

108TH CONGRESS  
1ST SESSION

# H. R. 3214

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 6, 2003

Received

DECEMBER 9, 2003

Read twice and referred to the Committee on the Judiciary

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## AN ACT

To eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Advancing Justice Through DNA Technology Act of  
 4 2003”.

5 (b) TABLE OF CONTENTS.—The table of contents of  
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEBBIE SMITH ACT OF 2003

Sec. 101. Short title.

Sec. 102. Debbie Smith DNA Backlog Grant Program.

Sec. 103. Expansion of Combined DNA Index System.

Sec. 104. Tolling of statute of limitations.

Sec. 105. Legal assistance for victims of violence.

Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

Sec. 201. Short title.

Sec. 202. Ensuring public crime laboratory compliance with Federal standards.

Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.

Sec. 204. Sexual assault forensic exam program grants.

Sec. 205. DNA research and development.

Sec. 206. National Forensic Science Commission.

Sec. 207. FBI DNA programs.

Sec. 208. DNA identification of missing persons.

Sec. 209. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.

Sec. 210. Tribal coalition grants.

Sec. 211. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.

Sec. 212. Report to Congress.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

Sec. 301. Short title.

Subtitle A—Exonerating the Innocent Through DNA Testing

Sec. 311. Federal post-conviction DNA testing.

Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.

Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.

Subtitle B—Improving the Quality of Representation in State Capital Cases

Sec. 321. Capital representation improvement grants.

Sec. 322. Capital prosecution improvement grants.

Sec. 323. Applications.

Sec. 331. Increased compensation in Federal cases for the wrongfully convicted.  
Sec. 332. Sense of Congress regarding compensation in State death penalty cases.

(ii) by inserting “or unit of local gov-  
ernment” after “State”;

1 (B) in paragraph (2), by inserting before  
2 the period at the end the following: “, including  
3 samples from rape kits, samples from other sexual  
4 assault evidence, and samples taken in cases  
5 without an identified suspect”; and

6 (C) in paragraph (3), by striking “within  
7 the State”;  
8 (3) in subsection (b)—

9 (A) in the matter preceding paragraph  
10 (1)—

11 (i) by inserting “or unit of local gov-  
12 ernment” after “State” both places that  
13 term appears; and

14 (ii) by inserting “, as required by the  
15 Attorney General” after “application  
16 shall”;

17 (B) in paragraph (1), by inserting “or unit  
18 of local government” after “State”;

19 (C) in paragraph (3), by inserting “or unit  
20 of local government” after “State” the first  
21 place that term appears;

22 (D) in paragraph (4)—

23 (i) by inserting “or unit of local gov-  
24 ernment” after “State”; and

25 (ii) by striking “and” at the end;

1 (E) in paragraph (5)—

2 (i) by inserting “or unit of local gov-  
3 ernment” after “State”; and

4 (ii) by striking the period at the end  
5 and inserting a semicolon; and

6 (F) by adding at the end the following:

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

14 (4) in subsection (d)—

15 (A) in paragraph (1)—

16 (i) in the matter preceding subpara-  
17 graph (A), by striking “The plan” and in-  
18 serting “A plan pursuant to subsection  
19 (b)(1)”;

20 (ii) in subparagraph (A), by striking  
21 “within the State”; and

22 (iii) in subparagraph (B), by striking  
23 “within the State”; and

24 (B) in paragraph (2)(A), by inserting “and  
25 units of local government” after “States”;

1 (5) in subsection (e)—

2 (A) in paragraph (1), by inserting “or local  
3 government” after “State” both places that  
4 term appears; and

5 (B) in paragraph (2), by inserting “or unit  
6 of local government” after “State”;

7 (6) in subsection (f), in the matter preceding  
8 paragraph (1), by inserting “or unit of local govern-  
9 ment” after “State”;

10 (7) in subsection (g)—

11 (A) in paragraph (1), by inserting “or unit  
12 of local government” after “State”; and

13 (B) in paragraph (2), by inserting “or  
14 units of local government” after “States”; and

15 (8) in subsection (h), by inserting “or unit of  
16 local government” after “State” both places that  
17 term appears.

18 (b) REAUTHORIZATION AND EXPANSION OF PRO-  
19 GRAM.—Section 2 of the DNA Analysis Backlog Elimini-  
20 nation Act of 2000 (42 U.S.C. 14135) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (3), by inserting “(1) or”  
23 before “(2)”; and

24 (B) by inserting at the end the following:

1           “(4) To collect DNA samples specified in para-  
2 graph (1).

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

7           (2) in subsection (b), as amended by this sec-  
8 tion, by inserting at the end the following:

9           “(7) specify that portion of grant amounts that  
10 the State or unit of local government shall use for  
11 the purpose specified in subsection (a)(4).”;

12           (3) by amending subsection (c) to read as fol-  
13 lows:

14           “(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

15           “(1) IN GENERAL.—The Attorney General shall  
16 distribute grant amounts, and establish appropriate  
17 grant conditions under this section, in conformity  
18 with a formula or formulas that are designed to ef-  
19 fectuate a distribution of funds among eligible  
20 States and units of local government that—

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

24           “(B) allocates grants among eligible enti-  
25 ties fairly and efficiently to address jurisdic-

1           tions in which significant backlogs exist, by con-  
2           sidering—

3                   “(i) the number of offender and case-  
4                   work samples awaiting DNA analysis in a  
5                   jurisdiction;

6                   “(ii) the population in the jurisdiction;  
7                   and

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

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

17           “(3) LIMITATION.—Grant amounts distributed  
18           under paragraph (1) shall be awarded to conduct  
19           DNA analyses of samples from casework or from  
20           victims of crime under subsection (a)(2) in accord-  
21           ance with the following limitations:

22                   “(A) For fiscal year 2005, not less than 50  
23                   percent of the grant amounts shall be awarded  
24                   for purposes under subsection (a)(2).



1           “(B) For fiscal year 2006, not less than  
2           50 percent of the grant amounts shall be  
3           awarded for purposes under subsection (a)(2).

4           “(C) For fiscal year 2007, not less than 45  
5           percent of the grant amounts shall be awarded  
6           for purposes under subsection (a)(2).

7           “(D) For fiscal year 2008, not less than  
8           40 percent of the grant amounts shall be  
9           awarded for purposes under subsection (a)(2).

10           “(E) For fiscal year 2009, not less than 40  
11           percent of the grant amounts shall be awarded  
12           for purposes under subsection (a)(2).”;

13           (4) in subsection (g)—

14           (A) in paragraph (1), by striking “and” at  
15           the end;

16           (B) in paragraph (2), by striking the pe-  
17           riod at the end and inserting “; and”; and

18           (C) by adding at the end the following:

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

24           (5) in subsection (j), by striking paragraphs (1)  
25           and (2) and inserting the following:

1 “(1) \$151,000,000 for fiscal year 2005;  
2 “(2) \$151,000,000 for fiscal year 2006;  
3 “(3) \$151,000,000 for fiscal year 2007;  
4 “(4) \$151,000,000 for fiscal year 2008; and  
5 “(5) \$151,000,000 for fiscal year 2009.”; and  
6 (6) by adding at the end the following:

7 “(k) USE OF FUNDS FOR ACCREDITATION AND AU-  
8 DITS.—The Attorney General may distribute not more  
9 than 1 percent of the grant amounts under subsection  
10 (j)—

11 “(1) to States or units of local government to  
12 defray the costs incurred by laboratories operated by  
13 each such State or unit of local government in pre-  
14 paring for accreditation or reaccreditation;

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

20 “(A) to defray the costs of external audits  
21 of laboratories operated by such State or unit  
22 of local government, which participates in the  
23 National DNA Index System, to determine  
24 whether the laboratory is in compliance with  
25 quality assurance standards;

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

6           “(C) to support future capacity building  
7           efforts; and

8           “(3) in the form of additional grants to non-  
9           profit professional associations actively involved in  
10          forensic science and nationally recognized within the  
11          forensic science community to defray the costs of  
12          training persons who conduct external audits of lab-  
13          oratories operated by States and units of local gov-  
14          ernment and which participate in the National DNA  
15          Index System.

16          “(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—  
17          In the event that a laboratory operated by a State or unit  
18          of local government which has received funds under this  
19          Act has undergone an external audit conducted to deter-  
20          mine whether the laboratory is in compliance with stand-  
21          ards established by the Director of the Federal Bureau  
22          of Investigation, and, as a result of such audit, identifies  
23          measures to remedy deficiencies with respect to the com-  
24          pliance by the laboratory with such standards, the State

1 or unit of local government shall implement any such re-  
2 mediation as soon as practicable.”.

