

DNA Analysis Backlog Elimination Act of 2000

[Public Law 106–546]

[As Amended Through P.L. 118–72, Enacted July 30, 2024]

【Currency: This publication is a compilation of the text of Public Law 106–546. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [34 U.S.C. 10101 note] SHORT TITLE.

This Act may be cited as the “DNA Analysis Backlog Elimination Act of 2000”.

SEC. 2. [34 U.S.C. 40701] THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) AUTHORIZATION OF GRANTS.—The Attorney General may make grants to eligible States or units of local government for use by the State or unit of local government for the following purposes:

(1) To carry out, for inclusion in the Combined DNA Index System of the Federal Bureau of Investigation, DNA analyses of samples collected under applicable legal authority.

(2) To carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes, prioritizing, to the extent practicable consistent with public safety considerations samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect.

(3) To increase the capacity of laboratories owned by the State or by units of local government to carry out DNA analyses of samples specified in paragraph (1) or (2).

(4) To collect DNA samples specified in paragraph (1).

(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.

【Paragraph (6) was repealed by section 2(a)(6) (effective December 31, 2018) pursuant to section 1006 of Public Law 113–4 (enacted March 7, 2013).】

(7) To conduct an audit consistent with subsection (n) of the samples of sexual assault evidence that are in the possession of the State or unit of local government and are awaiting testing.

(8) To ensure that the collection and processing of DNA evidence by law enforcement agencies from crimes, in particular, sexual assault and other violent crimes against persons, is carried out in an appropriate and timely manner and in accordance with the protocols and practices developed under subsection (o)(1).

(9) To increase the capacity of State and local prosecution offices to address the backlog of violent crime cases in which suspects have been identified through DNA evidence.

(b) ELIGIBILITY.—For a State or unit of local government to be eligible to receive a grant under this section, the chief executive officer of the State or unit of local government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. The application shall, as required by the Attorney General—

(1) provide assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of such application, a comprehensive plan for the expeditious DNA analysis of samples in accordance with this section;

(2) include a certification that each DNA analysis carried out under the plan shall be maintained pursuant to the privacy requirements described in section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

(3) include a certification that the State or unit of local government has determined, by statute, rule, or regulation, those offenses under State law that shall be treated for purposes of this section as qualifying State offenses;

(4) specify the allocation that the State or unit of local government shall make, in using grant amounts to carry out DNA analyses of samples, as between samples specified in subsection (a)(1) and samples specified in subsection (a)(2);

(5) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(3);

(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System;

(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4); and

(8) provide assurances that the DNA section of the laboratory to be used to conduct DNA analyses has a written policy that prioritizes the analysis of, to the extent practicable consistent with public safety considerations, samples from homicides and sexual assaults.

(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

(ii) the population in the jurisdiction; and

(iii) the number of part 1 violent crimes in the jurisdiction.

(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

(A) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

(B) For each of the fiscal years 2019 through 2024, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

(C) For each of fiscal years 2019 through 2024, not less than 75 percent of the total grant amounts shall be awarded for a combination of purposes under paragraphs (1), (2), and (3) of subsection (a).

(4) ALLOCATION OF GRANT AWARDS FOR AUDITS.—For each of fiscal years 2014 through 2029, not less than 5 percent, but not more than 7 percent, of the grant amounts distributed under paragraph (1) shall, if sufficient applications to justify such amounts are received by the Attorney General, be awarded for purposes described in subsection (a)(7), provided that none of the funds required to be distributed under this paragraph shall decrease or otherwise limit the availability of funds required to be awarded to States or units of local government under paragraph (3).

(5) ALLOCATION OF GRANT AWARDS FOR PROSECUTORS.—For each fiscal year, not less than 5 percent, but not more than 7 percent, of the grant amounts distributed under paragraph (1)

shall, if sufficient applications to justify such amounts are received by the Attorney General, be awarded for purposes described in subsection (a)(9), provided that none of the funds required to be distributed under this paragraph shall decrease or otherwise limit the availability of funds required to be awarded to States or units of local government under paragraph (3).

