

**AMENDMENT TO H.R. 5107, AS REPORTED
OFFERED BY MR. SENSENBRENNER OF
WISCONSIN**

Page 2, after line 7, in the item in the table of contents relating to TITLE I, strike "CAMBELL" and insert "CAMPBELL".

Page 3, line 1, strike "CAMBELL" and insert "CAMPBELL".

Page 4, line 12, insert after "proceeding" the following: ", or any parole proceeding,".

Page 4, line 16, insert after "the court" the following: ", after receiving clear and convincing evidence,".

Page 4, line 18, strike "affected" and insert "altered".

Page 4, line 21, insert after "proceeding" the following: "in the district court".

Page 4, lines 21-22, strike "or sentencing" and insert ", sentencing, or any parole proceeding".

Page 5, line 10, strike "Before" and all that follows through "the right" on line 11 and inserting "Before making a determination".



Page 7, line 2, strike “such motion” and insert “any motion asserting a victim’s right”.

Page 7, line 12, strike “day,” and all that follows through “trial,” and insert “days”.

Page 7, line 13, insert after the period the following: “If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.”.

Page 7, line 20, strike “, or” and all that follows through the end of line 22 and insert “. A victim may make a motion to re-open a plea or sentence only if—

“(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

“(B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and

“(C) in the case of a plea, the accused has not pled to the highest offense charged.

“This paragraph does not affect the victim’s right to restitution as provided in title 18, United States Code.”.



Page 15, strike line 4 and all that follows through the end of the bill (titles II, III, and IV) and insert the following new titles:

1 **TITLE II—DEBBIE SMITH ACT OF**
2 **2004**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Debbie Smith Act of
5 2004”.

6 **SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.**

7 (a) DESIGNATION OF PROGRAM; ELIGIBILITY OF
8 LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the
9 DNA Analysis Backlog Elimination Act of 2000 (42
10 U.S.C. 14135) is amended—

11 (1) by amending the heading to read as follows:

12 **“SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PRO-**
13 **GRAM.”;**

14 (2) in subsection (a)—

15 (A) in the matter preceding paragraph

16 (1)—

17 (i) by inserting “or units of local gov-
18 ernment” after “eligible States”; and

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

21 (B) in paragraph (2), by inserting before
22 the period at the end the following: “, including



1 samples from rape kits, samples from other sex-
2 ual assault evidence, and samples taken in cases
3 without an identified suspect”; and

4 (C) in paragraph (3), by striking “within
5 the State”;

6 (3) in subsection (b)—

7 (A) in the matter preceding paragraph
8 (1)—

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

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

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

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

20 (D) in paragraph (4)—

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

23 (ii) by striking “and” at the end;

24 (E) in paragraph (5)—



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

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

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

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

13 (4) in subsection (d)—

14 (A) in paragraph (1)—

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

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

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

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

25 (5) in subsection (e)—



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

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

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

9 (7) in subsection (g)—

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

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

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

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

20 (1) in subsection (a)—

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

23 (B) by inserting at the end the following:
24 “(4) To collect DNA samples specified in para-
25 graph (1).



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

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

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

10 (3) by amending subsection (c) to read as fol-
11 lows:

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

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

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

22 “(B) allocates grants among eligible enti-
23 ties fairly and efficiently to address jurisdic-
24 tions in which significant backlogs exist, by
25 considering—



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

4 “(ii) the population in the jurisdiction;
5 and

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

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

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

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

23 “(B) For fiscal year 2006, not less than
24 50 percent of the grant amounts shall be
25 awarded for purposes under subsection (a)(2).



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

4 “(D) For fiscal year 2008, not less than
5 40 percent of the grant amounts shall be
6 awarded for purposes under subsection (a)(2).

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

10 (4) in subsection (g)—

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

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

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

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

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

23 “(1) \$151,000,000 for fiscal year 2005;

24 “(2) \$151,000,000 for fiscal year 2006;

25 “(3) \$151,000,000 for fiscal year 2007;



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

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

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

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

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

23 “(B) to assess compliance with any plans
24 submitted to the National Institute of Justice,
25 which detail the use of funds received by States



1 or units of local government under this Act;
2 and

3 “(C) to support future capacity building
4 efforts; and

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

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

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

21 “(A) all of the purposes set forth in sub-
22 section (a) have been met;

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



1 “(C) there is no need for significant lab-
2 oratory equipment, supplies, or additional per-
3 sonnel for timely DNA processing of casework
4 or offender samples; and

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

9 “(m) EXTERNAL AUDITS AND REMEDIAL EF-
10 FORTS.—In the event that a laboratory operated by a
11 State or unit of local government which has received funds
12 under this Act has undergone an external audit conducted
13 to determine whether the laboratory is in compliance with
14 standards established by the Director of the Federal Bu-
15 reau of Investigation, and, as a result of such audit, iden-
16 tifies measures to remedy deficiencies with respect to the
17 compliance by the laboratory with such standards, the
18 State or unit of local government shall implement any
19 such remediation as soon as practicable.”.

20 **SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.**

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



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

3 “of—

4 “(A) persons convicted of crimes;

5 “(B) persons who have been charged in an
6 indictment or information with a crime; and

7 “(C) other persons whose DNA samples
8 are collected under applicable legal authorities,
9 provided that DNA profiles from arrestees who
10 have not been charged in an indictment or in-
11 formation with a crime, and DNA samples that
12 are voluntarily submitted solely for elimination
13 purposes shall not be included in the National
14 DNA Index System;” and

15 (2) in subsection (d)(2)—

16 (A) by striking “if the responsible agency”
17 and inserting “if—

18 “(i) the responsible agency”;

19 (B) by striking the period at the end and
20 inserting “; or”; and

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

22 “(ii) the person has not been convicted of
23 an offense on the basis of which that analysis
24 was or could have been included in the index,
25 and all charges for which the analysis was or



1 could have been included in the index have been
2 dismissed or resulted in acquittal.”.

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

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

11 “(1) Any felony.

12 “(2) Any offense under chapter 109A of title
13 18, United States Code.