3 **SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.**

4 (a) INCLUSION OF ALL DNA SAMPLES FROM  
5 STATES.—Section 210304 of the DNA Identification Act  
6 of 1994 (42 U.S.C. 14132) is amended—

7 (1) in subsection (a)(1), by striking “of persons  
8 convicted of crimes;” and inserting the following:  
9 “of—

10 “(A) persons convicted of crimes;

11 “(B) persons who have been indicted or  
12 who have waived indictment for a crime; and

13 “(C) other persons whose DNA samples  
14 are collected under applicable legal authorities,  
15 provided that DNA profiles from arrestees who  
16 have not been indicted and DNA samples that  
17 are voluntarily submitted solely for elimination  
18 purposes shall not be included in the Combined  
19 DNA Index System;”; and

20 (2) in subsection (d)(2)—

21 (A) by striking “if the responsible agency”  
22 and inserting “if—

23 “(i) the responsible agency”;

24 (B) by striking the period at the end and  
25 inserting “; or”; and

1 (C) by adding at the end the following:

2 “(ii) the person has not been convicted of  
3 an offense on the basis of which that analysis  
4 was or could have been included in the index,  
5 and all charges for which the analysis was or  
6 could have been included in the index have been  
7 dismissed or resulted in acquittal.”.

8 (b) FELONS CONVICTED OF FEDERAL CRIMES.—  
9 Section 3(d) of the DNA Analysis Backlog Elimination  
10 Act of 2000 (42 U.S.C. 14135a(d)) is amended to read  
11 as follows:

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

16 “(1) Any felony.

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

19 “(3) Any crime of violence (as that term is de-  
20 fined in section 16 of title 18, United States Code).

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

23 (c) MILITARY OFFENSES.—Section 1565(d) of title  
24 10, United States Code, is amended to read as follows:

1       “(d) QUALIFYING MILITARY OFFENSES.—The of-  
2 fenses that shall be treated for purposes of this section  
3 as qualifying military offenses are the following offenses,  
4 as determined by the Secretary of Defense, in consultation  
5 with the Attorney General:

6           “(1) Any offense under the Uniform Code of  
7 Military Justice for which a sentence of confinement  
8 for more than one year may be imposed.

9           “(2) Any other offense under the Uniform Code  
10 of Military Justice that is comparable to a qualifying  
11 Federal offense (as determined under section 3(d) of  
12 the DNA Analysis Backlog Elimination Act of 2000  
13 (42 U.S.C. 14135a(d))).”.

14       (d) KEYBOARD SEARCHES.—Section 210304 of the  
15 DNA Identification Act of 1994 (42 U.S.C. 14132), as  
16 amended by subsection (a), is further amended by adding  
17 at the end the following new subsection:

18       “(e) AUTHORITY FOR KEYBOARD SEARCHES.—

19           “(1) IN GENERAL.—The Director shall ensure  
20 that any person who is authorized to access the  
21 index described in subsection (a) for purposes of in-  
22 cluding information on DNA identification records  
23 or DNA analyses in that index may also access that  
24 index for purposes of carrying out a one-time key-  
25 board search on information obtained from any

1 DNA sample lawfully collected for a criminal justice  
2 purpose except for a DNA sample voluntarily sub-  
3 mitted solely for elimination purposes.

4 “(2) DEFINITION.—For purposes of paragraph  
5 (1), the term ‘keyboard search’ means a search  
6 under which information obtained from a DNA sam-  
7 ple is compared with information in the index with-  
8 out resulting in the information obtained from a  
9 DNA sample being included in the index.

10 “(3) NO PREEMPTION.—This subsection shall  
11 not be construed to preempt State law.”.

12 **SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.**

13 (a) IN GENERAL.—Chapter 213 of title 18, United  
14 States Code, is amended by adding at the end the fol-  
15 lowing:

16 **“§ 3297. Cases involving DNA evidence**

17 “In a case in which DNA testing implicates an identi-  
18 fied person in the commission of a felony, no statute of  
19 limitations that would otherwise preclude prosecution of  
20 the offense shall preclude such prosecution until a period  
21 of time following the implication of the person by DNA  
22 testing has elapsed that is equal to the otherwise applica-  
23 ble limitation period.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 for chapter 213 of title 18, United States Code, is amend-  
 3 ed by adding at the end the following:

“3297. Cases involving DNA evidence.”.

4 (c) APPLICATION.—The amendments made by this  
 5 section shall apply to the prosecution of any offense com-  
 6 mitted before, on, or after the date of the enactment of  
 7 this section if the applicable limitation period has not yet  
 8 expired.

9 **SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.**

10 Section 1201 of the Violence Against Women Act of  
 11 2000 (42 U.S.C. 3796gg-6) is amended—

12 (1) in subsection (a), by inserting “dating vio-  
 13 lence,” after “domestic violence,”;

14 (2) in subsection (b)—

15 (A) by redesignating paragraphs (1)  
 16 through (3) as paragraphs (2) through (4), re-  
 17 spectively;

18 (B) by inserting before paragraph (2), as  
 19 redesignated by subparagraph (A), the fol-  
 20 lowing:

21 “(1) DATING VIOLENCE.—The term ‘dating vio-  
 22 lence’ means violence committed by a person who is  
 23 or has been in a social relationship of a romantic or  
 24 intimate nature with the victim. The existence of



1       such a relationship shall be determined based on a  
2       consideration of—

3               “(A) the length of the relationship;

4               “(B) the type of relationship; and

5               “(C) the frequency of interaction between  
6       the persons involved in the relationship.”; and

7               (C) in paragraph (3), as redesignated by  
8       subparagraph (A), by inserting “dating vio-  
9       lence,” after “domestic violence,”;

10      (3) in subsection (c)—

11              (A) in paragraph (1)—

12                      (i) by inserting “, dating violence,”  
13              after “between domestic violence”; and

14                      (ii) by inserting “dating violence,”  
15              after “victims of domestic violence,”;

16              (B) in paragraph (2), by inserting “dating  
17       violence,” after “domestic violence,”; and

18              (C) in paragraph (3), by inserting “dating  
19       violence,” after “domestic violence,”;

20      (4) in subsection (d)—

21              (A) in paragraph (1), by inserting “, dat-  
22       ing violence,” after “domestic violence”;

23              (B) in paragraph (2), by inserting “, dat-  
24       ing violence,” after “domestic violence”;

1 (C) in paragraph (3), by inserting “, dat-  
2 ing violence,” after “domestic violence”; and

3 (D) in paragraph (4), by inserting “dating  
4 violence,” after “domestic violence,”;

5 (5) in subsection (e), by inserting “dating vio-  
6 lence,” after “domestic violence,”; and

7 (6) in subsection (f)(2)(A), by inserting “dating  
8 violence,” after “domestic violence,”.

9 **SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN**  
10 **ELIMINATING DNA BACKLOG.**

11 Section 2(d)(3) of the DNA Analysis Backlog Elim-  
12 nation Act of 2000 (42 U.S.C. 14135(d)(3)) is amended  
13 to read as follows:

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

16 “(A) IN GENERAL.—A grant for the pur-  
17 poses specified in paragraph (1), (2), or (5) of  
18 subsection (a) may be made in the form of a  
19 voucher or contract for laboratory services.

20 “(B) REDEMPTION.—A voucher or con-  
21 tract under subparagraph (A) may be redeemed  
22 at a laboratory operated by a private entity that  
23 satisfies quality assurance standards and has  
24 been approved by the Attorney General.

1           “(C) PAYMENTS.—The Attorney General  
2           may use amounts authorized under subsection  
3           (j) to make payments to a laboratory described  
4           under subparagraph (B).”.

5       **TITLE II—DNA SEXUAL ASSAULT**  
6               **JUSTICE ACT OF 2003**

7       **SEC. 201. SHORT TITLE.**

8           This title may be cited as the “DNA Sexual Assault  
9       Justice Act of 2003”.

10       **SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLI-**  
11               **ANCE WITH FEDERAL STANDARDS.**

12           Section 210304(b)(2) of the DNA Identification Act  
13       of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as  
14       follows:

15           “(2) prepared by laboratories that—

16               “(A) not later than 2 years after the date  
17               of enactment of the DNA Sexual Assault Jus-  
18               tice Act of 2003, have been accredited by a  
19               nonprofit professional association of persons ac-  
20               tively involved in forensic science that is nation-  
21               ally recognized within the forensic science com-  
22               munity; and

23               “(B) undergo external audits, not less than  
24               once every 2 years, that demonstrate compli-

1           ance with standards established by the Director  
2           of the Federal Bureau of Investigation; and”.

3 **SEC. 203. DNA TRAINING AND EDUCATION FOR LAW EN-**  
4 **FORCEMENT, CORRECTIONAL PERSONNEL,**  
5 **AND COURT OFFICERS.**

6           (a) IN GENERAL.—The Attorney General shall make  
7   grants to eligible entities to provide training, technical as-  
8   sistance, education, and information relating to the identi-  
9   fication, collection, preservation, analysis, and use of DNA  
10  samples and DNA evidence.

11          (b) ELIGIBLE ENTITY.—For purposes of subsection  
12  (a), an eligible entity is an organization consisting of, com-  
13  prised of, or representing—

14           (1) law enforcement personnel, including police  
15   officers and other first responders, evidence techni-  
16   cians, investigators, and others who collect or exam-  
17   ine evidence of crime;

18           (2) court officers, including State and local  
19   prosecutors, defense lawyers, and judges;

20           (3) forensic science professionals; and

21           (4) corrections personnel, including prison and  
22   jail personnel, and probation, parole, and other offi-  
23   cers involved in supervision.