(d) ANALYSIS OF SAMPLES.—

(1) IN GENERAL.—A plan pursuant to subsection (b)(1) shall require that, except as provided in paragraph (3), each DNA analysis be carried out in a laboratory that satisfies quality assurance standards and is—

(A) operated by the State or a unit of local government; or

(B) operated by a private entity pursuant to a contract with the State or a unit of local government.

(2) QUALITY ASSURANCE STANDARDS.—(A) The Director of the Federal Bureau of Investigation shall maintain and make available to States and units of local government a description of quality assurance protocols and practices that the Director considers adequate to assure the quality of a forensic laboratory.

(B) For purposes of this section, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section 210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

(A) IN GENERAL. A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

(B) REDEMPTION. A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

(C) PAYMENTS. The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).

(e) RESTRICTIONS ON USE OF FUNDS.—

(1) NONSUPPLANTING.—Funds made available pursuant to this section shall not be used to supplant State or local government funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State or local government sources for the purposes of this Act.

(2) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 3 percent of the funds it receives from this section for administrative expenses.

(f) REPORTS TO THE ATTORNEY GENERAL.—Each State or unit of local government which receives a grant under this section shall submit to the Attorney General, for each year in which funds from

a grant received under this section is expended, a report at such time and in such manner as the Attorney General may reasonably require, which contains—

(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application; and

(2) such other information as the Attorney General may require.

(g) **REPORTS TO CONGRESS.**—Not later than 90 days after the end of each fiscal year for which grants are made under this section, the Attorney General shall submit to the Congress a report that includes—

(1) the aggregate amount of grants made under this section to each State or unit of local government for such fiscal year;

(2) a summary of the information provided by States or units of local government receiving grants under this section; and

(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.

(h) **EXPENDITURE RECORDS.**—

(1) **IN GENERAL.**—Each State or unit of local government which receives a grant under this section shall keep records as the Attorney General may require to facilitate an effective audit of the receipt and use of grant funds received under this section.

(2) **ACCESS.**—Each State or unit of local government which receives a grant under this section shall make available, for the purpose of audit and examination, such records as are related to the receipt or use of any such grant.

(i) **DEFINITION.**—For purposes of this section, the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General for grants under subsection (a) \$151,000,000 for each of fiscal years 2024 through 2029.

(k) **USE OF FUNDS FOR ACCREDITATION AND AUDITS.**—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or re-accreditation;

(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to

determine whether the laboratory is in compliance with quality assurance standards;

(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

(C) to support future capacity building efforts; and

(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

(l) **USE OF FUNDS FOR OTHER FORENSIC SCIENCES.**—The Attorney General may award a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

(1) certifies to the Attorney General that in such State or unit—

(A) all of the purposes set forth in subsection (a) have been met;

(B) a significant backlog of casework is not waiting for DNA analysis; and

(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely DNA processing of casework or offender samples; and

(2) demonstrates to the Attorney General that such State or unit requires assistance in alleviating a backlog of cases involving a forensic science other than DNA analysis.

(m) **EXTERNAL AUDITS AND REMEDIAL EFFORTS.**—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.

(n) ¹ **USE OF FUNDS FOR AUDITING SEXUAL ASSAULT EVIDENCE BACKLOGS.**—

(1) **ELIGIBILITY.**—The Attorney General may award a grant under this section to a State or unit of local government for the purpose described in subsection (a)(7) only if the State or unit of local government—

(A) submits a plan for performing the audit of samples described in such subsection; and

(B) includes in such plan a good-faith estimate of the number of such samples.

¹ Section 2(n) is repealed effective December 31, 2018 pursuant to section 1006 of Public Law 113–4 (enacted March 7, 2013).

(2) GRANT CONDITIONS.—A State or unit of local government receiving a grant for the purpose described in subsection (a)(7)—

(A) may not enter into any contract or agreement with any non-governmental vendor laboratory to conduct an audit described in subsection (a)(7); and

(B) shall—

(i) not later than 1 year after receiving the grant, complete the audit referred to in paragraph (1)(A) in accordance with the plan submitted under such paragraph;

(ii) not later than 60 days after receiving possession of a sample of sexual assault evidence that was not in the possession of the State or unit of local government at the time of the initiation of an audit under paragraph (1)(A), subject to paragraph (4)(F), include in any required reports under clause (v), the information listed under paragraph (4)(B);

