H. R. 4640

One Hundred Sixth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fourth day of January, two thousand

An Act

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

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

SECTION 1. SHORT TITLE.

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

SEC. 2. AUTHORIZATION OF GRANTS.

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

(1) To carry out, for inclusion in the Combined DNA Index System of the Federal Bureau of Investigation, DNA analyses of samples taken from individuals convicted of a qualifying State offense (as determined under subsection (b)(3)).

(2) To carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes.

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

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

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

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

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

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

(5) specify that portion of grant amounts that the State shall use for the purpose specified in subsection (a)(3).

(c) CRIMES WITHOUT SUSPECTS.—A State that proposes to allocate grant amounts under paragraph (4) or (5) of subsection (b) for the purposes specified in paragraph (2) or (3) of subsection (a) shall use such allocated amounts to conduct or facilitate DNA analyses of those samples that relate to crimes in connection with which there are no suspects.

(d) ANALYSIS OF SAMPLES.—

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

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

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

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

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

(3) USE OF VOUCHERS FOR CERTAIN PURPOSES.—A grant for the purposes specified in paragraph (1) or (2) of subsection (a) may be made in the form of a voucher for laboratory services, which may be redeemed at a laboratory operated by a private entity approved by the Attorney General that satisfies quality assurance standards. The Attorney General may make payment to such a laboratory for the analysis of DNA samples using amounts authorized for those purposes under subsection (j).

(e) RESTRICTIONS ON USE OF FUNDS.—

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

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

(f) REPORTS TO THE ATTORNEY GENERAL.—Each State which receives a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section is expended, a report at such time and in such manner as the Attorney General may reasonably require, which contains—

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

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

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

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

(2) a summary of the information provided by States receiving grants under this section.

(h) EXPENDITURE RECORDS.—

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

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

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

(j) AUTHORIZATION OF APPROPRIATIONS.—Amounts are authorized to be appropriated to the Attorney General for grants under subsection (a) as follows:

(1) For grants for the purposes specified in paragraph (1) of such subsection—

(A) $15,000,000 for fiscal year 2001;

(B) $15,000,000 for fiscal year 2002; and

(C) $15,000,000 for fiscal year 2003.

(2) For grants for the purposes specified in paragraphs (2) and (3) of such subsection—

(A) $25,000,000 for fiscal year 2001;

(B) $50,000,000 for fiscal year 2002;

(C) $25,000,000 for fiscal year 2003; and

(D) $25,000,000 for fiscal year 2004.

SEC. 3. COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN FEDERAL OFFENDERS.

(a) COLLECTION OF DNA SAMPLES.—

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

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

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

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

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

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

(A) guilty of a class A misdemeanor; and

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

(b) ANALYSIS AND USE OF SAMPLES.—The Director of the Bureau of Prisons or the probation office responsible (as applicable) shall furnish each DNA sample collected under subsection (a) to the Director of the Federal Bureau of Investigation, who shall carry out a DNA analysis on each such DNA sample and include the results in CODIS.

(c) DEFINITIONS.—In this section:

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

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

(d) QUALIFYING FEDERAL OFFENSES.—(1) The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses under title 18, United States Code, as determined by the Attorney General:

(A) Murder (as described in section 1111 of such title), voluntary manslaughter (as described in section 1112 of such title), or other offense relating to homicide (as described in chapter 51 of such title, sections 1113, 1114, 1116, 1118, 1119, 1120, and 1121).

(B) An offense relating to sexual abuse (as described in chapter 109A of such title, sections 2241 through 2245), to sexual exploitation or other abuse of children (as described in chapter 110 of such title, sections 2251 through 2252), or to transportation for illegal sexual activity (as described in chapter 117 of such title, sections 2421, 2422, 2423, and 2425).

(C) An offense relating to peonage and slavery (as described in chapter 77 of such title).

(D) Kidnapping (as defined in section 3559(c)(2)(E) of such title).

(E) An offense involving robbery or burglary (as described in chapter 103 of such title, sections 2111 through 2114, 2116, and 2118 through 2119).

(F) Any violation of section 1153 involving murder, manslaughter, kidnapping, maiming, a felony offense relating to sexual abuse (as described in chapter 109A), incest, arson, burglary, or robbery.

(G) Any attempt or conspiracy to commit any of the above offenses.

(2) The initial determination of qualifying Federal offenses shall be made not later than 120 days after the date of the enactment of this Act.

(e) REGULATIONS.—

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

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

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

SEC. 4. COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN DISTRICT OF COLUMBIA OFFENDERS.

(a) COLLECTION OF DNA SAMPLES.—

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

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

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

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

(B) The Director of the Bureau of Prisons or Agency, as appropriate, may enter into agreements with units of State or local government or with private entities to provide for

the collection of the samples described in paragraph (1) or (2).