24          (c) AUTHORIZATION OF APPROPRIATIONS.—There  
25  are authorized to be appropriated \$12,500,000 for each

1 of fiscal years 2005 through 2009 to carry out this sec-  
2 tion.

3 **SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM**  
4 **GRANTS.**

5 (a) IN GENERAL.—The Attorney General shall make  
6 grants to eligible entities to provide training, technical as-  
7 sistance, education, equipment, and information relating  
8 to the identification, collection, preservation, analysis, and  
9 use of DNA samples and DNA evidence by medical per-  
10 sonnel and other personnel, including doctors, medical ex-  
11 aminers, coroners, nurses, victim service providers, and  
12 other professionals involved in treating victims of sexual  
13 assault and sexual assault examination programs, includ-  
14 ing SANE (Sexual Assault Nurse Examiner), SAFE (Sex-  
15 ual Assault Forensic Examiner), and SART (Sexual As-  
16 sault Response Team).

17 (b) ELIGIBLE ENTITY.—For purposes of this section,  
18 the term “eligible entity” includes—

- 19 (1) States;  
20 (2) units of local government; and  
21 (3) sexual assault examination programs, in-  
22 cluding—  
23 (A) sexual assault nurse examiner (SANE)  
24 programs;

1 (B) sexual assault forensic examiner  
2 (SAFE) programs;

3 (C) sexual assault response team (SART)  
4 programs;

5 (D) State sexual assault coalitions;

6 (E) medical personnel, including doctors,  
7 medical examiners, coroners, and nurses, in-  
8 volved in treating victims of sexual assault; and

9 (F) victim service providers involved in  
10 treating victims of sexual assault.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated \$30,000,000 for each  
13 of fiscal years 2005 through 2009 to carry out this sec-  
14 tion.

15 **SEC. 205. DNA RESEARCH AND DEVELOPMENT.**

16 (a) IMPROVING DNA TECHNOLOGY.—The Attorney  
17 General shall make grants for research and development  
18 to improve forensic DNA technology, including increasing  
19 the identification accuracy and efficiency of DNA analysis,  
20 decreasing time and expense, and increasing portability.

21 (b) DEMONSTRATION PROJECTS.—The Attorney  
22 General shall make grants to appropriate entities under  
23 which research is carried out through demonstration  
24 projects involving coordinated training and commitment of  
25 resources to law enforcement agencies and key criminal

1 justice participants to demonstrate and evaluate the use  
2 of forensic DNA technology in conjunction with other fo-  
3 rensic tools. The demonstration projects shall include sci-  
4 entific evaluation of the public safety benefits, improve-  
5 ments to law enforcement operations, and cost-effective-  
6 ness of increased collection and use of DNA evidence.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated \$15,000,000 for each  
9 of fiscal years 2005 through 2009 to carry out this sec-  
10 tion.

11 **SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.**

12 (a) APPOINTMENT.—The Attorney General shall ap-  
13 point a National Forensic Science Commission (in this  
14 section referred to as the “Commission”), composed of  
15 persons experienced in criminal justice issues, including  
16 persons from the forensic science and criminal justice  
17 communities, to carry out the responsibilities under sub-  
18 section (b).

19 (b) RESPONSIBILITIES.—The Commission shall—

20 (1) assess the present and future resource  
21 needs of the forensic science community;

22 (2) make recommendations to the Attorney  
23 General for maximizing the use of forensic tech-  
24 nologies and techniques to solve crimes and protect  
25 the public;

1           (3) identify potential scientific advances that  
2           may assist law enforcement in using forensic tech-  
3           nologies and techniques to protect the public;

4           (4) make recommendations to the Attorney  
5           General for programs that will increase the number  
6           of qualified forensic scientists available to work in  
7           public crime laboratories;

8           (5) disseminate, through the National Institute  
9           of Justice, best practices concerning the collection  
10          and analyses of forensic evidence to help ensure  
11          quality and consistency in the use of forensic tech-  
12          nologies and techniques to solve crimes and protect  
13          the public;

14          (6) examine additional issues pertaining to fo-  
15          rensic science as requested by the Attorney General;

16          (7) examine Federal, State, and local privacy  
17          protection statutes, regulations, and practices relat-  
18          ing to access to, or use of, stored DNA samples or  
19          DNA analyses, to determine whether such protec-  
20          tions are sufficient;

21          (8) make specific recommendations to the At-  
22          torney General, as necessary, to enhance the protec-  
23          tions described in paragraph (7) to ensure—

24                  (A) the appropriate use and dissemination  
25                  of DNA information;



1 (B) the accuracy, security, and confiden-  
2 tiality of DNA information;

3 (C) the timely removal and destruction of  
4 obsolete, expunged, or inaccurate DNA infor-  
5 mation; and

6 (D) that any other necessary measures are  
7 taken to protect privacy; and

8 (9) provide a forum for the exchange and dis-  
9 semination of ideas and information in furtherance  
10 of the objectives described in paragraphs (1) through  
11 (8).

12 (c) PERSONNEL; PROCEDURES.—The Attorney Gen-  
13 eral shall—

14 (1) designate the Chair of the Commission from  
15 among its members;

16 (2) designate any necessary staff to assist in  
17 carrying out the functions of the Commission; and

18 (3) establish procedures and guidelines for the  
19 operations of the Commission.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated \$500,000 for each of  
22 fiscal years 2005 through 2009 to carry out this section.

23 **SEC. 207. FBI DNA PROGRAMS.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to the Federal Bureau

1 of Investigation \$42,100,000 for each of fiscal years 2005  
2 through 2009 to carry out the DNA programs and activi-  
3 ties described under subsection (b).

4 (b) PROGRAMS AND ACTIVITIES.—The Federal Bu-  
5 reau of Investigation may use any amounts appropriated  
6 pursuant to subsection (a) for—

- 7 (1) nuclear DNA analysis;
- 8 (2) mitochondrial DNA analysis;
- 9 (3) regional mitochondrial DNA laboratories;
- 10 (4) the Combined DNA Index System;
- 11 (5) the Federal Convicted Offender DNA Pro-  
12 gram; and
- 13 (6) DNA research and development.

14 **SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.**

15 (a) IN GENERAL.—The Attorney General shall make  
16 grants to States and units of local government to promote  
17 the use of forensic DNA technology to identify missing  
18 persons and unidentified human remains.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated \$2,000,000 for each of  
21 fiscal years 2005 through 2009 to carry out this section.

1 **SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAU-**  
2 **THORIZED DISCLOSURE OR USE OF DNA IN-**  
3 **FORMATION.**

4 Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to  
5  
6 read as follows:

7 “(c) CRIMINAL PENALTY.—A person who knowingly  
8 discloses a sample or result described in subsection (a) in  
9 any manner to any person not authorized to receive it,  
10 or obtains or uses, without authorization, such sample or  
11 result, shall be fined not more than \$100,000. Each instance of disclosure, obtaining, or use shall constitute a  
12 separate offense under this subsection.”.

14 **SEC. 210. TRIBAL COALITION GRANTS.**

15 (a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42  
16 U.S.C. 3796gg) is amended by adding at the end the following:  
17  
18

19 “(d) TRIBAL COALITION GRANTS.—

20 “(1) PURPOSE.—The Attorney General shall  
21 award grants to tribal domestic violence and sexual  
22 assault coalitions for purposes of—

23 “(A) increasing awareness of domestic violence and sexual assault against Indian women;  
24

1           “(B) enhancing the response to violence  
2           against Indian women at the tribal, Federal,  
3           and State levels; and

4           “(C) identifying and providing technical  
5           assistance to coalition membership and tribal  
6           communities to enhance access to essential serv-  
7           ices to Indian women victimized by domestic  
8           and sexual violence.

9           “(2) GRANTS TO TRIBAL COALITIONS.—The At-  
10          torney General shall award grants under paragraph  
11          (1) to—

12           “(A) established nonprofit, nongovern-  
13           mental tribal coalitions addressing domestic vio-  
14           lence and sexual assault against Indian women;  
15           and

16           “(B) individuals or organizations that pro-  
17           pose to incorporate as nonprofit, nongovern-  
18           mental tribal coalitions to address domestic vio-  
19           lence and sexual assault against Indian women.

20           “(3) ELIGIBILITY FOR OTHER GRANTS.—Re-  
21          ceipt of an award under this subsection by tribal do-  
22          mestic violence and sexual assault coalitions shall  
23          not preclude the coalition from receiving additional  
24          grants under this title to carry out the purposes de-  
25          scribed in subsection (b).”.

1 (b) TECHNICAL AMENDMENT.—Effective as of No-  
 2 vember 2, 2002, and as if included therein as enacted,  
 3 Public Law 107–273 (116 Stat. 1789) is amended in sec-  
 4 tion 402(2) by striking “sections 2006 through 2011” and  
 5 inserting “sections 2007 through 2011”.

6 (c) AMOUNTS.—Section 2007 of the Omnibus Crime  
 7 Control and Safe Streets Act of 1968 (as redesignated by  
 8 section 402(2) of Public Law 107–273, as amended by  
 9 subsection (b)) is amended by amending subsection (b)(4)  
 10 (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

11 “(4)  $\frac{1}{54}$  shall be available for grants under sec-  
 12 tion 2001(d);”.