(iii) for each sample of sexual assault evidence that is identified as awaiting testing as part of the audit referred to in paragraph (1)(A)—

(I) assign a unique numeric or alphanumeric identifier to each sample of sexual assault evidence that is in the possession of the State or unit of local government and is awaiting testing; and

(II) identify the date or dates after which the State or unit of local government would be barred by any applicable statutes of limitations from prosecuting a perpetrator of the sexual assault to which the sample relates;

(iv) provide that—

(I) the chief law enforcement officer of the State or unit of local government, respectively, is the individual responsible for the compliance of the State or unit of local government, respectively, with the reporting requirements described in clause (v); or

(II) the designee of such officer may fulfill the responsibility described in subclause (I) so long as such designee is an employee of the State or unit of local government, respectively, and is not an employee of any governmental laboratory or non-governmental vendor laboratory; and

(v) comply with all grantee reporting requirements described in paragraph (4).

(3) EXTENSION OF INITIAL DEADLINE.—The Attorney General may grant an extension of the deadline under paragraph (2)(B)(i) to a State or unit of local government that demonstrates that more time is required for compliance with such paragraph.

(4) SEXUAL ASSAULT FORENSIC EVIDENCE REPORTS.—

(A) IN GENERAL.—For not less than 12 months after the completion of an initial count of sexual assault evidence that is awaiting testing during an audit referred to

in paragraph (1)(A), a State or unit of local government that receives a grant award under subsection (a)(7) shall, not less than every 60 days, submit a report to the Department of Justice, on a form prescribed by the Attorney General, which shall contain the information required under subparagraph (B).

(B) CONTENTS OF REPORTS.—A report under this paragraph shall contain the following information:

(i) The name of the State or unit of local government filing the report.

(ii) The period of dates covered by the report.

(iii) The cumulative total number of samples of sexual assault evidence that, at the end of the reporting period—

(I) are in the possession of the State or unit of local government at the reporting period;

(II) are awaiting testing; and

(III) the State or unit of local government has determined should undergo DNA or other appropriate forensic analyses.

(iv) The cumulative total number of samples of sexual assault evidence in the possession of the State or unit of local government that, at the end of the reporting period, the State or unit of local government has determined should not undergo DNA or other appropriate forensic analyses, provided that the reporting form shall allow for the State or unit of local government, at its sole discretion, to explain the reasoning for this determination in some or all cases.

(v) The cumulative total number of samples of sexual assault evidence in a total under clause (iii) that have been submitted to a laboratory for DNA or other appropriate forensic analyses.

(vi) The cumulative total number of samples of sexual assault evidence identified by an audit referred to in paragraph (1)(A) or under paragraph (2)(B)(ii) for which DNA or other appropriate forensic analysis has been completed at the end of the reporting period.

(vii) The total number of samples of sexual assault evidence identified by the State or unit of local government under paragraph (2)(B)(ii), since the previous reporting period.

(viii) The cumulative total number of samples of sexual assault evidence described under clause (iii) for which the State or unit of local government will be barred within 12 months by any applicable statute of limitations from prosecuting a perpetrator of the sexual assault to which the sample relates.

(C) PUBLICATION OF REPORTS.—Not later than 7 days after the submission of a report under this paragraph by a State or unit of local government, the Attorney General shall, subject to subparagraph (D), publish and disseminate a facsimile of the full contents of such report on an appropriate internet website.

(D) PERSONALLY IDENTIFIABLE INFORMATION.—The Attorney General shall ensure that any information published and disseminated as part of a report under this paragraph, which reports information under this subsection, does not include personally identifiable information or details about a sexual assault that might lead to the identification of the individuals involved.

(E) OPTIONAL REPORTING.—The Attorney General shall—

(i) at the discretion of a State or unit of local government required to file a report under subparagraph (A), allow such State or unit of local government, at their sole discretion, to submit such reports on a more frequent basis; and

(ii) make available to all States and units of local government the reporting form created pursuant to subparagraph (A), whether or not they are required to submit such reports, and allow such States or units of local government, at their sole discretion, to submit such reports for publication.

(F) SAMPLES EXEMPT FROM REPORTING REQUIREMENT.—The reporting requirements described in paragraph (2) shall not apply to a sample of sexual assault evidence that—

(i) is not considered criminal evidence (such as a sample collected anonymously from a victim who is unwilling to make a criminal complaint); or

(ii) relates to a sexual assault for which the prosecution of each perpetrator is barred by a statute of limitations.