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

(A) guilty of a class A misdemeanor; and

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

(b) ANALYSIS AND USE OF SAMPLES.—The Director of the Bureau of Prisons or Agency (as applicable) shall furnish each DNA sample collected under subsection (a) to the Director of the Federal Bureau of Investigation, who shall carry out a DNA analysis on each such DNA sample and include the results in CODIS.

(c) DEFINITIONS.—In this section:

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

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

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

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

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

SEC. 5. COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN OFFENDERS IN THE ARMED FORCES.

(a) IN GENERAL.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1565. DNA identification information: collection from certain offenders; use

"(a) COLLECTION OF DNA SAMPLES.—(1) The Secretary concerned shall collect a DNA sample from each member of the armed forces under the Secretary's jurisdiction who is, or has been, convicted of a qualifying military offense (as determined under subsection (d)).

"(2) For each member described in paragraph (1), if the Combined DNA Index System (in this section referred to as 'CODIS') of the Federal Bureau of Investigation contains a DNA analysis with respect to that member, or if a DNA sample has been or is to be collected from that member under section 3(a) of the DNA Analysis Backlog Elimination Act of 2000, the Secretary concerned may (but need not) collect a DNA sample from that member.

"(3) The Secretary concerned may enter into agreements with other Federal agencies, units of State or local government, or private

entities to provide for the collection of samples described in paragraph (1).

"(b) ANALYSIS AND USE OF SAMPLES.—The Secretary concerned shall furnish each DNA sample collected under subsection (a) to the Secretary of Defense. The Secretary of Defense shall—

(1) carry out a DNA analysis on each such DNA sample in a manner that complies with the requirements for inclusion of that analysis in CODIS; and

(2) furnish the results of each such analysis to the Director of the Federal Bureau of Investigation for inclusion in CODIS.

"(c) DEFINITIONS.—In this section:

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

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

"(d) QUALIFYING MILITARY OFFENSES.—(1) Subject to paragraph (2), the Secretary of Defense, in consultation with the Attorney General, shall determine those felony or sexual offenses under the Uniform Code of Military Justice that shall be treated for purposes of this section as qualifying military offenses.

"(2) An offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000), as determined by the Secretary in consultation with the Attorney General, shall be treated for purposes of this section as a qualifying military offense.

"(e) EXPUNGEMENT.—(1) The Secretary of Defense shall promptly expunge, from the index described in subsection (a) of section 210304 of the Violent Crime Control and Law Enforcement Act of 1994, the DNA analysis of a person included in the index on the basis of a qualifying military offense if the Secretary receives, for each conviction of the person of a qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned.

"(2) For purposes of paragraph (1), the term 'qualifying offense' means any of the following offenses:

"(A) A qualifying Federal offense, as determined under section 3 of the DNA Analysis Backlog Elimination Act of 2000.

"(B) A qualifying District of Columbia offense, as determined under section 4 of the DNA Analysis Backlog Elimination Act of 2000.

"(C) A qualifying military offense.

"(3) For purposes of paragraph (1), a court order is not 'final' if time remains for an appeal or application for discretionary review with respect to the order.

"(f) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of Defense, in consultation with the Secretary of Transportation and the Attorney General. Those regulations shall apply, to the extent practicable, uniformly throughout the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1565. DNA identification information: collection from certain offenders; use.".

(b) INITIAL DETERMINATION OF QUALIFYING MILITARY OFFENSES.—The initial determination of qualifying military offenses under section 1565(d) of title 10, United States Code, as added by subsection (a)(1), shall be made not later than 120 days after the date of the enactment of this Act.

(c) COMMENCEMENT OF COLLECTION.—Collection of DNA samples under section 1565(a) of such title, as added by subsection (a)(1), shall, subject to the availability of appropriations, commence not later than the date that is 60 days after the date of the initial determination referred to in subsection (b).

SEC. 6. EXPANSION OF DNA IDENTIFICATION INDEX.

(a) USE OF CERTAIN FUNDS.—Section 811(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 531 note) is amended to read as follows:

"(2) the Director of the Federal Bureau of Investigation shall expand the combined DNA Identification System (CODIS) to include analyses of DNA samples collected from—

"(A) individuals convicted of a qualifying Federal offense, as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000;

"(B) individuals convicted of a qualifying District of Columbia offense, as determined under section 4(d) of the DNA Analysis Backlog Elimination Act of 2000; and

"(C) members of the Armed Forces convicted of a qualifying military offense, as determined under section 1565(d) of title 10, United States Code.".