13 **SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC**  
 14 **SCIENCES IMPROVEMENT GRANT PROGRAM.**

15 (a) FORENSIC BACKLOG ELIMINATION GRANTS.—  
 16 Section 2804 of the Omnibus Crime Control and Safe  
 17 Streets Act of 1968 (42 U.S.C. 3797m) is amended—

18 (1) in subsection (a)—

19 (A) by striking “shall use the grant to  
 20 carry out” and inserting “shall use the grant to  
 21 do any one or more of the following:

22 “(1) To carry out”; and

23 (B) by adding at the end the following:

24 “(2) To eliminate a backlog in the analysis of  
 25 forensic science evidence, including firearms exam-

1 ination, latent prints, toxicology, controlled sub-  
2 stances, forensic pathology, questionable documents,  
3 and trace evidence.

4 “(3) To train, assist, and employ forensic lab-  
5 oratory personnel, as needed, to eliminate such a  
6 backlog.”;

7 (2) in subsection (b), by striking “under this  
8 part” and inserting “for the purpose set forth in  
9 subsection (a)(1)”;

10 (3) by adding at the end the following:

11 “(e) BACKLOG DEFINED.—For purposes of this sec-  
12 tion, a backlog in the analysis of forensic science evidence  
13 exists if such evidence—

14 “(1) has been stored in a laboratory, medical  
15 examiner’s office, coroner’s office, law enforcement  
16 storage facility, or medical facility; and

17 “(2) has not been subjected to all appropriate  
18 forensic testing because of a lack of resources or  
19 personnel.”.

20 (b) EXTERNAL AUDITS.—Section 2802 of the Omni-  
21 bus Crime Control and Safe Streets Act of 1968 (42  
22 U.S.C. 3797k) is amended—

23 (1) in paragraph (2), by striking “and” at the  
24 end;

1           (2) in paragraph (3), by striking the period at  
2           the end and inserting “; and”; and

3           (3) by adding at the end the following:

4           “(4) a certification that a government entity ex-  
5           ists and an appropriate process is in place to con-  
6           duct independent external investigations into allega-  
7           tions of serious negligence or misconduct substan-  
8           tially affecting the integrity of the forensic results  
9           committed by employees or contractors of any foren-  
10          sic laboratory system, medical examiner’s office,  
11          coroner’s office, law enforcement storage facility, or  
12          medical facility in the State that will receive a por-  
13          tion of the grant amount.”.

14          (c) THREE-YEAR EXTENSION OF AUTHORIZATION OF  
15          APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus  
16          Crime Control and Safe Streets Act of 1968 (42 U.S.C.  
17          3793(a)(24)) is amended—

18               (1) in subparagraph (E), by striking “and” at  
19               the end;

20               (2) in subparagraph (F), by striking the period  
21               at the end and inserting a semicolon; and

22               (3) by adding at the end the following:

23                       “(G) \$20,000,000 for fiscal year 2007;

24                       “(H) \$20,000,000 for fiscal year 2008; and

25                       “(I) \$20,000,000 for fiscal year 2009.”.

1       (d) **TECHNICAL AMENDMENT.**—Section 1001(a) of  
2 such Act, as amended by subsection (c), is further amend-  
3 ed by realigning paragraphs (24) and (25) so as to be  
4 flush with the left margin.

5 **SEC. 212. REPORT TO CONGRESS.**

6       (a) **IN GENERAL.**—Not later than 2 years after the  
7 date of enactment of this Act, the Attorney General shall  
8 submit to Congress a report on the implementation of this  
9 Act and the amendments made by this Act.

10       (b) **CONTENTS.**—The report submitted under sub-  
11 section (a) shall include a description of—

12               (1) the progress made by Federal, State, and  
13 local entities in—

14                       (A) collecting and entering DNA samples  
15 from offenders convicted of qualifying offenses  
16 for inclusion in the Combined DNA Index Sys-  
17 tem (referred to in this subsection as  
18 “CODIS”);

19                       (B) analyzing samples from crime scenes,  
20 including evidence collected from sexual as-  
21 saults and other serious violent crimes, and en-  
22 tering such DNA analyses in CODIS; and

23                       (C) increasing the capacity of forensic lab-  
24 oratories to conduct DNA analyses;



1           (2) the priorities and plan for awarding grants  
2           among eligible States and units of local government  
3           to ensure that the purposes of this Act are carried  
4           out;

5           (3) the distribution of grant amounts under this  
6           Act among eligible States and local governments,  
7           and whether the distribution of such funds has  
8           served the purposes of the Debbie Smith DNA  
9           Backlog Grant Program;

10          (4) grants awarded and the use of such grants  
11          by eligible entities for DNA training and education  
12          programs for law enforcement, correctional per-  
13          sonnel, court officers, medical personnel, victim serv-  
14          ice providers, and other personnel authorized under  
15          sections 203 and 204;

16          (5) grants awarded and the use of such grants  
17          by eligible entities to conduct DNA research and de-  
18          velopment programs to improve forensic DNA tech-  
19          nology, and implement demonstration projects under  
20          section 205;

21          (6) the steps taken to establish the National  
22          Forensic Science Commission, and the activities of  
23          the Commission under section 206;

24          (7) the use of funds by the Federal Bureau of  
25          Investigation under section 207;

1           (8) grants awarded and the use of such grants  
 2           by eligible entities to promote the use of forensic  
 3           DNA technology to identify missing persons and un-  
 4           identified human remains under section 208;

5           (9) grants awarded and the use of such grants  
 6           by eligible entities to eliminate forensic science back-  
 7           logs under the amendments made by section 211;

8           (10) State compliance with the requirements set  
 9           forth in section 313; and

10          (11) any other matters considered relevant by  
 11          the Attorney General.

12                   **TITLE III—INNOCENCE**  
 13                   **PROTECTION ACT OF 2003**

14   **SEC. 301. SHORT TITLE.**

15          This title may be cited as the “Innocence Protection  
 16   Act of 2003”.

17                   **Subtitle A—Exonerating the**  
 18                   **Innocent Through DNA Testing**

19   **SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.**

20          (a) **FEDERAL CRIMINAL PROCEDURE.—**

21               (1) **IN GENERAL.**—Part II of title 18, United  
 22          States Code, is amended by inserting after chapter  
 23          228 the following:

1   **“CHAPTER 228A—POST-CONVICTION DNA**  
 2                                   **TESTING**

“Sec.

“3600. DNA testing.

“3600A. Preservation of biological evidence.

3   **“§ 3600. DNA testing**

4           “(a) IN GENERAL.—Upon a written motion by an in-  
 5   dividual under a sentence of imprisonment or death pursu-  
 6   ant to a conviction for a Federal offense (referred to in  
 7   this section as the ‘applicant’), the court that entered the  
 8   judgment of conviction shall order DNA testing of specific  
 9   evidence if—

10           “(1) the applicant asserts, under penalty of per-  
 11   jury, that the applicant is actually innocent of—

12           “(A) the Federal offense for which the ap-  
 13   plicant is under a sentence of imprisonment or  
 14   death; or

15           “(B) another Federal or State offense, if—

16           “(i)(I) such offense was legally nec-  
 17   essary to make the applicant eligible for a  
 18   sentence as a career offender under section  
 19   3559(e) or an armed career offender under  
 20   section 924(e), and exoneration of such of-  
 21   fense would entitle the applicant to a re-  
 22   duced sentence; or

23           “(II) evidence of such offense was ad-  
 24   mitted during a Federal death sentencing

1           hearing and exoneration of such offense  
2           would entitle the applicant to a reduced  
3           sentence or new sentencing hearing; and

4           “(ii) in the case of a State offense—

5                 “(I) the applicant demonstrates  
6                 that there is no adequate remedy  
7                 under State law to permit DNA test-  
8                 ing of the specified evidence relating  
9                 to the State offense; and

10                “(II) to the extent available, the  
11                applicant has exhausted all remedies  
12                available under State law for request-  
13                ing DNA testing of specified evidence  
14                relating to the State offense;

15           “(2) the specific evidence to be tested was se-  
16           cured in relation to the investigation or prosecution  
17           of the Federal or State offense referenced in the ap-  
18           plicant’s assertion under paragraph (1);

19           “(3) the specific evidence to be tested—

20                 “(A) was not previously subjected to DNA  
21                 testing and the applicant did not knowingly and  
22                 voluntarily waive the right to request DNA test-  
23                 ing of that evidence in a court proceeding after  
24                 the date of enactment of the Innocence Protec-  
25                 tion Act of 2003; or

1           “(B) was previously subjected to DNA  
2           testing and the applicant is requesting DNA  
3           testing using a new method or technology that  
4           is substantially more probative than the prior  
5           DNA testing;

6           “(4) the specific evidence to be tested is in the  
7           possession of the Government and has been subject  
8           to a chain of custody and retained under conditions  
9           sufficient to ensure that such evidence has not been  
10          substituted, contaminated, tampered with, replaced,  
11          or altered in any respect material to the proposed  
12          DNA testing;

13          “(5) the proposed DNA testing is reasonable in  
14          scope, uses scientifically sound methods, and is con-  
15          sistent with accepted forensic practices;

16          “(6) the applicant identifies a theory of defense  
17          that—

18                 “(A) is not inconsistent with an affirmative  
19                 defense presented at trial; and

20                 “(B) would establish the actual innocence  
21                 of the applicant of the Federal or State offense  
22                 referenced in the applicant’s assertion under  
23                 paragraph (1);

1           “(7) if the applicant was convicted following a  
2           trial, the identity of the perpetrator was at issue in  
3           the trial;

4           “(8) the proposed DNA testing of the specific  
5           evidence—

6                   “(A) would produce new material evidence  
7           to support the theory of defense referenced in  
8           paragraph (6); and

9                   “(B) assuming the DNA test result ex-  
10          cludes the applicant, would raise a reasonable  
11          probability that the applicant did not commit  
12          the offense;

13          “(9) the applicant certifies that the applicant  
14          will provide a DNA sample for purposes of compari-  
15          son; and

16          “(10) the applicant’s motion is filed for the  
17          purpose of demonstrating the applicant’s actual in-  
18          nocence of the Federal or State offense, and not to  
19          delay the execution of the sentence or the adminis-  
20          tration of justice.

