section*
 6 *\$10,000,000 for each of the fiscal years 2009 through 2015.*

7 **SEC. 6. INCENTIVES FOR STATES TO COLLECT DNA SAM-**
 8 **PLES FROM INDIVIDUALS ARRESTED FOR OR**
 9 **CHARGED WITH MURDER AND SEX CRIMES.**

10 (a) *IN GENERAL.*—*In the case of a State that receives*
 11 *funds for a fiscal year under subpart 1 of part E of title*
 12 *I of the Omnibus Crime Control and Safe Streets Act of*
 13 *1968 and that has an implemented enhanced State DNA*
 14 *collection process for such year, the amount of funds that*
 15 *would otherwise be allocated for that fiscal year to the State*
 16 *under such subpart shall be increased by 10 percent.*

17 (b) *ENHANCED STATE DNA COLLECTION PROCESS*
 18 *DEFINED.*—*For purposes of this section, the term “en-*
 19 *hanced State DNA collection process” means, with respect*
 20 *to a State, a process under which the State provides for*
 21 *the collection, for purposes of inclusion in the Combined*
 22 *DNA Index System of the Federal Bureau of Investigation,*
 23 *of DNA samples from individuals who are at least 18 years*
 24 *of age and who are arrested for or charged with a criminal*
 25 *offense under State law that consists of—*

1 (1) *murder or voluntary manslaughter or any*
2 *attempt to commit murder or voluntary man-*
3 *slaughter; or*

4 (2) *an element involving a sexual act or sexual*
5 *contact with another, any other criminal offense that*
6 *is a specified offense against a minor (as defined in*
7 *section 111(7) of the Sex Offender Registration and*
8 *Notification Act (42 U.S.C. 16911(7))), or an attempt*
9 *to commit such an offense.*

10 *The expungement requirements under section 210304(d) of*
11 *the DNA Identification Act of 1994 (42 U.S.C. 14132(d))*
12 *shall apply to any samples collected pursuant to this section*
13 *for purposes of inclusion in the Combined DNA Index Sys-*
14 *tem.*

15 (c) *EFFECTIVE DATE.*—*The provisions of this section*
16 *shall apply to grants made on or after the date of the enact-*
17 *ment of this Act.*

18 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
19 *authorized to be appropriated, in addition to funds made*
20 *available under section 508 of the Omnibus Crime Control*
21 *and Safe Streets Act of 1968 (42 U.S.C. 3758), such sums*
22 *as may be necessary to carry out this section for each of*
23 *the fiscal years 2009 through 2013.*

1 **SEC. 7. ADDITIONAL STUDY AND REPORT ON INVESTIGA-**
2 **TIONS AND PROSECUTIONS RELATED TO**
3 **CODIS “HITS”.**

4 (a) *STUDY.*—*The Inspector General of the Department*
5 *of Justice shall carry out a study on—*

6 (1) *the number of instances in which DNA sam-*
7 *ples that are matched with samples included in the*
8 *Combined DNA Index System database of the Federal*
9 *Bureau of Investigation that are followed up on by*
10 *appropriate law enforcement entities;*

11 (2) *the number of such matches described in*
12 *paragraph (1) that are brought to the attention of a*
13 *prosecutor;*

14 (3) *the number of the investigations described in*
15 *paragraph (2) that result in a trial; and*

16 (4) *in the case of matches described in para-*
17 *graph (1) that were not followed up on by appro-*
18 *priate law enforcement entities, were not brought to*
19 *the attention of a prosecutor, or did not result in a*
20 *trial—*

21 (A) *the reasons why such matches were not*
22 *pursued accordingly; and*

23 (B) *the resulting impact on the criminal*
24 *justice system, including whether other crimes*
25 *were committed that could have been prevented if*
26 *such matches had been pursued accordingly.*

1 (b) *REPORT*.—Not later than one year after the date
2 of the enactment of this Act, the Inspector General shall sub-
3 mit to Congress a report on the study under subsection (a).