(b) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—Section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (b)(1), by inserting after "criminal justice agency" the following: "(or the Secretary of Defense in accordance with section 1565 of title 10, United States Code)";

(2) in subsection (b)(2), by striking ", at regular intervals of not to exceed 180 days," and inserting "semiannual";

(3) in subsection (b)(3), by inserting after "criminal justice agencies" in the matter preceding subparagraph (A) the following: "(or the Secretary of Defense in accordance with section 1565 of title 10, United States Code)"; and

(4) by adding at the end the following new subsection: "(d) EXPUNGEMENT OF RECORDS.—

"(1) BY DIRECTOR.—(A) The Director of the Federal Bureau of Investigation shall promptly expunge from the index described in subsection (a) the DNA analysis of a person included in the index on the basis of a qualifying Federal offense or a qualifying District of Columbia offense (as determined under sections 3 and 4 of the DNA Analysis Backlog Elimination Act of 2000, respectively) if the Director receives, for each conviction of the person of a qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned.

"(B) For purposes of subparagraph (A), the term 'qualifying offense' means any of the following offenses:

"(i) A qualifying Federal offense, as determined under section 3 of the DNA Analysis Backlog Elimination Act of 2000.

"(ii) A qualifying District of Columbia offense, as determined under section 4 of the DNA Analysis Backlog Elimination Act of 2000.

"(iii) A qualifying military offense, as determined under section 1565 of title 10, United States Code.

"(C) For purposes of subparagraph (A), a court order is not 'final' if time remains for an appeal or application for discretionary review with respect to the order.

"(2) BY STATES.—(A) As a condition of access to the index described in subsection (a), a State shall promptly expunge from that index the DNA analysis of a person included in the index by that State if the responsible agency or official of that State receives, for each conviction of the person of an offense on the basis of which that analysis was or could have been included in the index, a certified copy of a final court order establishing that such conviction has been overturned.

"(B) For purposes of subparagraph (A), a court order is not 'final' if time remains for an appeal or application for discretionary review with respect to the order.".

SEC. 7. CONDITIONS OF RELEASE.

(a) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) that the defendant cooperate in the collection of a DNA sample from the defendant if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000.".

(b) CONDITIONS OF SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting before "The court shall also order" the following: "The court shall order, as an explicit condition of supervised release, that the defendant cooperate in the collection of a DNA sample from the defendant, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000.".

(c) CONDITIONS OF PAROLE.—Section 4209 of title 18, United States Code, insofar as such section remains in effect with respect to certain individuals, is amended by inserting before "In every case, the Commission shall also impose" the following: "In every case, the Commission shall impose as a condition of parole that the parolee cooperate in the collection of a DNA sample from the parolee, if the collection of such a sample is authorized pursuant to section 3 or section 4 of the DNA Analysis Backlog Elimination Act of 2000 or section 1565 of title 10.".

(d) CONDITIONS OF RELEASE GENERALLY.—If the collection of a DNA sample from an individual on probation, parole, or supervised release is authorized pursuant to section 3 or 4 of this Act or section 1565 of title 10, United States Code, the individual shall cooperate in the collection of a DNA sample as a condition of that probation, parole, or supervised release.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS.—Section 503(a)(12)(C) of title I of the Omnibus Crime Control and

Safe Streets Act of 1968 (42 U.S.C. 3753(a)(12)(C)) is amended by striking ", at regular intervals of not to exceed 180 days," and inserting "semiannual".

(b) DNA IDENTIFICATION GRANTS.—Section 2403(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796kk–2(3)) is amended by striking ", at regular intervals not exceeding 180 days," and inserting "semiannual".

(c) FEDERAL BUREAU OF INVESTIGATION.—Section 210305(a)(1)(A) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14133(a)(1)(A)) is amended by striking ", at regular intervals of not to exceed 180 days," and inserting "semiannual".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 10. PRIVACY PROTECTION STANDARDS.

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

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

(c) CRIMINAL PENALTY.—A person who knowingly—

(1) discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it; or

(2) obtains, without authorization, a sample or result described in subsection (a),

shall be fined not more than $100,000.

SEC. 11. SENSE OF THE CONGRESS REGARDING THE OBLIGATION OF GRANTEE STATES TO ENSURE ACCESS TO POST-CONVICTION DNA TESTING AND COMPETENT COUNSEL IN CAPITAL CASES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

(5) new forensic DNA testing procedures have made it possible to get results from minute samples that could not

previously be tested, and to obtain more informative and accurate results than earlier forms of forensic DNA testing could produce, resulting in some cases of convicted inmates being exonerated by new DNA tests after earlier tests had failed to produce definitive results;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Congress should work with the States to improve the quality of legal representation in capital cases through the

establishment of standards that will assure the timely appointment of competent counsel with adequate resources to represent defendants in capital cases at each stage of those proceedings.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.