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

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

18 (c) MILITARY OFFENSES.—Section 1565(d) of title
19 10, United States Code, is amended to read as follows:

20 “(d) QUALIFYING MILITARY OFFENSES.—The of-
21 fenses that shall be treated for purposes of this section
22 as qualifying military offenses are the following offenses,
23 as determined by the Secretary of Defense, in consultation
24 with the Attorney General:



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

4 “(2) Any other offense under the Uniform Code
5 of Military Justice that is comparable to a qualifying
6 Federal offense (as determined under section 3(d) of
7 the DNA Analysis Backlog Elimination Act of 2000
8 (42 U.S.C. 14135a(d))).”.

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

13 “(e) AUTHORITY FOR KEYBOARD SEARCHES.—

14 “(1) IN GENERAL.—The Director shall ensure
15 that any person who is authorized to access the
16 index described in subsection (a) for purposes of in-
17 cluding information on DNA identification records
18 or DNA analyses in that index may also access that
19 index for purposes of carrying out a one-time key-
20 board search on information obtained from any
21 DNA sample lawfully collected for a criminal justice
22 purpose except for a DNA sample voluntarily sub-
23 mitted solely for elimination purposes.

24 “(2) DEFINITION.—For purposes of paragraph
25 (1), the term ‘keyboard search’ means a search



1 under which information obtained from a DNA sam-
2 ple is compared with information in the index with-
3 out resulting in the information obtained from a
4 DNA sample being included in the index.

5 “(3) NO PREEMPTION.—This subsection shall
6 not be construed to preempt State law.

7 (e) INCREASED PENALTIES FOR MISUSE OF DNA
8 ANALYSES.—(1) Section 210305(e)(2) of the DNA Identifi-
9 cation Act of 1994 (42 U.S.C. 14133(e)(2)) is amended
10 by striking “\$100,000” and inserting “\$250,000, or im-
11 prisoned for a period of not more than one year, or both”.

12 (2) Section 10(e) of the DNA Analysis Backlog
13 Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amend-
14 ed by striking “\$100,000” and inserting “\$250,000, or
15 imprisoned for a period of not more than one year, or
16 both”.

17 (f) REPORT TO CONGRESS.—If the Department of
18 Justice plans to modify or supplement the core genetic
19 markers needed for compatibility with the CODIS system,
20 it shall notify the Judiciary Committee of the Senate and
21 the Judiciary Committee of the House of Representatives
22 in writing not later than 180 days before any change is
23 made and explain the reasons for such change.



1 **SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.**

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

5 **“§ 3297. Cases involving DNA evidence**

6 “In a case in which DNA testing implicates an identi-
7 fied person in the commission of a felony, except for a
8 felony offense under chapter 109A, no statute of limita-
9 tions that would otherwise preclude prosecution of the of-
10 fense shall preclude such prosecution until a period of time
11 following the implication of the person by DNA testing
12 has elapsed that is equal to the otherwise applicable limi-
13 tation period.”.

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

“3297. Cases involving DNA evidence.”.

17 (c) APPLICATION.—The amendments made by this
18 section shall apply to the prosecution of any offense com-
19 mitted before, on, or after the date of the enactment of
20 this section if the applicable limitation period has not yet
21 expired.

22 **SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.**

23 Section 1201 of the Violence Against Women Act of
24 2000 (42 U.S.C. 3796gg-6) is amended—



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

3 (2) in subsection (b)—

4 (A) by redesignating paragraphs (1)
5 through (3) as paragraphs (2) through (4), re-
6 spectively;

7 (B) by inserting before paragraph (2), as
8 redesignated by subparagraph (A), the fol-
9 lowing:

10 “(1) DATING VIOLENCE.—The term ‘dating vio-
11 lence’ means violence committed by a person who is
12 or has been in a social relationship of a romantic or
13 intimate nature with the victim. The existence of
14 such a relationship shall be determined based on a
15 consideration of—

16 “(A) the length of the relationship;

17 “(B) the type of relationship; and

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

20 (C) in paragraph (3), as redesignated by
21 subparagraph (A), by inserting “dating vio-
22 lence,” after “domestic violence,”;

23 (3) in subsection (c)—

24 (A) in paragraph (1)—



- 1 (i) by inserting “, dating violence,”
2 after “between domestic violence”; and
- 3 (ii) by inserting “dating violence,”
4 after “victims of domestic violence,”;
- 5 (B) in paragraph (2), by inserting “dating
6 violence,” after “domestic violence,”; and
- 7 (C) in paragraph (3), by inserting “dating
8 violence,” after “domestic violence,”;
- 9 (4) in subsection (d)—
- 10 (A) in paragraph (1), by inserting “, dat-
11 ing violence,” after “domestic violence”;
- 12 (B) in paragraph (2), by inserting “, dat-
13 ing violence,” after “domestic violence”;
- 14 (C) in paragraph (3), by inserting “, dat-
15 ing violence,” after “domestic violence”; and
- 16 (D) in paragraph (4), by inserting “dating
17 violence,” after “domestic violence,”;
- 18 (5) in subsection (e), by inserting “dating vio-
19 lence,” after “domestic violence,”; and
- 20 (6) in subsection (f)(2)(A), by inserting “dating
21 violence,” after “domestic violence,”.



1 **SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN**
2 **ELIMINATING DNA BACKLOG.**

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

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

8 “(A) IN GENERAL.—A grant for the pur-
9 poses specified in paragraph (1), (2), or (5) of
10 subsection (a) may be made in the form of a
11 voucher or contract for laboratory services, even
12 if the laboratory makes a reasonable profit for
13 the services.

14 “(B) REDEMPTION.—A voucher or con-
15 tract under subparagraph (A) may be redeemed
16 at a laboratory operated on a nonprofit or for-
17 profit basis, by a private entity that satisfies
18 quality assurance standards and has been ap-
19 proved by the Attorney General.

20 “(C) PAYMENTS.—The Attorney General
21 may use amounts authorized under subsection
22 (j) to make payments to a laboratory described
23 under subparagraph (B).”.



1 **TITLE III—DNA SEXUAL**
2 **ASSAULT JUSTICE ACT OF 2004**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “DNA Sexual Assault
5 Justice Act of 2004”.

6 **SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLI-**
7 **ANCE WITH FEDERAL STANDARDS.**

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

11 “(2) prepared by laboratories that—

12 “(A) not later than 2 years after the date
13 of enactment of the DNA Sexual Assault Jus-
14 tice Act of 2004, have been accredited by a
15 nonprofit professional association of persons ac-
16 tively involved in forensic science that is nation-
17 ally recognized within the forensic science com-
18 munity; and

19 “(B) undergo external audits, not less than
20 once every 2 years, that demonstrate compli-
21 ance with standards established by the Director
22 of the Federal Bureau of Investigation; and”.