4 **SEC. 8. NATIONAL DNA INDEX SYSTEM ADVISORY BOARD.**

5 (a) *ESTABLISHMENT*.—The Attorney General shall es-
6 tablish the National DNA Index System Advisory Board
7 (in this section referred to as the “NDIS Advisory Board”
8 to develop and, if appropriate, periodically revise standards
9 and requirements for the use of and access to the index de-
10 scribed in section 210304(a) of the DNA Identification Act
11 of 1994 (42 U.S.C. 14132(a)).

12 (b) *MEMBERSHIP*.—Not later than 30 days after the
13 date of the enactment of this Act, the Director of the Federal
14 Bureau of Investigation shall appoint members to the NDIS
15 Advisory Board as follows:

16 (1) *At least 4 directors of State or local forensic*
17 *laboratories.*

18 (2) *One representative from the Federal Bureau*
19 *of Investigation.*

20 (3) *One representative from the Scientific Work-*
21 *ing Group on DNA Analysis Methods.*

22 (4) *One representative from the Office of Legal*
23 *Policy of the Department of Justice.*

24 (5) *One representative from the National Insti-*
25 *tute of Justice.*

1 (6) *One representative from the National Acad-*
2 *emies of Science.*

3 (7) *One State or local prosecutor.*

4 (8) *One criminal defense attorney.*

5 (9) *One representative from the National Insti-*
6 *tute of Standards and Technology.*

7 (10) *One member of the academic community*
8 *who specializes in DNA privacy issues.*

9 (11) *One crime victim or crime victim advocate.*

10 (12) *One representative of a State police agency.*

11 (13) *One representative of a local police agency.*

12 (c) *APPLICATION OF FACA.—The Federal Advisory*
13 *Committee Act (5 U.S.C. App.), other than section 14 of*
14 *such Act, shall apply to the NDIS Advisory Board.*

15 (d) *NOTICE, COMMENT, AND PUBLICATION.—The At-*
16 *torney General shall provide for public notice and comment*
17 *for each standard developed under this section and for pub-*
18 *lication of each such standard.*

19 (e) *PAY AND REIMBURSEMENT.—*

20 (1) *NO COMPENSATION FOR MEMBERS OF NDIS*
21 *ADVISORY BOARD.—Except as provided in paragraph*
22 *(2), a member of the NDIS Advisory Board may not*
23 *receive pay, allowances, or benefits by reason of their*
24 *service on the Board.*

1 (2) *TRAVEL EXPENSES.*—*Each member shall re-*
2 *ceive travel expenses, including per diem in lieu of*
3 *subsistence under subchapter I of chapter 57 of title*
4 *5, United States Code.*

5 (f) *QUALITY ASSURANCE STANDARDS.*—

6 (1) *IN GENERAL.*—*Not later than 180 days after*
7 *the date of the enactment of this Act, the NDIS Advi-*
8 *sory Board shall develop (and provide recommenda-*
9 *tions to the Director of the Federal Bureau of Inves-*
10 *tigation on) standards governing the use of and access*
11 *to the index described in subsection (a). The NDIS*
12 *Advisory Board shall periodically update such stand-*
13 *ards as appropriate. The standards shall provide for*
14 *the expedited uploading into such index by State and*
15 *local forensic laboratories of DNA analyses of samples*
16 *obtained from persons convicted of crimes, including*
17 *such analyses processed by private forensic labora-*
18 *tories.*

19 (2) *CONSIDERATION OF ADDITIONAL PROPOSALS*
20 *TO EXPEDITE PROCESSING AND UPLOADING OF DNA*
21 *SAMPLES.*—*Not later than one year after the date of*
22 *the enactment of this Act, the NDIS Advisory Board*
23 *shall also provide recommendations to the Director of*
24 *the Federal Bureau of Investigation on the following:*