(5) DEFINITIONS.—In this subsection:

(A) AWAITING TESTING.—The term “awaiting testing” means, with respect to a sample of sexual assault evidence, that—

(i) the sample has been collected and is in the possession of a State or unit of local government;

(ii) DNA and other appropriate forensic analyses have not been performed on such sample; and

(iii) the sample is related to a criminal case or investigation in which final disposition has not yet been reached.

(B) FINAL DISPOSITION.—The term “final disposition” means, with respect to a criminal case or investigation to which a sample of sexual assault evidence relates—

(i) the conviction or acquittal of all suspected perpetrators of the crime involved;

(ii) a determination by the State or unit of local government in possession of the sample that the case is unfounded; or

(iii) a declaration by the victim of the crime involved that the act constituting the basis of the crime was not committed.

(C) POSSESSION.—

(i) IN GENERAL.—The term “possession”, used with respect to possession of a sample of sexual assault evidence by a State or unit of local government, includes possession by an individual who is acting as an agent of the State or unit of local government for the collection of the sample.

(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed to create or amend any Federal rights or privileges for non-governmental vendor laboratories described in regulations promulgated under section 210303 of the DNA Identification Act of 1994 (42 U.S.C. 14131).

(o) ESTABLISHMENT OF PROTOCOLS, TECHNICAL ASSISTANCE, AND DEFINITIONS.—

(1) PROTOCOLS AND PRACTICES.—Not later than 18 months after the date of enactment of the SAFER Act of 2013, the Director, in consultation with Federal, State, and local law enforcement agencies and government laboratories, shall develop and publish a description of protocols and practices the Director considers appropriate for the accurate, timely, and effective collection and processing of DNA evidence, including protocols and practices specific to sexual assault cases, which shall address appropriate steps in the investigation of cases that might involve DNA evidence, including—

(A) how to determine—

(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

(ii) the preferred order in which evidence from the same case is to be tested; and

(iii) what information to take into account when establishing the order in which evidence from different cases is to be tested;

(B) the establishment of a reasonable period of time in which evidence is to be forwarded by emergency response providers, law enforcement personnel, and prosecutors to a laboratory for testing;

(C) the establishment of reasonable periods of time in which each stage of analytical laboratory testing is to be completed;

(D) systems to encourage communication within a State or unit of local government among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and crime victims regarding the status of crime scene evidence to be tested; and

(E) standards for conducting the audit of the backlog for DNA case work in sexual assault cases required under subsection (n).

(2) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall make available technical assistance and training to support States and units of local government in adopting and implementing the protocols and practices developed under paragraph (1) on and after the date on which the protocols and practices are published.

(3) DEFINITIONS.—In this subsection, the terms “awaiting testing” and “possession” have the meanings given those terms in subsection (n).

SEC. 3. [34 U.S.C. 40702] COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN FEDERAL OFFENDERS.

(a) COLLECTION OF DNA SAMPLES.—

(1) FROM INDIVIDUALS IN CUSTODY.—

(A) The Attorney General may, as prescribed by the Attorney General in regulation, collect DNA samples from individuals who are arrested, facing charges, or convicted or from non-United States persons who are detained under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.

(B) The Director of the Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who is, or has been, convicted of a qualifying Federal offense (as determined under subsection (d)) or a qualifying military offense, as determined under section 1565 of title 10, United States Code.

(2) FROM INDIVIDUALS ON RELEASE, PAROLE, OR PROBATION.—The probation office responsible for the supervision under Federal law of an individual on probation, parole, or supervised release shall collect a DNA sample from each such individual who is, or has been, convicted of a qualifying Federal offense (as determined under subsection (d)) or a qualifying military offense, as determined under section 1565 of title 10, United States Code.

(3) INDIVIDUALS ALREADY IN CODIS.—For each individual described in paragraph (1) or (2), if the Combined DNA Index System (in this section referred to as “CODIS”) of the Federal Bureau of Investigation contains a DNA analysis with respect to that individual, or if a DNA sample has been collected from that individual under section 1565 of title 10, United States Code, the Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) may (but need not) collect a DNA sample from that individual.