1 **SEC. 303. DNA TRAINING AND EDUCATION FOR LAW EN-**
 2 **FORCEMENT, CORRECTIONAL PERSONNEL,**
 3 **AND COURT OFFICERS.**

4 (a) IN GENERAL.—The Attorney General shall make
 5 grants to provide training, technical assistance, education,
 6 and information relating to the identification, collection,
 7 preservation, analysis, and use of DNA samples and DNA
 8 evidence by—

9 (1) law enforcement personnel, including police
 10 officers and other first responders, evidence techni-
 11 cians, investigators, and others who collect or exam-
 12 ine evidence of crime;

13 (2) court officers, including State and local
 14 prosecutors, defense lawyers, and judges;

15 (3) forensic science professionals; and

16 (4) corrections personnel, including prison and
 17 jail personnel, and probation, parole, and other offi-
 18 cers involved in supervision.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 20 are authorized to be appropriated \$12,500,000 for each
 21 of fiscal years 2005 through 2009 to carry out this sec-
 22 tion.

23 **SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM**
 24 **GRANTS.**

25 (a) IN GENERAL.—The Attorney General shall make
 26 grants to eligible entities to provide training, technical as-



1 sistance, education, equipment, and information relating
2 to the identification, collection, preservation, analysis, and
3 use of DNA samples and DNA evidence by medical per-
4 sonnel and other personnel, including doctors, medical ex-
5 aminers, coroners, nurses, victim service providers, and
6 other professionals involved in treating victims of sexual
7 assault and sexual assault examination programs, includ-
8 ing SANE (Sexual Assault Nurse Examiner), SAFE (Sex-
9 ual Assault Forensic Examiner), and SART (Sexual As-
10 sault Response Team).

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

- 13 (1) States;
- 14 (2) units of local government; and
- 15 (3) sexual assault examination programs,
16 including—
- 17 (A) sexual assault nurse examiner (SANE)
18 programs;
- 19 (B) sexual assault forensic examiner
20 (SAFE) programs;
- 21 (C) sexual assault response team (SART)
22 programs;
- 23 (D) State sexual assault coalitions;



1 (E) medical personnel, including doctors,
 2 medical examiners, coroners, and nurses, in-
 3 volved in treating victims of sexual assault; and
 4 (F) victim service providers involved in
 5 treating victims of sexual assault.

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

10 **SEC. 305. DNA RESEARCH AND DEVELOPMENT.**

11 (a) IMPROVING DNA TECHNOLOGY.—The Attorney
 12 General shall make grants for research and development
 13 to improve forensic DNA technology, including increasing
 14 the identification accuracy and efficiency of DNA analysis,
 15 decreasing time and expense, and increasing portability.

16 (b) DEMONSTRATION PROJECTS.—The Attorney
 17 General shall make grants to appropriate entities under
 18 which research is carried out through demonstration
 19 projects involving coordinated training and commitment of
 20 resources to law enforcement agencies and key criminal
 21 justice participants to demonstrate and evaluate the use
 22 of forensic DNA technology in conjunction with other fo-
 23 rensic tools. The demonstration projects shall include sci-
 24 entific evaluation of the public safety benefits, improve-



1 ments to law enforcement operations, and cost-effective-
2 ness of increased collection and use of DNA evidence.

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

7 **SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.**

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

15 (b) RESPONSIBILITIES.—The Commission shall—

16 (1) assess the present and future resource
17 needs of the forensic science community;

18 (2) make recommendations to the Attorney
19 General for maximizing the use of forensic tech-
20 nologies and techniques to solve crimes and protect
21 the public;

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



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

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

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

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

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

21 (A) the appropriate use and dissemination
22 of DNA information;

23 (B) the accuracy, security, and confiden-
24 tiality of DNA information;



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

4 (D) that any other necessary measures are
5 taken to protect privacy; and

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

10 (c) PERSONNEL; PROCEDURES.—The Attorney Gen-
11 eral shall—

12 (1) designate the Chair of the Commission from
13 among its members;

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

16 (3) establish procedures and guidelines for the
17 operations of the Commission.

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

21 **SEC. 307. FBI DNA PROGRAMS.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Federal Bureau
24 of Investigation \$42,100,000 for each of fiscal years 2005



1 through 2009 to carry out the DNA programs and activi-
2 ties described under subsection (b).

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

6 (1) nuclear DNA analysis;

7 (2) mitochondrial DNA analysis;

8 (3) regional mitochondrial DNA laboratories;

9 (4) the Combined DNA Index System;

10 (5) the Federal Convicted Offender DNA Pro-
11 gram; and

12 (6) DNA research and development.

13 **SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.**

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

17 (b) REQUIREMENT.—Each State or unit of local gov-
18 ernment that receives funding under this section shall be
19 required to submit the DNA profiles of such missing per-
20 sons and unidentified human remains to the National
21 Missing Persons DNA Database of the Federal Bureau
22 of Investigation.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated \$2,000,000 for each of
25 fiscal years 2005 through 2009 to carry out this section.



1 **SEC. 309. 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(e)) 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 \$250,000, or imprisoned
 12 for a period of not more than one year. Each instance
 13 of disclosure, obtaining, or use shall constitute a separate
 14 offense under this subsection.”.

15 **SEC. 310. TRIBAL COALITION GRANTS.**

16 (a) **IN GENERAL.**—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42
 17 U.S.C. 3796gg) is amended by adding at the end the following:
 18
 19

20 “(d) **TRIBAL COALITION GRANTS.**—

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

24 “(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;
 25
 26



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

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

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

13 “(A) established nonprofit, nongovern-
14 mental tribal coalitions addressing domestic vio-
15 lence and sexual assault against American In-
16 dian and Alaska Native women; and

17 “(B) individuals or organizations that pro-
18 pose to incorporate as nonprofit, nongovern-
19 mental tribal coalitions to address domestic vio-
20 lence and sexual assault against American In-
21 dian and Alaska Native women.

22 “(3) ELIGIBILITY FOR OTHER GRANTS.—Re-
23 ceipt of an award under this subsection by tribal do-
24 mestic violence and sexual assault coalitions shall
25 not preclude the coalition from receiving additional



1 grants under this title to carry out the purposes de-
2 scribed in subsection (b).”.