21          “(b) NOTICE TO THE GOVERNMENT; PRESERVATION  
22          ORDER; APPOINTMENT OF COUNSEL.—

23                 “(1) NOTICE.—Upon the receipt of a motion  
24          filed under subsection (a), the court shall—

25                   “(A) notify the Government; and

1           “(B) allow the Government a reasonable  
2           time period to respond to the motion.

3           “(2) PRESERVATION ORDER.—To the extent  
4           necessary to carry out proceedings under this sec-  
5           tion, the court shall direct the Government to pre-  
6           serve the specific evidence relating to a motion under  
7           subsection (a).

8           “(3) APPOINTMENT OF COUNSEL.—The court  
9           may appoint counsel for an indigent applicant under  
10          this section in the same manner as in a proceeding  
11          under section 3006A(a)(2)(B).

12          “(c) TESTING PROCEDURES.—

13                 “(1) IN GENERAL.—The court shall direct that  
14                 any DNA testing ordered under this section be car-  
15                 ried out by the Federal Bureau of Investigation.

16                 “(2) EXCEPTION.—Notwithstanding paragraph  
17                 (1), the court may order DNA testing by another  
18                 qualified laboratory if the court makes all necessary  
19                 orders to ensure the integrity of the specific evidence  
20                 and the reliability of the testing process and test re-  
21                 sults.

22                 “(3) COSTS.—The costs of any DNA testing or-  
23                 dered under this section shall be paid—

24                         “(A) by the applicant; or

1                   “(B) in the case of an applicant who is in-  
2                   digent, by the Government.

3           “(d) TIME LIMITATION IN CAPITAL CASES.—In any  
4 case in which the applicant is sentenced to death—

5                   “(1) any DNA testing ordered under this sec-  
6                   tion shall be completed not later than 60 days after  
7                   the date on which the Government responds to the  
8                   motion filed under subsection (a); and

9                   “(2) not later than 120 days after the date on  
10                  which the DNA testing ordered under this section is  
11                  completed, the court shall order any post-testing  
12                  procedures under subsection (f) or (g), as appro-  
13                  priate.

14          “(e) REPORTING OF TEST RESULTS.—

15                  “(1) IN GENERAL.—The results of any DNA  
16                  testing ordered under this section shall be simulta-  
17                  neously disclosed to the court, the applicant, and the  
18                  Government.

19                  “(2) NDIS.—The Government shall submit any  
20                  test results relating to the DNA of the applicant to  
21                  the National DNA Index System (referred to in this  
22                  subsection as ‘NDIS’).

23                  “(3) RETENTION OF DNA SAMPLE.—

24                          “(A) ENTRY INTO NDIS.—If the DNA test  
25                          results obtained under this section are inconclu-



1 sive or show that the applicant was the source  
2 of the DNA evidence, the DNA sample of the  
3 applicant may be retained in NDIS.

4 “(B) MATCH WITH OTHER OFFENSE.—If  
5 the DNA test results obtained under this sec-  
6 tion exclude the applicant as the source of the  
7 DNA evidence, and a comparison of the DNA  
8 sample of the applicant results in a match be-  
9 tween the DNA sample of the applicant and an-  
10 other offense, the Attorney General shall notify  
11 the appropriate agency and preserve the DNA  
12 sample of the applicant.

13 “(C) NO MATCH.—If the DNA test results  
14 obtained under this section exclude the appli-  
15 cant as the source of the DNA evidence, and a  
16 comparison of the DNA sample of the applicant  
17 does not result in a match between the DNA  
18 sample of the applicant and another offense,  
19 the Attorney General shall destroy the DNA  
20 sample of the applicant and ensure that such  
21 information is not retained in NDIS if there is  
22 no other legal authority to retain the DNA  
23 sample of the applicant in NDIS.

24 “(f) POST-TESTING PROCEDURES; INCONCLUSIVE  
25 AND INCULPATORY RESULTS.—

1           “(1) INCONCLUSIVE RESULTS.—If DNA test re-  
2           sults obtained under this section are inconclusive,  
3           the court may order further testing, if appropriate,  
4           or may deny the applicant relief.

5           “(2) INCULPATORY RESULTS.—If DNA test re-  
6           sults obtained under this section show that the ap-  
7           plicant was the source of the DNA evidence, the  
8           court shall—

9                   “(A) deny the applicant relief; and

10                   “(B) on motion of the Government—

11                           “(i) make a determination whether  
12                           the applicant’s assertion of actual inno-  
13                           cence was false, and, if the court makes  
14                           such a finding, the court may hold the ap-  
15                           plicant in contempt;

16                           “(ii) assess against the applicant the  
17                           cost of any DNA testing carried out under  
18                           this section;

19                           “(iii) forward the finding to the Direc-  
20                           tor of the Bureau of Prisons, who, upon  
21                           receipt of such a finding, may deny, wholly  
22                           or in part, the good conduct credit author-  
23                           ized under section 3632 on the basis of  
24                           that finding;

1                   “(iv) if the applicant is subject to the  
2                   jurisdiction of the United States Parole  
3                   Commission, forward the finding to the  
4                   Commission so that the Commission may  
5                   deny parole on the basis of that finding;  
6                   and

7                   “(v) if the DNA test results relate to  
8                   a State offense, forward the finding to any  
9                   appropriate State official.

10                  “(3) SENTENCE.—In any prosecution of an ap-  
11                  plicant under chapter 79 for false assertions or other  
12                  conduct in proceedings under this section, the court,  
13                  upon conviction of the applicant, shall sentence the  
14                  applicant to a term of imprisonment of not less than  
15                  3 years, which shall run consecutively to any other  
16                  term of imprisonment the applicant is serving.

17                  “(g) POST-TESTING PROCEDURES; MOTION FOR  
18                  NEW TRIAL OR RESENTENCING.—

19                  “(1) IN GENERAL.—Notwithstanding any law  
20                  that would bar a motion under this paragraph as  
21                  untimely, if DNA test results obtained under this  
22                  section exclude the applicant as the source of the  
23                  DNA evidence, the applicant may file a motion for  
24                  a new trial or resentencing, as appropriate. The  
25                  court shall establish a reasonable schedule for the

1       applicant to file such a motion and for the Govern-  
2       ment to respond to the motion.

3               “(2) STANDARD FOR GRANTING MOTION FOR  
4       NEW TRIAL OR RESENTENCING.—The court shall  
5       grant the motion of the applicant for a new trial or  
6       resentencing, as appropriate, if the DNA test re-  
7       sults, when considered with all other evidence in the  
8       case (regardless of whether such evidence was intro-  
9       duced at trial), establish by a preponderance of the  
10      evidence that a new trial would result in an acquittal  
11      of—

12              “(A) in the case of a motion for a new  
13      trial, the Federal offense for which the appli-  
14      cant is under a sentence of imprisonment or  
15      death; and

16              “(B) in the case of a motion for resen-  
17      tencing, another Federal or State offense, if—

18                  “(i) such offense was legally necessary  
19                  to make the applicant eligible for a sen-  
20                  tence as a career offender under section  
21                  3559(e) or an armed career offender under  
22                  section 924(e), and exoneration of such of-  
23                  fense would entitle the applicant to a re-  
24                  duced sentence; or

1 “(ii) evidence of such offense was ad-  
2 mitted during a Federal death sentencing  
3 hearing and exoneration of such offense  
4 would entitle the applicant to a reduced  
5 sentence or a new sentencing proceeding.

6 “(h) OTHER LAWS UNAFFECTED.—

7 “(1) POST-CONVICTION RELIEF.—Nothing in  
8 this section shall affect the circumstances under  
9 which a person may obtain DNA testing or post-con-  
10 viction relief under any other law.

11 “(2) HABEAS CORPUS.—Nothing in this section  
12 shall provide a basis for relief in any Federal habeas  
13 corpus proceeding.

14 “(3) APPLICATION NOT A MOTION.—An appli-  
15 cation under this section shall not be considered to  
16 be a motion under section 2255 for purposes of de-  
17 termining whether the application or any other mo-  
18 tion is a second or successive motion under section  
19 2255.