(4) COLLECTION PROCEDURES.—(A) The Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual who refuses to cooperate in the collection of the sample.

(B) The Attorney General, the Director of the Bureau of Prisons, or the probation office, as appropriate, may enter into agreements with units of State or local government or with private entities to provide for the collection of the samples described in paragraph (1) or (2).

(5) CRIMINAL PENALTY.—An individual from whom the collection of a DNA sample is authorized under this subsection who fails to cooperate in the collection of that sample shall be—

(A) guilty of a class A misdemeanor; and

(B) punished in accordance with title 18, United States Code.

(b) ANALYSIS AND USE OF SAMPLES.—The Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) shall furnish each DNA sample collected under subsection (a) to the Director of the Federal Bureau of Investigation, who shall carry out a DNA analysis on each such DNA sample and include the results in CODIS. The Director of the Federal Bureau of Investigation may waive the requirements under this subsection if DNA samples are analyzed by means of Rapid DNA instruments and the results are included in CODIS.

(c) DEFINITIONS.—In this section:

(1) The term “DNA sample” means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.

(2) The term “DNA analysis” means analysis of the deoxyribonucleic acid (DNA) identification information in a bodily sample.

(3) The term “Rapid DNA instruments” means instrumentation that carries out a fully automated process to derive a DNA analysis from a DNA sample.

(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

(1) Any felony.

(2) Any offense under chapter 109A of title 18, United States Code.

(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).

(e) REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall be carried out under regulations prescribed by the Attorney General.

(2) PROBATION OFFICERS.—The Director of the Administrative Office of the United States Courts shall make available model procedures for the activities of probation officers in carrying out this section.

(f) COMMENCEMENT OF COLLECTION.—Collection of DNA samples under subsection (a) shall, subject to the availability of appropriations, commence not later than the date that is 180 days after the date of the enactment of this Act.

SEC. 4. [34 U.S.C. 40703] COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN DISTRICT OF COLUMBIA OFFENDERS.

(a) COLLECTION OF DNA SAMPLES.—

(1) FROM INDIVIDUALS IN CUSTODY.—The Director of the Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who is, or has been, convicted of a qualifying District of Columbia offense (as determined under subsection (d)).

(2) FROM INDIVIDUALS ON RELEASE, PAROLE, OR PROBATION.—The Director of the Court Services and Offender Supervision Agency for the District of Columbia shall collect a DNA sample from each individual under the supervision of the Agency who is on supervised release, parole, or probation who is, or has been, convicted of a qualifying District of Columbia offense (as determined under subsection (d)).

(3) INDIVIDUALS ALREADY IN CODIS.—For each individual described in paragraph (1) or (2), if the Combined DNA Index System (in this section referred to as “CODIS”) of the Federal Bureau of Investigation contains a DNA analysis with respect to that individual, the Director of the Bureau of Prisons or Agency (as applicable) may (but need not) collect a DNA sample from that individual.

(4) COLLECTION PROCEDURES.—(A) The Director of the Bureau of Prisons or Agency (as applicable) may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual who refuses to cooperate in the collection of the sample.

(B) The Director of the Bureau of Prisons or Agency, as appropriate, may enter into agreements with units of State or local government or with private entities to provide for the collection of the samples described in paragraph (1) or (2).

(5) CRIMINAL PENALTY.—An individual from whom the collection of a DNA sample is authorized under this subsection who fails to cooperate in the collection of that sample shall be—

(A) guilty of a class A misdemeanor; and

(B) punished in accordance with title 18, United States Code.

(b) ANALYSIS AND USE OF SAMPLES.—The Director of the Bureau of Prisons or Agency (as applicable) shall furnish each DNA sample collected under subsection (a) to the Director of the Federal Bureau of Investigation, who shall carry out a DNA analysis on each such DNA sample and include the results in CODIS. The Director of the Federal Bureau of Investigation may waive the requirements under this subsection if DNA samples are analyzed by means of Rapid DNA instruments and the results are included in CODIS.

(c) DEFINITIONS.—In this section:

(1) The term “DNA sample” means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.

(2) The term “DNA analysis” means analysis of the deoxyribonucleic acid (DNA) identification information in a bodily sample.