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

8 (c) AMOUNTS.—Section 2007 of the Omnibus Crime
9 Control and Safe Streets Act of 1968 (as redesignated by
10 section 402(2) of Public Law 107–273, as amended by
11 subsection (b)) is amended by amending subsection (b)(4)
12 (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

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

15 **SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC**
16 **SCIENCES IMPROVEMENT GRANT PROGRAM.**

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

20 (1) in subsection (a)—

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

24 “(1) To carry out”; and

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



1 “(2) To eliminate a backlog in the analysis of
2 forensic science evidence, including firearms exam-
3 ination, latent prints, toxicology, controlled sub-
4 stances, forensic pathology, questionable documents,
5 and trace evidence.

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

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

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

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

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

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

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



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

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

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

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

16 (c) THREE-YEAR EXTENSION OF AUTHORIZATION OF
17 APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus
18 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
19 3793(a)(24)) is amended—

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

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

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

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



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

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

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

7 **SEC. 312. REPORT TO CONGRESS.**

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

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

14 (1) the progress made by Federal, State, and
15 local entities in—

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

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



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

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

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

12 (4) grants awarded and the use of such grants
13 by eligible entities for DNA training and education
14 programs for law enforcement, correctional per-
15 sonnel, court officers, medical personnel, victim serv-
16 ice providers, and other personnel authorized under
17 sections 303 and 304;

18 (5) grants awarded and the use of such grants
19 by eligible entities to conduct DNA research and de-
20 velopment programs to improve forensic DNA tech-
21 nology, and implement demonstration projects under
22 section 305;

23 (6) the steps taken to establish the National
24 Forensic Science Commission, and the activities of
25 the Commission under section 306;



1 (7) the use of funds by the Federal Bureau of
2 Investigation under section 307;

3 (8) grants awarded and the use of such grants
4 by eligible entities to promote the use of forensic
5 DNA technology to identify missing persons and un-
6 identified human remains under section 308;

7 (9) grants awarded and the use of such grants
8 by eligible entities to eliminate forensic science back-
9 logs under the amendments made by section 202;

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

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

14 **TITLE IV—INNOCENCE**
15 **PROTECTION ACT OF 2004**

16 **SEC. 401. SHORT TITLE.**

17 This title may be cited as the “Innocence Protection
18 Act of 2004”.

19 **Subtitle A—Exonerating the**
20 **Innocent Through DNA Testing**

21 **SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.**

22 (a) FEDERAL CRIMINAL PROCEDURE.—

23 (1) IN GENERAL.—Part II of title 18, United
24 States Code, is amended by inserting after chapter
25 228 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 the court finds that all of the following apply:

10 “(1) The applicant asserts, under penalty of
11 perjury, 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) evidence of such offense was ad-
17 mitted during a Federal death sentencing
18 hearing and exoneration of such offense
19 would entitle the applicant to a reduced
20 sentence or new sentencing hearing; and

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

22 “(I) the applicant demonstrates
23 that there is no adequate remedy
24 under State law to permit DNA test-



1 ing of the specified evidence relating
2 to the State offense; and

3 “(II) to the extent available, the
4 applicant has exhausted all remedies
5 available under State law for request-
6 ing DNA testing of specified evidence
7 relating to the State offense.

8 “(2) The specific evidence to be tested was se-
9 cured in relation to the investigation or prosecution
10 of the Federal or State offense referenced in the ap-
11 plicant’s assertion under paragraph (1).

12 “(3) The specific evidence to be tested—

13 “(A) was not previously subjected to DNA
14 testing and the applicant did not—

15 “(i) knowingly and voluntarily waive
16 the right to request DNA testing of that
17 evidence in a court proceeding after the
18 date of enactment of the Innocence Protec-
19 tion Act of 2004; or

20 “(ii) knowingly fail to request DNA
21 testing of that evidence in a prior motion
22 for postconviction DNA testing; or

23 “(B) was previously subjected to DNA
24 testing and the applicant is requesting DNA
25 testing using a new method or technology that



1 is substantially more probative than the prior
2 DNA testing.

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

10 “(5) The proposed DNA testing is reasonable in
11 scope, uses scientifically sound methods, and is con-
12 sistent with accepted forensic practices.

13 “(6) The applicant identifies a theory of de-
14 fense that—

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

17 “(B) would establish the actual innocence
18 of the applicant of the Federal or State offense
19 referenced in the applicant’s assertion under
20 paragraph (1).

21 “(7) If the applicant was convicted following a
22 trial, the identity of the perpetrator was at issue in
23 the trial.



1 “(8) The proposed DNA testing of the specific
2 evidence may produce new material evidence that
3 would—

4 “(A) support the theory of defense ref-
5 erenced in paragraph (6); and

6 “(B) raise a reasonable probability that
7 the applicant did not commit the offense.

8 “(9) The applicant certifies that the applicant
9 will provide a DNA sample for purposes of compari-
10 son.

11 “(10) The motion is made in a timely fashion,
12 subject to the following conditions:

13 “(A) There shall be a rebuttable presump-
14 tion of timeliness if the motion is made within
15 60 months of enactment of the Justice For All
16 Act of 2004 or within 36 months of conviction,
17 whichever comes later. Such presumption may
18 be rebutted upon a showing—

19 “(i) that the applicant’s motion for a
20 DNA test is based solely upon information
21 used in a previously denied motion; or

22 “(ii) of clear and convincing evidence
23 that applicant’s filing is done solely to
24 cause delay or harass.



1 “(B) There shall be a rebuttable presump-
2 tion against timeliness for any motion not satis-
3 fying subparagraph (A) above. Such presump-
4 tion may be rebutted upon the court’s finding—

5 “(i) that the applicant was or is in-
6 competent and such incompetence substan-
7 tially contributed to the delay in the appli-
8 cant’s motion for a DNA test;

9 “(ii) the evidence to be tested is newly
10 discovered DNA evidence;

11 “(iii) that applicant’s motion is not
12 based solely upon the applicant’s own as-
13 sertion of innocence and, after considering
14 all relevant facts and circumstances sur-
15 rounding the motion, a denial would result
16 in a manifest injustice; or

17 “(iv) upon good cause shown.