20 **“§ 3600A. Preservation of biological evidence**

21 “(a) IN GENERAL.—Notwithstanding any other pro-  
22 vision of law, the Government shall preserve biological evi-  
23 dence that was secured in the investigation or prosecution  
24 of a Federal offense, if a defendant is under a sentence  
25 of imprisonment for such offense.

1       “(b) DEFINED TERM.—For purposes of this section,  
2 the term ‘biological evidence’ means—

3               “(1) a sexual assault forensic examination kit;  
4       or  
5               “(2) semen, blood, saliva, hair, skin tissue, or  
6 other identified biological material.

7       “(c) APPLICABILITY.—Subsection (a) shall not apply  
8 if—

9               “(1) a court has denied a request or motion for  
10 DNA testing of the biological evidence by the de-  
11 fendant under section 3600, and no appeal is pend-  
12 ing;

13               “(2) the defendant knowingly and voluntarily  
14 waived the right to request DNA testing of such evi-  
15 dence in a court proceeding conducted after the date  
16 of enactment of the Innocence Protection Act of  
17 2003;

18               “(3) the defendant is notified after conviction  
19 that the biological evidence may be destroyed and  
20 the defendant does not file a motion under section  
21 3600 within 180 days of receipt of the notice; or

22               “(4)(A) the evidence must be returned to its  
23 rightful owner, or is of such a size, bulk, or physical  
24 character as to render retention impracticable; and

1           “(B) the Government takes reasonable meas-  
2           ures to remove and preserve portions of the material  
3           evidence sufficient to permit future DNA testing.

4           “(d) OTHER PRESERVATION REQUIREMENT.—Noth-  
5           ing in this section shall preempt or supersede any statute,  
6           regulation, court order, or other provision of law that may  
7           require evidence, including biological evidence, to be pre-  
8           served.

9           “(e) REGULATIONS.—Not later than 180 days after  
10          the date of enactment of the Innocence Protection Act of  
11          2003, the Attorney General shall promulgate regulations  
12          to implement and enforce this section, including appro-  
13          priate disciplinary sanctions to ensure that employees  
14          comply with such regulations.

15          “(f) CRIMINAL PENALTY.—Whoever knowingly and  
16          intentionally destroys, alters, or tampers with biological  
17          evidence that is required to be preserved under this section  
18          with the intent to prevent that evidence from being sub-  
19          jected to DNA testing or prevent the production or use  
20          of that evidence in an official proceeding, shall be fined  
21          under this title, imprisoned for not more than 5 years,  
22          or both.

23          “(g) HABEAS CORPUS.—Nothing in this section shall  
24          provide a basis for relief in any Federal habeas corpus  
25          proceeding.”.

1           (2) CLERICAL AMENDMENT.—The chapter anal-  
 2       ysis for part II of title 18, United States Code, is  
 3       amended by inserting after the item relating to  
 4       chapter 228 the following:

**“228A. Post-conviction DNA testing ..... 3600”.**

5       (b) SYSTEM FOR REPORTING MOTIONS.—

6           (1) ESTABLISHMENT.—The Attorney General  
 7       shall establish a system for reporting and tracking  
 8       motions filed in accordance with section 3600 of title  
 9       18, United States Code.

10          (2) OPERATION.—In operating the system es-  
 11       tablished under paragraph (1), the Federal courts  
 12       shall provide to the Attorney General any requested  
 13       assistance in operating such a system and in ensur-  
 14       ing the accuracy and completeness of information in-  
 15       cluded in that system.

16          (3) REPORT.—Not later than 2 years after the  
 17       date of enactment of this Act, the Attorney General  
 18       shall submit a report to Congress that contains—

19                (A) a list of motions filed under section  
 20       3600 of title 18, United States Code, as added  
 21       by this Act;

22                (B) whether DNA testing was ordered pur-  
 23       suant to such a motion;

24                (C) whether the applicant obtained relief  
 25       on the basis of DNA test results; and



1 (D) whether further proceedings occurred  
2 following a granting of relief and the outcome  
3 of such proceedings.

4 (4) ADDITIONAL INFORMATION.—The report re-  
5 quired to be submitted under paragraph (3) may in-  
6 clude any other information the Attorney General  
7 determines to be relevant in assessing the operation,  
8 utility, or costs of section 3600 of title 18, United  
9 States Code, as added by this Act, and any rec-  
10 ommendations the Attorney General may have relat-  
11 ing to future legislative action concerning that sec-  
12 tion.

13 (c) EFFECTIVE DATE; APPLICABILITY.—This section  
14 and the amendments made by this section shall take effect  
15 on the date of enactment of this Act and shall apply with  
16 respect to any offense committed, and to any judgment  
17 of conviction entered, before, on, or after that date of en-  
18 actment.

19 **SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA**  
20 **TESTING GRANT PROGRAM.**

21 (a) IN GENERAL.—The Attorney General shall estab-  
22 lish the Kirk Bloodsworth Post-Conviction DNA Testing  
23 Grant Program to award grants to States to help defray  
24 the costs of post-conviction DNA testing.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
 2 are authorized to be appropriated \$5,000,000 for each of  
 3 fiscal years 2005 through 2009 to carry out this section.

4 (c) STATE DEFINED.—For purposes of this section,  
 5 the term “State” means a State of the United States, the  
 6 District of Columbia, the Commonwealth of Puerto Rico,  
 7 the United States Virgin Islands, American Samoa,  
 8 Guam, and the Northern Mariana Islands.

9 **SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CON-**  
 10 **SIDERATION OF CLAIMS OF ACTUAL INNO-**  
 11 **CENCE.**

12 For each of fiscal years 2005 through 2009, all funds  
 13 appropriated to carry out sections 203, 205, 207, and 312  
 14 shall be reserved for grants to eligible entities that—

15 (1) meet the requirements under section 203,  
 16 205, 207, or 312, as appropriate; and

17 (2) demonstrate that the State in which the eli-  
 18 gible entity operates—

19 (A) provides post-conviction DNA testing  
 20 of specified evidence—

21 (i) under a State statute enacted be-  
 22 fore the date of enactment of this Act (or  
 23 extended or renewed after such date), to  
 24 any person convicted after trial and under  
 25 a sentence of imprisonment or death for a

1 State offense, in a manner that ensures a  
2 meaningful process for resolving a claim of  
3 actual innocence; or

4 (ii) under a State statute enacted  
5 after the date of enactment of this Act, or  
6 under a State rule, regulation, or practice,  
7 to any person under a sentence of impris-  
8 onment or death for a State offense, in a  
9 manner comparable to section 3600(a) of  
10 title 18, United States Code (provided that  
11 the State statute, rule, regulation, or prac-  
12 tice may make post-conviction DNA test-  
13 ing available in cases in which such testing  
14 is not required by such section), and if the  
15 results of such testing exclude the appli-  
16 cant, permits the applicant to apply for  
17 post-conviction relief, notwithstanding any  
18 provision of law that would otherwise bar  
19 such application as untimely; and

20 (B) preserves biological evidence secured in  
21 relation to the investigation or prosecution of a  
22 State offense—

23 (i) under a State statute or a State or  
24 local rule, regulation, or practice, enacted  
25 or adopted before the date of enactment of

1           this Act (or extended or renewed after  
2           such date), in a manner that ensures that  
3           reasonable measures are taken by all juris-  
4           dictions within the State to preserve such  
5           evidence; or

6                   (ii) under a State statute or a State  
7           or local rule, regulation, or practice, en-  
8           acted or adopted after the date of enact-  
9           ment of this Act, in a manner comparable  
10          to section 3600A of title 18, United States  
11          Code, if—

12                   (I) all jurisdictions within the  
13          State comply with this requirement;  
14          and

15                   (II) such jurisdictions may pre-  
16          serve such evidence for longer than  
17          the period of time that such evidence  
18          would be required to be preserved  
19          under such section 3600A.

1 **Subtitle B—Improving the Quality**  
2 **of Representation in State Cap-**  
3 **ital Cases**

4 **SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT**  
5 **GRANTS.**

6 (a) IN GENERAL.—The Attorney General shall award  
7 grants to States for the purpose of improving the quality  
8 of legal representation provided to indigent defendants in  
9 State capital cases.

10 (b) DEFINED TERM.—In this section, the term “legal  
11 representation” means legal counsel and investigative, ex-  
12 pert, and other services necessary for competent represen-  
13 tation.

14 (c) USE OF FUNDS.—Grants awarded under sub-  
15 section (a)—

16 (1) shall be used to establish, implement, or im-  
17 prove an effective system for providing competent  
18 legal representation to—

19 (A) indigents charged with an offense sub-  
20 ject to capital punishment;

21 (B) indigents who have been sentenced to  
22 death and who seek appellate or collateral relief  
23 in State court; and

1 (C) indigents who have been sentenced to  
2 death and who seek review in the Supreme  
3 Court of the United States; and

4 (2) shall not be used to fund, directly or indi-  
5 rectly, representation in specific capital cases.