1 (A) *The feasibility and desirability of enter-*
2 *ing into agreements with private forensic labora-*
3 *tories to enable direct access to the Combined*
4 *DNA Index System of the Federal Bureau of In-*
5 *vestigation for the purpose of uploading DNA*
6 *analyses of samples obtained from persons con-*
7 *victed of crimes.*

8 (B) *The feasibility and desirability of pro-*
9 *viding for more limited technical review audits*
10 *of DNA analyses of samples prior to uploading*
11 *such data into the Combined DNA Index System.*

12 (C) *The feasibility and desirability of per-*
13 *mitting greater participation in the technical re-*
14 *view of DNA analyses of samples by contractor*
15 *personnel.*

16 (D) *The feasibility and desirability of al-*
17 *lowing immediate upload of DNA profiles ob-*
18 *tained from crime scene samples and rape kits.*

19 (3) *ISSUANCE OF POLICIES, PROCEDURES, AND*
20 *STANDARDS.—The Director of the Federal Bureau of*
21 *Investigation, with the approval of the Attorney Gen-*
22 *eral, after taking into consideration the recommended*
23 *policies, procedures, and standards recommended by*
24 *the NDIS Advisory Board under this section shall*
25 *issue (and revise from time to time) policies, proce-*

1 *dures, and standards relating to the administration*
2 *of the National DNA Index System including, stand-*
3 *ards for quality assurance, testing the proficiency of*
4 *forensic laboratories, and forensic analysts, in con-*
5 *ducting analyses of DNA.*

6 *(g) EXCLUSIVITY OF POLICIES, PROCEDURES, AND*
7 *STANDARDS.—The policies, procedures, and standards*
8 *issued under subsection (f)(3) shall be the exclusive policies,*
9 *procedures, and standards issued with respect to State,*
10 *local, and private laboratories that participate in the Na-*
11 *tional DNA Index System. Policies, procedures, laboratory*
12 *audit requirements, standards, and any other manner of*
13 *regulation or control (other than any condition imposed*
14 *pursuant to a grant awarded through the Department of*
15 *Justice) may not be inconsistent with, or expand upon pro-*
16 *visions contained in such approved policies, procedures, or*
17 *standards.*

18 **SEC. 9. DNA TECHNOLOGY ENHANCEMENT GRANTS.**

19 *(a) IN GENERAL.—The Attorney General shall estab-*
20 *lish a grant program under which the Attorney General*
21 *may make grants to States and units of local government*
22 *to purchase forensic DNA technology or to improve such*
23 *technology.*

1 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
 2 *authorized to be appropriated \$50,000,000 for each of the*
 3 *fiscal years 2009 through 2013 to carry out subsection (a).*

4 **SEC. 10. REAUTHORIZATIONS OF CERTAIN DNA-RELATED**
 5 **GRANT PROGRAMS.**

6 (a) *DNA TRAINING AND EDUCATION FOR LAW EN-*
 7 *FORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OF-*
 8 *FICERS.*—*Section 303(b) of the Justice For All Act of 2004*
 9 *(42 U.S.C. 14136(b)) is amended by striking “2009” and*
 10 *inserting “2014”.*

11 (b) *SEXUAL ASSAULT FORENSIC EXAM PROGRAM*
 12 *GRANTS.*—*Section 304(c) of such Act (42 U.S.C. 14136a(c))*
 13 *is amended by striking “2009” and inserting “2014”.*

14 (c) *DNA RESEARCH AND DEVELOPMENT.*—*Section*
 15 *305(c) of such Act (42 U.S.C. 14136b(c)) is amended by*
 16 *striking “2009” and inserting “2014”.*

17 (d) *DNA IDENTIFICATION OF MISSING PERSONS.*—
 18 *Section 308(c) of such Act (42 U.S.C. 14136d(c)) is amend-*
 19 *ed by striking “2009” and inserting “2014”.*

Amend the title so as to read: “A bill to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.”.

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Grant Program.

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