

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

“(B) whether DNA testing was ordered pursuant to such a motion;

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

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

“(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this title, and any recommendations the Attorney General may have relating to future legislative action concerning that section.”

### § 3600A. Preservation of biological evidence

(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is sentenced to imprisonment for such offense.

(b) DEFINED TERM.—For purposes of this section, the term “biological evidence” means—

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

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

(1) after a conviction becomes final and the defendant has exhausted all opportunities for direct review of the conviction, the defendant is notified that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

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

(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

(3) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

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

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

(Added Pub. L. 108–405, title IV, § 411(a)(1), Oct. 30, 2004, 118 Stat. 2283; amended Pub. L. 114–324, § 11(b), Dec. 16, 2016, 130 Stat. 1957.)

### Editorial Notes

#### REFERENCES IN TEXT

The date of enactment of the Innocence Protection Act of 2004, referred to in subsec. (e), is the date of enactment of Pub. L. 108–405, which was approved Oct. 30, 2004.

#### AMENDMENTS

2016—Subsec. (a). Pub. L. 114–324, § 11(b)(1), substituted “sentenced to” for “under a sentence of”.

Subsec. (c). Pub. L. 114–324, § 11(b)(2), redesignated pars. (3) to (5) as (1) to (3), respectively, and struck out former pars. (1) and (2) which read as follows:

“(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

“(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;”.

### CHAPTER 229—POSTSENTENCE ADMINISTRATION

Subchapter	Sec. <sup>1</sup>
<b>A. Probation .....</b>	<b>3601</b>
<b>B. Fines .....</b>	<b>3611</b>
<b>C. Imprisonment .....</b>	<b>3621</b>
<b>D. Risk and Needs Assessment<sup>2</sup> .....</b>	<b>3631</b>

### Editorial Notes

#### PRIOR PROVISIONS

A prior chapter 229 (§ 3611 et seq.) was repealed (except sections 3611, 3612, 3615, 3617 to 3620 which were renumbered sections 3665 to 3671, respectively), by Pub. L. 98–473, title II, §§ 212(a)(1), (2), 235(a)(1), Oct. 12, 1984, 98 Stat. 1987, 2031, as amended, effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal. See Effective Date note set out under section 3551 of this title.

Section 3611 renumbered section 3665 of this title.

Section 3612 renumbered section 3666 of this title.

Section 3613, act June 25, 1948, ch. 645, 62 Stat. 840, related to fines for setting grass and timber fires.

Section 3614, act June 25, 1948, ch. 645, 62 Stat. 840, related to fine for seduction.

Section 3615 renumbered section 3667 of this title.

Section 3616, act June 25, 1948, ch. 645, 62 Stat. 840, authorized use of confiscated vehicles by narcotics agents and payment of costs of acquisition, maintenance, repair, and operation thereof, prior to repeal by Pub. L. 91–513, title III, § 1101(b)(2)(A), Oct. 27, 1970, 84 Stat. 1292.

Section 3617 renumbered section 3668 of this title.

Section 3618 renumbered section 3669 of this title.

Section 3619 renumbered section 3670 of this title.

Section 3620 renumbered section 3671 of this title.

Section 3621, added Pub. L. 98–596, § 6(a), Oct. 30, 1984, 98 Stat. 3136, related to criminal default on fine.

Section 3622, added Pub. L. 98–596, § 6(a), Oct. 30, 1984, 98 Stat. 3136, related to factors relating to imposition of fines.

Section 3623, added Pub. L. 98–596, § 6(a), Oct. 30, 1984, 98 Stat. 3137, related to alternative fines.

Section 3624, added Pub. L. 98–596, § 6(a), Oct. 30, 1984, 98 Stat. 3138, related to security for stayed fine.

<sup>1</sup> Editorially supplied.

<sup>2</sup> So in original. Does not conform to subchapter heading.