(3) The term “Rapid DNA instruments” means instrumentation that carries out a fully automated process to derive a DNA analysis from a DNA sample.

(d) **QUALIFYING DISTRICT OF COLUMBIA OFFENSES.**—The government of the District of Columbia may determine those offenses under the District of Columbia Code that shall be treated for purposes of this section as qualifying District of Columbia offenses.

(e) **COMMENCEMENT OF COLLECTION.**—Collection of DNA samples under subsection (a) shall, subject to the availability of appropriations, commence not later than the date that is 180 days after the date of the enactment of this Act.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Court Services and Offender Supervision Agency for the District of Columbia to carry out this section such sums as may be necessary for each of fiscal years 2001 through 2005.

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SEC. 9. [34 U.S.C. 40705] AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Attorney General to carry out this Act (including to reimburse the Federal judiciary for any reasonable costs incurred in implementing such Act, as determined by the Attorney General) such sums as may be necessary.

SEC. 10. [34 U.S.C. 40706] PRIVACY PROTECTION STANDARDS

(a) **IN GENERAL.**—Except as provided in subsection (b), any sample collected under, or any result of any analysis carried out under, section 2, 3, or 4 may be used only for a purpose specified in such section.

(b) **PERMISSIVE USES.**—A sample or result described in subsection (a) may be disclosed under the circumstances under which disclosure of information included in the Combined DNA Index System is allowed, as specified in subparagraphs (A) through (D) of section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3)).

(c) **CRIMINAL PENALTY.**—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than \$250,000, or imprisoned for a period of not more than one year. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.

SEC. 11.² [34 U.S.C. 40701 note] SENSE OF THE CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES

(a) **FINDINGS.**—Congress finds that—

(1) over the past decade, deoxyribo-nucleic acid testing (referred to in this section as “DNA testing”) has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene;

(2) because of its scientific precision, DNA testing can, in some cases, conclusively establish the guilt or innocence of a criminal defendant;

²Section 11 includes provisions substantially identical to those enacted into law in section 4 of Public Law 106–561.

(3) in other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value to a finder of fact;

(4) DNA testing was not widely available in cases tried prior to 1994;

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA tests after earlier tests had failed to produce definitive results;

(6) DNA testing can and has resulted in the post-conviction exoneration of more than 75 innocent men and women, including some under sentence of death;

(7) in more than a dozen cases, post-conviction DNA testing that has exonerated an innocent person has also enhanced public safety by providing evidence that led to the apprehension of the actual perpetrator;

(8) experience has shown that it is not unduly burdensome to make DNA testing available to inmates in appropriate cases;

(9) under current Federal and State law, it is difficult to obtain post-conviction DNA testing because of time limits on introducing newly discovered evidence;

(10) the National Commission on the Future of DNA Evidence, a Federal panel established by the Department of Justice and comprised of law enforcement, judicial, and scientific experts, has urged that post-conviction DNA testing be permitted in the relatively small number of cases in which it is appropriate, notwithstanding procedural rules that could be invoked to preclude such testing, and notwithstanding the inability of an inmate to pay for the testing;

(11) only a few States have adopted post-conviction DNA testing procedures;

(12) States have received millions of dollars in DNA-related grants, and more funding is needed to improve State forensic facilities and to reduce the nationwide backlog of DNA samples from convicted offenders and crime scenes that need to be tested or retested using upgraded methods;

(13) States that accept such financial assistance should not deny the promise of truth and justice for both sides of our adversarial system that DNA testing offers;

(14) post-conviction DNA testing and other post-conviction investigative techniques have shown that innocent people have been sentenced to death in the United States;

(15) a constitutional error in capital cases is incompetent defense lawyers who fail to present important evidence that the defendant may have been innocent or does not deserve to be sentenced to death; and

(16) providing quality representation to defendants facing the loss of liberty or life is essential to fundamental due process and the speedy final resolution of judicial proceedings.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) Congress should condition forensic science-related grants to a State or State forensic facility on the State's agreement to ensure post-conviction DNA testing in appropriate cases; and

(2) Congress should work with the States to improve the quality of legal representation in capital cases through the establishment of standards that will assure the timely appointment of competent counsel with adequate resources to represent defendants in capital cases at each stage of those proceedings.