18 “(C) For purposes of this paragraph—

19 “(i) the term ‘incompetence’ has the
20 meaning as defined in section 4241 of title
21 18, United States Code;

22 “(ii) the term ‘manifest’ means that
23 which is unmistakable, clear, plain, or in-
24 disputable and requires that the opposite
25 conclusion be clearly evident.



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

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

5 “(A) notify the Government; and

6 “(B) allow the Government a reasonable
7 time period to respond to the motion.

8 “(2) PRESERVATION ORDER.—To the extent
9 necessary to carry out proceedings under this sec-
10 tion, the court shall direct the Government to pre-
11 serve the specific evidence relating to a motion under
12 subsection (a).

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

17 “(c) TESTING PROCEDURES.—

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

21 “(2) EXCEPTION.—Notwithstanding paragraph
22 (1), the court may order DNA testing by another
23 qualified laboratory if the court makes all necessary
24 orders to ensure the integrity of the specific evidence



1 and the reliability of the testing process and test re-
2 sults.

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

5 “(A) by the applicant; or

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

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

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

14 “(2) not later than 120 days after the date on
15 which the DNA testing ordered under this section is
16 completed, the court shall order any post-testing
17 procedures under subsection (f) or (g), as appro-
18 priate.

19 “(e) REPORTING OF TEST RESULTS.—

20 “(1) IN GENERAL.—The results of any DNA
21 testing ordered under this section shall be simulta-
22 neously disclosed to the court, the applicant, and the
23 Government.

24 “(2) NDIS.—The Government shall submit any
25 test results relating to the DNA of the applicant to



1 the National DNA Index System (referred to in this
2 subsection as 'NDIS').

3 “(3) RETENTION OF DNA SAMPLE.—

4 “(A) ENTRY INTO NDIS.—If the DNA test
5 results obtained under this section are inconclu-
6 sive or show that the applicant was the source
7 of the DNA evidence, the DNA sample of the
8 applicant may be retained in NDIS.

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

18 “(C) NO MATCH.—If the DNA test results
19 obtained under this section exclude the appli-
20 cant as the source of the DNA evidence, and a
21 comparison of the DNA sample of the applicant
22 does not result in a match between the DNA
23 sample of the applicant and another offense,
24 the Attorney General shall destroy the DNA
25 sample of the applicant and ensure that such



1 information is not retained in NDIS if there is
2 no other legal authority to retain the DNA
3 sample of the applicant in NDIS.

4 “(f) POST-TESTING PROCEDURES; INCONCLUSIVE
5 AND INCULPATORY RESULTS.—

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

10 “(2) INCULPATORY RESULTS.—If DNA test re-
11 sults obtained under this section show that the ap-
12 plicant was the source of the DNA evidence, the
13 court shall—

14 “(A) deny the applicant relief; and

15 “(B) on motion of the Government—

16 “(i) make a determination whether
17 the applicant’s assertion of actual inno-
18 cence was false, and, if the court makes
19 such a finding, the court may hold the ap-
20 plicant in contempt;

21 “(ii) assess against the applicant the
22 cost of any DNA testing carried out under
23 this section;

24 “(iii) forward the finding to the Direc-
25 tor of the Bureau of Prisons, who, upon



1 receipt of such a finding, may deny, wholly
2 or in part, the good conduct credit author-
3 ized under section 3632 on the basis of
4 that finding;

5 “(iv) if the applicant is subject to the
6 jurisdiction of the United States Parole
7 Commission, forward the finding to the
8 Commission so that the Commission may
9 deny parole on the basis of that finding;
10 and

11 “(v) if the DNA test results relate to
12 a State offense, forward the finding to any
13 appropriate State official.

14 “(3) SENTENCE.—In any prosecution of an ap-
15 plicant under chapter 79 for false assertions or other
16 conduct in proceedings under this section, the court,
17 upon conviction of the applicant, shall sentence the
18 applicant to a term of imprisonment of not less than
19 3 years, which shall run consecutively to any other
20 term of imprisonment the applicant is serving.

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

23 “(1) IN GENERAL.—Notwithstanding any law
24 that would bar a motion under this paragraph as
25 untimely, if DNA test results obtained under this



1 section exclude the applicant as the source of the
2 DNA evidence, the applicant may file a motion for
3 a new trial or resentencing, as appropriate. The
4 court shall establish a reasonable schedule for the
5 applicant to file such a motion and for the Govern-
6 ment to respond to the motion.

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

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

19 “(B) in the case of a motion for resen-
20 tencing, another Federal or State offense, if evi-
21 dence of such offense was admitted during a
22 Federal death sentencing hearing and exonera-
23 tion of such offense would entitle the applicant
24 to a reduced sentence or a new sentencing pro-
25 ceeding.



1 “(h) OTHER LAWS UNAFFECTED.—

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

6 “(2) HABEAS CORPUS.—Nothing in this section
7 shall provide a basis for relief in any Federal habeas
8 corpus proceeding.

9 “(3) NOT A MOTION UNDER SECTION 2255.—A
10 motion under this section shall not be considered to
11 be a motion under section 2255 for purposes of de-
12 termining whether the motion or any other motion
13 is a second or successive motion under section 2255.

14 **“§ 3600A. Preservation of biological evidence**

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

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

22 “(1) a sexual assault forensic examination kit;
23 or

24 “(2) semen, blood, saliva, hair, skin tissue, or
25 other identified biological material.



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

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

7 “(2) the defendant knowingly and voluntarily
8 waived the right to request DNA testing of the bio-
9 logical evidence in a court proceeding conducted
10 after the date of enactment of the Innocence Protec-
11 tion Act of 2004;

12 “(3) after a conviction becomes final and the
13 defendant has exhausted all opportunities for direct
14 review of the conviction, the defendant is notified
15 that the biological evidence may be destroyed and
16 the defendant does not file a motion under section
17 3600 within 180 days of receipt of the notice;

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

21 “(B) the Government takes reasonable meas-
22 ures to remove and preserve portions of the material
23 evidence sufficient to permit future DNA testing; or

24 “(5) the biological evidence has already been
25 subjected to DNA testing under section 3600 and



1 the results included the defendant as the source of
2 such evidence.

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

8 “(e) REGULATIONS.—Not later than 180 days after
9 the date of enactment of the Innocence Protection Act of
10 2004, the Attorney General shall promulgate regulations
11 to implement and enforce this section, including appro-
12 priate disciplinary sanctions to ensure that employees
13 comply with such regulations.