6 (d) EFFECTIVE SYSTEM.—As used in subsection  
7 (c)(1), an effective system for providing competent legal  
8 representation is a system that—

9 (1) invests the responsibility for appointing  
10 qualified attorneys to represent indigents in capital  
11 cases—

12 (A) in a public defender program that re-  
13 lies on staff attorneys, members of the private  
14 bar, or both, to provide representation in cap-  
15 ital cases;

16 (B) in an entity established by statute or  
17 by the highest State court with jurisdiction in  
18 criminal cases, which is composed of individuals  
19 with demonstrated knowledge and expertise in  
20 capital representation; or

21 (C) pursuant to a statutory procedure en-  
22 acted before the date of the enactment of this  
23 Act under which the trial judge is required to  
24 appoint qualified attorneys from a roster main-

1           tained by a State or regional selection com-  
2           mittee or similar entity; and

3           (2) requires the program described in para-  
4           graph (1)(A), the entity described in paragraph  
5           (1)(B), or an appropriate entity designated pursuant  
6           to the statutory procedure described in paragraph  
7           (1)(C), as applicable, to—

8                   (A) establish qualifications for attorneys  
9                   who may be appointed to represent indigents in  
10                  capital cases;

11                  (B) establish and maintain a roster of  
12                  qualified attorneys;

13                  (C) except in the case of a selection com-  
14                  mittee or similar entity described in paragraph  
15                  (1)(C), assign 2 attorneys from the roster to  
16                  represent an indigent in a capital case, or pro-  
17                  vide the trial judge a list of not more than 2  
18                  pairs of attorneys from the roster, from which  
19                  1 pair shall be assigned, provided that, in any  
20                  case in which the State elects not to seek the  
21                  death penalty, a court may find, subject to any  
22                  requirement of State law, that a second attor-  
23                  ney need not remain assigned to represent the  
24                  indigent to ensure competent representation;

1 (D) conduct, sponsor, or approve special-  
2 ized training programs for attorneys rep-  
3 resenting defendants in capital cases;

4 (E) monitor the performance of attorneys  
5 who are appointed and their attendance at  
6 training programs, and remove from the roster  
7 attorneys who fail to deliver effective represen-  
8 tation or who fail to comply with such require-  
9 ments as such program, entity, or selection  
10 committee or similar entity may establish re-  
11 garding participation in training programs; and

12 (F) ensure funding for the full cost of  
13 competent legal representation by the defense  
14 team and outside experts selected by counsel,  
15 who shall be compensated—

16 (i) in the case of a State that employs  
17 a statutory procedure described in para-  
18 graph (1)(C), in accordance with the re-  
19 quirements of that statutory procedure;  
20 and

21 (ii) in all other cases, as follows:

22 (I) Attorneys employed by a pub-  
23 lic defender program shall be com-  
24 pensated according to a salary scale  
25 that is commensurate with the salary



1 scale of the prosecutor's office in the  
2 jurisdiction.

3 (II) Appointed attorneys shall be  
4 compensated for actual time and serv-  
5 ice, computed on an hourly basis and  
6 at a reasonable hourly rate in light of  
7 the qualifications and experience of  
8 the attorney and the local market for  
9 legal representation in cases reflecting  
10 the complexity and responsibility of  
11 capital cases.

12 (III) Non-attorney members of  
13 the defense team, including investiga-  
14 tors, mitigation specialists, and ex-  
15 perts, shall be compensated at a rate  
16 that reflects the specialized skills  
17 needed by those who assist counsel  
18 with the litigation of death penalty  
19 cases.

20 (IV) Attorney and non-attorney  
21 members of the defense team shall be  
22 reimbursed for reasonable incidental  
23 expenses.

1 **SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.**

2 (a) IN GENERAL.—The Attorney General shall award  
3 grants to States for the purpose of enhancing the ability  
4 of prosecutors to effectively represent the public in State  
5 capital cases.

6 (b) USE OF FUNDS.—

7 (1) PERMITTED USES.—Grants awarded under  
8 subsection (a) shall be used for one or more of the  
9 following:

10 (A) To design and implement training pro-  
11 grams for State and local prosecutors to ensure  
12 effective representation in State capital cases.

13 (B) To develop and implement appropriate  
14 standards and qualifications for State and local  
15 prosecutors who litigate State capital cases.

16 (C) To assess the performance of State  
17 and local prosecutors who litigate State capital  
18 cases, provided that such assessment shall not  
19 include participation by the assessor in the trial  
20 of any specific capital case.

21 (D) To identify and implement any poten-  
22 tial legal reforms that may be appropriate to  
23 minimize the potential for error in the trial of  
24 capital cases.

25 (E) To establish a program under which  
26 State and local prosecutors conduct a system-

1           atic review of cases in which a death sentence  
2           was imposed in order to identify cases in which  
3           post-conviction DNA testing may be appro-  
4           priate.

5           (F) To provide support and assistance to  
6           the families of murder victims.

7           (2) PROHIBITED USE.—Grants awarded under  
8           subsection (a) shall not be used to fund, directly or  
9           indirectly, the prosecution of specific capital cases.

10 **SEC. 323. APPLICATIONS.**

11           (a) IN GENERAL.—The Attorney General shall estab-  
12           lish a process through which a State may apply for a grant  
13           under this subtitle.

14           (b) APPLICATION.—

15           (1) IN GENERAL.—A State desiring a grant  
16           under this subtitle shall submit an application to the  
17           Attorney General at such time, in such manner, and  
18           containing such information as the Attorney General  
19           may reasonably require.

20           (2) CONTENTS.—Each application submitted  
21           under paragraph (1) shall contain—

22           (A) a certification by an appropriate offi-  
23           cer of the State that the State authorizes cap-  
24           ital punishment under its laws and conducts, or

1 will conduct, prosecutions in which capital pun-  
2 ishment is sought;

3 (B) a description of the communities to be  
4 served by the grant, including the nature of ex-  
5 isting capital defender services and capital pros-  
6 ecution programs within such communities;

7 (C) a long-term statewide strategy and de-  
8 tailed implementation plan that—

9 (i) reflects consultation with the judi-  
10 ciary, the organized bar, and State and  
11 local prosecutor and defender organiza-  
12 tions; and

13 (ii) establishes as a priority improve-  
14 ment in the quality of trial-level represen-  
15 tation of indigents charged with capital  
16 crimes and trial-level prosecution of capital  
17 crimes;

18 (D) in the case of a State that employs a  
19 statutory procedure described in section  
20 321(d)(1)(C), a certification by an appropriate  
21 officer of the State that the State is in substan-  
22 tial compliance with the requirements of the ap-  
23 plicable State statute; and

24 (E) assurances that Federal funds received  
25 under this subtitle shall be—

- 1 (i) used to supplement and not sup-  
2 plant non-Federal funds that would other-  
3 wise be available for activities funded  
4 under this subtitle; and
- 5 (ii) allocated in accordance with sec-  
6 tion 326(b).

7 **SEC. 324. STATE REPORTS.**

8 (a) IN GENERAL.—Each State receiving funds under  
9 this subtitle shall submit an annual report to the Attorney  
10 General that—

- 11 (1) identifies the activities carried out with such  
12 funds; and
- 13 (2) explains how each activity complies with the  
14 terms and conditions of the grant.

15 (b) CAPITAL REPRESENTATION IMPROVEMENT  
16 GRANTS.—With respect to the funds provided under sec-  
17 tion 321, a report under subsection (a) shall include—

- 18 (1) an accounting of all amounts expended;
- 19 (2) an explanation of the means by which the  
20 State—

21 (A) invests the responsibility for identi-  
22 fying and appointing qualified attorneys to rep-  
23 resent indigents in capital cases in a program  
24 described in section 321(d)(1)(A), an entity de-  
25 scribed in section 321(d)(1)(B), or selection

1 committee or similar entity described in section  
2 321(d)(1)(C); and

3 (B) requires such program, entity, or selec-  
4 tion committee or similar entity, or other appro-  
5 priate entity designated pursuant to the statu-  
6 tory procedure described in section  
7 321(d)(1)(C), to—

8 (i) establish qualifications for attor-  
9 neys who may be appointed to represent  
10 indigents in capital cases in accordance  
11 with section 321(d)(2)(A);

12 (ii) establish and maintain a roster of  
13 qualified attorneys in accordance with sec-  
14 tion 321(d)(2)(B);

15 (iii) assign attorneys from the roster  
16 in accordance with section 321(d)(2)(C);

17 (iv) conduct, sponsor, or approve spe-  
18 cialized training programs for attorneys  
19 representing defendants in capital cases in  
20 accordance with section 321(d)(2)(D);

21 (v) monitor the performance and  
22 training program attendance of appointed  
23 attorneys, and remove from the roster at-  
24 torneys who fail to deliver effective rep-  
25 resentation or fail to comply with such re-

1           quirements as such program, entity, or se-  
2           lection committee or similar entity may es-  
3           tablish regarding participation in training  
4           programs, in accordance with section  
5           321(d)(2)(E); and

6           (vi) ensure funding for the full cost of  
7           competent legal representation by the de-  
8           fense team and outside experts selected by  
9           counsel, in accordance with section  
10          321(d)(2)(F), including a statement set-  
11         ting forth—

12                 (I) if the State employs a public  
13                 defender program under section  
14                 321(d)(1)(A), the salaries received by  
15                 the attorneys employed by such pro-  
16                 gram and the salaries received by at-  
17                 torneys in the prosecutor's office in  
18                 the jurisdiction;

19                 (II) if the State employs ap-  
20                 pointed attorneys under section  
21                 321(d)(1)(B), the hourly fees received  
22                 by such attorneys for actual time and  
23                 service and the basis on which the  
24                 hourly rate was calculated;

1 (III) the amounts paid to non-at-  
2 torney members of the defense team,  
3 and the basis on which such amounts  
4 were determined; and

5 (IV) the amounts for which at-  
6 torney and non-attorney members of  
7 the defense team were reimbursed for  
8 reasonable incidental expenses;

9 (3) in the case of a State that employs a statu-  
10 tory procedure described in section 321(d)(1)(C), an  
11 assessment of the extent to which the State is in  
12 compliance with the requirements of the applicable  
13 State statute; and

14 (4) a statement confirming that the funds have  
15 not been used to fund representation in specific cap-  
16 ital cases or to supplant non-Federal funds.