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

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

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 title, 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. 412. 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. 413. 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 303, 305, 308, and 412
14 shall be reserved for grants to eligible entities that—

15 (1) meet the requirements under section 303,
16 305, 308, or 412, 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 persons convicted after trial and under a
25 sentence of imprisonment or death for a



1 State felony offense, in a manner that en-
2 sures a reasonable process for resolving
3 claims of 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 persons under a sentence of imprison-
8 ment or death for a State felony offense,
9 in a manner comparable to section 3600(a)
10 of title 18, United States Code (provided
11 that the State statute, rule, regulation, or
12 practice may make post-conviction DNA
13 testing available in cases in which such
14 testing is not required by such section),
15 and if the results of such testing exclude
16 the applicant, permits the applicant to
17 apply for post-conviction relief, notwith-
18 standing any provision of law that would
19 otherwise bar such application as untimely;
20 and

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

24 (i) under a State statute or a State or
25 local rule, regulation, or practice, enacted



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

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

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

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



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

4 **SEC. 421. 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) APPORTIONMENT OF FUNDS.—

7 (1) IN GENERAL.—Of the funds awarded under
 8 subsection (a)—

9 (A) not less than 75 percent shall be used
 10 to carry out the purpose described in subsection
 11 (c)(1)(A); and

12 (B) not more than 25 percent shall be
 13 used to carry out the purpose described in sub-
 14 section (c)(1)(B).

15 (2) WAIVER.—The Attorney General may waive
 16 the requirement under this subsection for good cause
 17 shown.

18 (e) EFFECTIVE SYSTEM.—As used in subsection
 19 (c)(1), an effective system for providing competent legal
 20 representation is a system that—

21 (1) invests the responsibility for appointing
 22 qualified attorneys to represent indigents in capital
 23 cases—

24 (A) in a public defender program that re-
 25 lies on staff attorneys, members of the private



1 bar, or both, to provide representation in cap-
2 ital cases;

3 (B) in an entity established by statute or
4 by the highest State court with jurisdiction in
5 criminal cases, which is composed of individuals
6 with demonstrated knowledge and expertise in
7 capital representation; or

8 (C) pursuant to a statutory procedure en-
9 acted before the date of the enactment of this
10 Act under which the trial judge is required to
11 appoint qualified attorneys from a roster main-
12 tained by a State or regional selection com-
13 mittee or similar entity; and

14 (2) requires the program described in para-
15 graph (1)(A), the entity described in paragraph
16 (1)(B), or an appropriate entity designated pursuant
17 to the statutory procedure described in paragraph
18 (1)(C), as applicable, to—

19 (A) establish qualifications for attorneys
20 who may be appointed to represent indigents in
21 capital cases;

22 (B) establish and maintain a roster of
23 qualified attorneys;

24 (C) except in the case of a selection com-
25 mittee or similar entity described in paragraph



1 (1)(C), assign 2 attorneys from the roster to
2 represent an indigent in a capital case, or pro-
3 vide the trial judge a list of not more than 2
4 pairs of attorneys from the roster, from which
5 1 pair shall be assigned, provided that, in any
6 case in which the State elects not to seek the
7 death penalty, a court may find, subject to any
8 requirement of State law, that a second attor-
9 ney need not remain assigned to represent the
10 indigent to ensure competent representation;

11 (D) conduct, sponsor, or approve special-
12 ized training programs for attorneys rep-
13 resenting defendants in capital cases;

14 (E)(i) monitor the performance of attor-
15 neys who are appointed and their attendance at
16 training programs; and

17 “(ii) remove from the roster attorneys
18 who—

19 “(I) fail to deliver effective represen-
20 tation or engage in unethical conduct;

21 “(II) fail to comply with such require-
22 ments as such program, entity, or selection
23 committee or similar entity may establish
24 regarding participation in training pro-
25 grams; or



1 “(III) during the past 5 years, have
2 been sanctioned by a bar association or
3 court for ethical misconduct relating to the
4 attorney’s conduct as defense counsel in a
5 criminal case in Federal or State court;
6 and

7 (F) ensure funding for the cost of com-
8 petent legal representation by the defense team
9 and outside experts selected by counsel, who
10 shall be compensated—

11 (i) in the case of a State that employs
12 a statutory procedure described in para-
13 graph (1)(C), in accordance with the re-
14 quirements of that statutory procedure;
15 and

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

17 (I) Attorneys employed by a pub-
18 lic defender program shall be com-
19 pensated according to a salary scale
20 that is commensurate with the salary
21 scale of the prosecutor’s office in the
22 jurisdiction.

23 (II) Appointed attorneys shall be
24 compensated for actual time and serv-
25 ice, computed on an hourly basis and



1 at a reasonable hourly rate in light of
2 the qualifications and experience of
3 the attorney and the local market for
4 legal representation in cases reflecting
5 the complexity and responsibility of
6 capital cases.

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

15 (IV) Attorney and non-attorney
16 members of the defense team shall be
17 reimbursed for reasonable incidental
18 expenses.

19 **SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.**

20 (a) IN GENERAL.—The Attorney General shall award
21 grants to States for the purpose of enhancing the ability
22 of prosecutors to effectively represent the public in State
23 capital cases.

24 (b) USE OF FUNDS.—



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

4 (A) To design and implement training pro-
5 grams for State and local prosecutors to ensure
6 effective representation in State capital cases.

7 (B) To develop and implement appropriate
8 standards and qualifications for State and local
9 prosecutors who litigate State capital cases.

10 (C) To assess the performance of State
11 and local prosecutors who litigate State capital
12 cases, provided that such assessment shall not
13 include participation by the assessor in the trial
14 of any specific capital case.

15 (D) To identify and implement any poten-
16 tial legal reforms that may be appropriate to
17 minimize the potential for error in the trial of
18 capital cases.

19 (E) To establish a program under which
20 State and local prosecutors conduct a system-
21 atic review of cases in which a death sentence
22 was imposed in order to identify cases in which
23 post-conviction DNA testing may be appro-
24 priate.



1 (F) To provide support and assistance to
2 the families of murder victims.