17 (c) CAPITAL PROSECUTION IMPROVEMENT  
18 GRANTS.—With respect to the funds provided under sec-  
19 tion 322, a report under subsection (a) shall include—

20 (1) an accounting of all amounts expended;

21 (2) a description of the means by which the  
22 State has—

23 (A) designed and established training pro-  
24 grams for State and local prosecutors to ensure



1 effective representation in State capital cases in  
2 accordance with section 322(b)(1)(A);

3 (B) developed and implemented appro-  
4 priate standards and qualifications for State  
5 and local prosecutors who litigate State capital  
6 cases in accordance with section 322(b)(1)(B);

7 (C) assessed the performance of State and  
8 local prosecutors who litigate State capital cases  
9 in accordance with section 322(b)(1)(C);

10 (D) identified and implemented any poten-  
11 tial legal reforms that may be appropriate to  
12 minimize the potential for error in the trial of  
13 capital cases in accordance with section  
14 322(b)(1)(D);

15 (E) established a program under which  
16 State and local prosecutors conduct a system-  
17 atic review of cases in which a death sentence  
18 was imposed in order to identify cases in which  
19 post-conviction DNA testing may be appro-  
20 priate in accordance with section 322(b)(1)(E);  
21 and

22 (F) provided support and assistance to the  
23 families of murder victims; and

1           (3) a statement confirming that the funds have  
2       not been used to fund the prosecution of specific  
3       capital cases or to supplant non-Federal funds.

4       (d) PUBLIC DISCLOSURE OF ANNUAL STATE RE-  
5       PORTS.—The annual reports to the Attorney General sub-  
6       mitted by any State under this section shall be made avail-  
7       able to the public.

8       **SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND AD-**  
9                               **MINISTRATIVE REMEDIES.**

10       (a) EVALUATION BY INSPECTOR GENERAL.—

11           (1) IN GENERAL.—As soon as practicable after  
12       the end of the first fiscal year for which a State re-  
13       ceives funds under a grant made under this title, the  
14       Inspector General of the Department of Justice (in  
15       this section referred to as the “Inspector General”)  
16       shall—

17           (A) after affording an opportunity for any  
18       person to provide comments on a report sub-  
19       mitted under section 324, submit to Congress  
20       and to the Attorney General a report evaluating  
21       the compliance by the State with the terms and  
22       conditions of the grant; and

23           (B) if the Inspector General concludes that  
24       the State is not in compliance with the terms  
25       and conditions of the grant, specify any defi-

1           ciencies and make recommendations for correc-  
2           tive action.

3           (2) PRIORITY.—In conducting evaluations  
4           under this subsection, the Inspector General shall  
5           give priority to States that the Inspector General de-  
6           termines, based on information submitted by the  
7           State and other comments provided by any other  
8           person, to be at the highest risk of noncompliance.

9           (3) DETERMINATION FOR STATUTORY PROCE-  
10          DURE STATES.—For each State that employs a stat-  
11          utory procedure described in section 321(d)(1)(C),  
12          the Inspector General shall submit to Congress and  
13          to the Attorney General, not later than the end of  
14          the first fiscal year for which such State receives  
15          funds, after affording an opportunity for any person  
16          to provide comments on a certification submitted  
17          under section 323(b)(2)(D), a determination as to  
18          whether the State is in substantial compliance with  
19          the requirements of the applicable State statute.

20          (b) ADMINISTRATIVE REVIEW.—

21               (1) COMMENT.—Upon receiving the report  
22               under subsection (a)(1) or the determination under  
23               subsection (a)(3), the Attorney General shall provide  
24               the State with an opportunity to comment regarding

1 the findings and conclusions of the report or the de-  
2 termination.

3 (2) CORRECTIVE ACTION PLAN.—If the Attor-  
4 ney General, after reviewing the report under sub-  
5 section (a)(1) or the determination under subsection  
6 (a)(3), determines that a State is not in compliance  
7 with the terms and conditions of the grant, the At-  
8 torney General shall consult with the appropriate  
9 State authorities to enter into a plan for corrective  
10 action. If the State does not agree to a plan for cor-  
11 rective action that has been approved by the Attor-  
12 ney General within 90 days after the submission of  
13 the report under subsection (a)(1) or the determina-  
14 tion under subsection (a)(3), the Attorney General  
15 shall, within 30 days, direct the State to take correc-  
16 tive action to bring the State into compliance.

17 (3) REPORT TO CONGRESS.—Not later than 90  
18 days after the earlier of the implementation of a cor-  
19 rective action plan or a directive to implement such  
20 a plan under paragraph (2), the Attorney General  
21 shall submit a report to Congress as to whether the  
22 State has taken corrective action and is in compli-  
23 ance with the terms and conditions of the grant.

24 (c) PENALTIES FOR NONCOMPLIANCE.—If the State  
25 fails to take the prescribed corrective action under sub-

1 section (b) and is not in compliance with the terms and  
2 conditions of the grant, the Attorney General shall dis-  
3 continue all further funding under sections 321 and 322  
4 and require the State to return the funds granted under  
5 such sections for that fiscal year. Nothing in this para-  
6 graph shall prevent a State which has been subject to pen-  
7 alties for noncompliance from reapplying for a grant under  
8 this subtitle in another fiscal year.

9 (d) PERIODIC REPORTS.—During the grant period,  
10 the Inspector General shall periodically review the compli-  
11 ance of each State with the terms and conditions of the  
12 grant.

13 (e) ADMINISTRATIVE COSTS.—Not less than 2.5 per-  
14 cent of the funds appropriated to carry out this subtitle  
15 for each of fiscal years 2005 through 2009 shall be made  
16 available to the Inspector General for purposes of carrying  
17 out this section. Such sums shall remain available until  
18 expended.

19 (f) SPECIAL RULE FOR “STATUTORY PROCEDURE”  
20 STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STAT-  
21 UTORY PROCEDURES.—

22 (1) IN GENERAL.—In the case of a State that  
23 employs a statutory procedure described in section  
24 321(d)(1)(C), if the Inspector General submits a de-  
25 termination under subsection (a)(3) that the State is

1 not in substantial compliance with the requirements  
2 of the applicable State statute, then for the period  
3 beginning with the date on which that determination  
4 was submitted and ending on the date on which the  
5 Inspector General determines that the State is in  
6 substantial compliance with the requirements of that  
7 statute, the funds awarded under this subtitle shall  
8 be allocated solely for the uses described in section  
9 321.

10 (2) RULE OF CONSTRUCTION.—The require-  
11 ments of this subsection apply in addition to, and  
12 not instead of, the other requirements of this sec-  
13 tion.

14 **SEC. 326. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) AUTHORIZATION FOR GRANTS.—There are au-  
16 thorized to be appropriated \$100,000,000 for each of fis-  
17 cal years 2005 through 2009 to carry out this subtitle.

18 (b) RESTRICTION ON USE OF FUNDS TO ENSURE  
19 EQUAL ALLOCATION.—Each State receiving a grant  
20 under this subtitle shall allocate the funds equally between  
21 the uses described in section 321 and the uses described  
22 in section 322, except as provided in section 325(f).

1     **Subtitle C—Compensation for the**  
2                     **Wrongfully Convicted**

3     **SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES**  
4                     **FOR THE WRONGFULLY CONVICTED.**

5             Section 2513(e) of title 28, United States Code, is  
6     amended by striking “exceed the sum of \$5,000” and in-  
7     serting “exceed \$100,000 for each 12-month period of in-  
8     carceration for any plaintiff who was unjustly sentenced  
9     to death and \$50,000 for each 12-month period of incar-  
10    ceration for any other plaintiff”.

11    **SEC. 332. SENSE OF CONGRESS REGARDING COMPENSA-**  
12                     **TION IN STATE DEATH PENALTY CASES.**

13            It is the sense of Congress that States should provide  
14    reasonable compensation to any person found to have been  
15    unjustly convicted of an offense against the State and sen-  
16    tenced to death.

          Passed the House of Representatives November 5,  
2003.

Attest:

JEFF TRANDAHL,  
*Clerk.*