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

6 **SEC. 423. APPLICATIONS.**

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

10 (b) APPLICATION.—

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

16 (2) CONTENTS.—Each application submitted
17 under paragraph (1) shall contain—

18 (A) a certification by an appropriate offi-
19 cer of the State that the State authorizes cap-
20 ital punishment under its laws and conducts, or
21 will conduct, prosecutions in which capital pun-
22 ishment is sought;

23 (B) a description of the communities to be
24 served by the grant, including the nature of ex-



1 isting capital defender services and capital pros-
2 ecution programs within such communities;

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

5 (i) reflects consultation with the judi-
6 ciary, the organized bar, and State and
7 local prosecutor and defender organiza-
8 tions; and

9 (ii) establishes as a priority improve-
10 ment in the quality of trial-level represen-
11 tation of indigents charged with capital
12 crimes and trial-level prosecution of capital
13 crimes;

14 (D) in the case of a State that employs a
15 statutory procedure described in section
16 421(e)(1)(C), a certification by an appropriate
17 officer of the State that the State is in substan-
18 tial compliance with the requirements of the ap-
19 plicable State statute; and

20 (E) assurances that Federal funds received
21 under this subtitle shall be—

22 (i) used to supplement and not sup-
23 plant non-Federal funds that would other-
24 wise be available for activities funded
25 under this subtitle; and



1 (ii) allocated in accordance with sec-
2 tion 426(b).

3 **SEC. 424. STATE REPORTS.**

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

7 (1) identifies the activities carried out with such
8 funds; and

9 (2) explains how each activity complies with the
10 terms and conditions of the grant.

11 (b) CAPITAL REPRESENTATION IMPROVEMENT
12 GRANTS.—With respect to the funds provided under sec-
13 tion 421, a report under subsection (a) shall include—

14 (1) an accounting of all amounts expended;

15 (2) an explanation of the means by which the
16 State—

17 (A) invests the responsibility for identi-
18 fying and appointing qualified attorneys to rep-
19 resent indigents in capital cases in a program
20 described in section 421(e)(1)(A), an entity de-
21 scribed in section 421(e)(1)(B), or a selection
22 committee or similar entity described in section
23 421(e)(1)(C); and

24 (B) requires such program, entity, or selec-
25 tion committee or similar entity, or other appro-



1 puate entity designated pursuant to the statu-
2 tory procedure described in section
3 421(e)(1)(C), to—

4 (i) establish qualifications for attor-
5 neys who may be appointed to represent
6 indigents in capital cases in accordance
7 with section 421(e)(2)(A);

8 (ii) establish and maintain a roster of
9 qualified attorneys in accordance with sec-
10 tion 421(e)(2)(B);

11 (iii) assign attorneys from the roster
12 in accordance with section 421(e)(2)(C);

13 (iv) conduct, sponsor, or approve spe-
14 cialized training programs for attorneys
15 representing defendants in capital cases in
16 accordance with section 421(e)(2)(D);

17 (v) monitor the performance and
18 training program attendance of appointed
19 attorneys, and remove from the roster at-
20 torneys who fail to deliver effective rep-
21 resentation or fail to comply with such re-
22 quirements as such program, entity, or se-
23 lection committee or similar entity may es-
24 tablish regarding participation in training



1 programs, in accordance with section
2 421(e)(2)(E); and

3 (vi) ensure funding for the cost of
4 competent legal representation by the de-
5 fense team and outside experts selected by
6 counsel, in accordance with section
7 421(e)(2)(F), including a statement setting
8 forth—

9 (I) if the State employs a public
10 defender program under section
11 421(e)(1)(A), the salaries received by
12 the attorneys employed by such pro-
13 gram and the salaries received by at-
14 torneys in the prosecutor's office in
15 the jurisdiction;

16 (II) if the State employs ap-
17 pointed attorneys under section
18 421(e)(1)(B), the hourly fees received
19 by such attorneys for actual time and
20 service and the basis on which the
21 hourly rate was calculated;

22 (III) the amounts paid to non-at-
23 torney members of the defense team,
24 and the basis on which such amounts
25 were determined; and



1 (IV) the amounts for which at-
 2 torney and non-attorney members of
 3 the defense team were reimbursed for
 4 reasonable incidental expenses;

5 (3) in the case of a State that employs a statu-
 6 tory procedure described in section 421(e)(1)(C), an
 7 assessment of the extent to which the State is in
 8 compliance with the requirements of the applicable
 9 State statute; and

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

13 (c) CAPITAL PROSECUTION IMPROVEMENT
 14 GRANTS.—With respect to the funds provided under sec-
 15 tion 422, a report under subsection (a) shall include—

16 (1) an accounting of all amounts expended;
 17 (2) a description of the means by which the
 18 State has—

19 (A) designed and established training pro-
 20 grams for State and local prosecutors to ensure
 21 effective representation in State capital cases in
 22 accordance with section 422(b)(1)(A);

23 (B) developed and implemented appro-
 24 priate standards and qualifications for State



1 and local prosecutors who litigate State capital
2 cases in accordance with section 422(b)(1)(B);
3 (C) assessed the performance of State and
4 local prosecutors who litigate State capital cases
5 in accordance with section 422(b)(1)(C);

6 (D) identified and implemented any poten-
7 tial legal reforms that may be appropriate to
8 minimize the potential for error in the trial of
9 capital cases in accordance with section
10 422(b)(1)(D);

11 (E) established a program under which
12 State and local prosecutors conduct a system-
13 atic review of cases in which a death sentence
14 was imposed in order to identify cases in which
15 post-conviction DNA testing may be appro-
16 priate in accordance with section 422(b)(1)(E);
17 and

18 (F) provided support and assistance to the
19 families of murder victims; and

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

23 (d) PUBLIC DISCLOSURE OF ANNUAL STATE RE-
24 PORTS.—The annual reports to the Attorney General sub-



1 mitted by any State under this section shall be made avail-
2 able to the public.

3 **SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND AD-**
4 **MINISTRATIVE REMEDIES.**

5 (a) **EVALUATION BY INSPECTOR GENERAL.—**

6 (1) **IN GENERAL.—**As soon as practicable after
7 the end of the first fiscal year for which a State re-
8 ceives funds under a grant made under this subtitle,
9 the Inspector General of the Department of Justice
10 (in this section referred to as the “Inspector Gen-
11 eral”) shall—

12 (A) submit to the Committee on the Judi-
13 ciary of the House of Representatives and the
14 Committee on the Judiciary of the Senate a re-
15 port evaluating the compliance by the State
16 with the terms and conditions of the grant; and

17 (B) if the Inspector General concludes that
18 the State is not in compliance with the terms
19 and conditions of the grant, specify any defi-
20 ciencies and make recommendations to the At-
21 torney General for corrective action.

22 (2) **PRIORITY.—**In conducting evaluations
23 under this subsection, the Inspector General shall
24 give priority to States that the Inspector General de-
25 termines, based on information submitted by the



1 State and other comments provided by any other
2 person, to be at the highest risk of noncompliance.

3 (3) DETERMINATION FOR STATUTORY PROCE-
4 DURE STATES.—For each State that employs a stat-
5 utory procedure described in section 421(e)(1)(C),
6 the Inspector General shall submit to the Committee
7 on the Judiciary of the House of Representatives
8 and the Committee on the Judiciary of the Senate,
9 not later than the end of the first fiscal year for
10 which such State receives funds, a determination as
11 to whether the State is in substantial compliance
12 with the requirements of the applicable State stat-
13 ute.

14 (4) COMMENTS FROM PUBLIC.—The Inspector
15 General shall receive and consider comments from
16 any member of the public regarding any State's
17 compliance with the terms and conditions of a grant
18 made under this subtitle. To facilitate the receipt of
19 such comments, the Inspector General shall main-
20 tain on its website a form that any member of the
21 public may submit, either electronically or otherwise,
22 providing comments. The Inspector General shall
23 give appropriate consideration to all such public
24 comments in reviewing reports submitted under sec-



1 tion 424 or in establishing the priority for con-
2 ducting evaluations under this section.

3 (b) ADMINISTRATIVE REVIEW.—

4 (1) COMMENT.—Upon the submission of a re-
5 port under subsection (a)(1) or a determination
6 under subsection (a)(3), the Attorney General shall
7 provide the State with an opportunity to comment
8 regarding the findings and conclusions of the report
9 or the determination.

10 (2) CORRECTIVE ACTION PLAN.—If the Attor-
11 ney General, after reviewing a report under sub-
12 section (a)(1) or a determination under subsection
13 (a)(3), determines that a State is not in compliance
14 with the terms and conditions of the grant, the At-
15 torney General shall consult with the appropriate
16 State authorities to enter into a plan for corrective
17 action. If the State does not agree to a plan for cor-
18 rective action that has been approved by the Attor-
19 ney General within 90 days after the submission of
20 the report under subsection (a)(1) or the determina-
21 tion under subsection (a)(3), the Attorney General
22 shall, within 30 days, issue guidance to the State re-
23 garding corrective action to bring the State into
24 compliance.



1 (3) REPORT TO CONGRESS.—Not later than 90
2 days after the earlier of the implementation of a cor-
3 rective action plan or the issuance of guidance under
4 paragraph (2), the Attorney General shall submit a
5 report to the Committee on the Judiciary of the
6 House of Representatives and the Committee on the
7 Judiciary of the Senate as to whether the State has
8 taken corrective action and is in compliance with the
9 terms and conditions of the grant.

10 (c) PENALTIES FOR NONCOMPLIANCE.—If the State
11 fails to take the prescribed corrective action under sub-
12 section (b) and is not in compliance with the terms and
13 conditions of the grant, the Attorney General shall dis-
14 continue all further funding under sections 421 and 422
15 and require the State to return the funds granted under
16 such sections for that fiscal year. Nothing in this para-
17 graph shall prevent a State which has been subject to pen-
18 alties for noncompliance from reapplying for a grant under
19 this subtitle in another fiscal year.

20 (d) PERIODIC REPORTS.—During the grant period,
21 the Inspector General shall periodically review the compli-
22 ance of each State with the terms and conditions of the
23 grant.

24 (e) ADMINISTRATIVE COSTS.—Not less than 2.5 per-
25 cent of the funds appropriated to carry out this subtitle



1 for each of fiscal years 2005 through 2009 shall be made
2 available to the Inspector General for purposes of carrying
3 out this section. Such sums shall remain available until
4 expended.

5 (f) SPECIAL RULE FOR “STATUTORY PROCEDURE”
6 STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STAT-
7 UTORY PROCEDURES.—

8 (1) IN GENERAL.—In the case of a State that
9 employs a statutory procedure described in section
10 421(e)(1)(C), if the Inspector General submits a de-
11 termination under subsection (a)(3) that the State is
12 not in substantial compliance with the requirements
13 of the applicable State statute, then for the period
14 beginning with the date on which that determination
15 was submitted and ending on the date on which the
16 Inspector General determines that the State is in
17 substantial compliance with the requirements of that
18 statute, the funds awarded under this subtitle shall
19 be allocated solely for the uses described in section
20 421.

21 (2) RULE OF CONSTRUCTION.—The require-
22 ments of this subsection apply in addition to, and
23 not instead of, the other requirements of this sec-
24 tion.



1 **SEC. 426. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AUTHORIZATION FOR GRANTS.—There are au-
3 thorized to be appropriated \$75,000,000 for each of fiscal
4 years 2005 through 2009 to carry out this subtitle.

5 (b) RESTRICTION ON USE OF FUNDS TO ENSURE
6 EQUAL ALLOCATION.—Each State receiving a grant
7 under this subtitle shall allocate the funds equally between
8 the uses described in section 421 and the uses described
9 in section 422, except as provided in section 425(f).

10 **Subtitle C—Compensation for the**
11 **Wrongfully Convicted**

12 **SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES**
13 **FOR THE WRONGFULLY CONVICTED.**

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

20 **SEC. 432. SENSE OF CONGRESS REGARDING COMPENSA-**
21 **TION IN STATE DEATH PENALTY CASES.**

22 It is the sense of Congress that States should provide
23 reasonable compensation to any person found to have been
24 unjustly convicted of an offense against the State and sen-
25 tenced to death.



H. RES. _____

Providing for consideration of the bill (H.R. 5107) to protect crime victims' rights, 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.

IN THE HOUSE OF REPRESENTATIVES

October 5, 2004

Mrs. Myrick, from the Committee on Rules, reported the following resolution which was referred to the House Calendar and ordered to be printed.

RESOLUTION

Providing for consideration of the bill (H.R. 5107) to protect crime victims' rights, 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.

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5107) to protect crime victims' rights, 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. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Sensenbrenner of Wisconsin or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.