

106TH CONGRESS  
1ST SESSION

# H. R. 2810

To facilitate the exchange by law enforcement agencies of DNA identification information relating to violent offenders, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1999

Mr. KENNEDY of Rhode Island (for himself, Mr. CHABOT, and Mr. VIS-CLOSKY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To facilitate the exchange by law enforcement agencies of DNA identification information relating to violent offenders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Violent Offender DNA  
5 Identification Act of 1999”.

6 **SEC. 2. ELIMINATION OF CONVICTED OFFENDER DNA**  
7 **BACKLOG.**

8 (a) DEVELOPMENT OF PLAN.—

1           (1) IN GENERAL.—Not later than 45 days after  
2           the date of enactment of this Act, the Director of  
3           the Federal Bureau of Investigation, in coordination  
4           with the Assistant Attorney General of the Office of  
5           Justice Programs at the Department of Justice, and  
6           after consultation with representatives of State and  
7           local forensic laboratories, shall develop a voluntary  
8           plan to assist State and local forensic laboratories in  
9           performing DNA analyses of DNA samples collected  
10          from convicted offenders.

11          (2) OBJECTIVE.—The objective of the plan de-  
12          veloped under paragraph (1) shall be to effectively  
13          eliminate the backlog of convicted offender DNA  
14          samples awaiting analysis in State or local forensic  
15          laboratory storage, including samples that need to be  
16          reanalyzed using upgraded methods, in an efficient,  
17          expeditious manner that will provide for their entry  
18          into the Combined DNA Indexing System (CODIS).

19          (b) PLAN CONDITIONS.—The plan developed under  
20          subsection (a) shall require that—

21               (1) each laboratory performing DNA analyses  
22               satisfy quality assurance standards and utilize state-  
23               of-the-art testing methods, as set forth by the Direc-  
24               tor of the Federal Bureau of Investigation, in co-  
25               ordination with the Assistant Attorney General of

1 the Office of Justice Programs of the Department of  
2 Justice;

3 (2) each DNA sample collected and analyzed be  
4 accessible only—

5 (A) to criminal justice agencies for law en-  
6 forcement identification purposes;

7 (B) in judicial proceedings, if otherwise ad-  
8 missible pursuant to applicable statutes or  
9 rules;

10 (C) for criminal defense purposes, to a de-  
11 fendant, who shall have access to samples and  
12 analyses performed in connection with the case  
13 in which such defendant is charged; or

14 (D) for validation studies and protocol de-  
15 velopment purposes, if personally identifiable  
16 information is removed; and

17 (3) as a condition of receiving any funds under  
18 this section, a State in which a participating forensic  
19 laboratory is located must provide for automatic re-  
20 moval of DNA analysis records when the underlying  
21 conviction for the qualifying offense is vitiated or ex-  
22 punged by appeal or otherwise.

23 (e) IMPLEMENTATION OF PLAN.—Subject to the  
24 availability of appropriations under subsection (d), the Di-  
25 rector of the Federal Bureau of Investigation, in coordina-

1 tion with the Assistant Attorney General of the Office of  
2 Justice Programs at the Department of Justice, shall im-  
3 plement the plan developed pursuant to subsection (a)  
4 with State and local forensic laboratories that elect to par-  
5 ticipate.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Department of  
8 Justice to carry out this section \$15,000,000 for each of  
9 fiscal years 2000 and 2001.

10 **SEC. 3. DNA IDENTIFICATION OF FEDERAL, DISTRICT OF**  
11 **COLUMBIA, AND MILITARY VIOLENT OFFEND-**  
12 **ERS.**

13 (a) EXPANSION OF DNA IDENTIFICATION INDEX.—  
14 Section 811(a)(2) of the Antiterrorism and Effective  
15 Death Penalty Act of 1996 (28 U.S.C. 531 note) is  
16 amended to read as follows:

17 “(2) the Director of the Federal Bureau of In-  
18 vestigation shall expand the combined DNA Identi-  
19 fication System (CODIS) to include information on  
20 DNA identification records and analyses related to  
21 criminal offenses under Federal law, the Uniform  
22 Code of Military Justice, and the District of Colum-  
23 bia Code, in accordance with section 210304 of the  
24 Violent Crime Control and Law Enforcement Act of  
25 1994 (42 U.S.C. 14132).”.

1 (b) INDEX TO FACILITATE LAW ENFORCEMENT EX-  
2 CHANGE OF DNA IDENTIFICATION INFORMATION.—Sec-  
3 tion 210304 of the Violent Crime Control and Law En-  
4 forcement Act of 1994 (42 U.S.C. 14132) is amended—

5 (1) in subsection (a)(1), by striking “persons  
6 convicted of crimes” and inserting “individuals con-  
7 victed of criminal offenses, including qualifying of-  
8 fenses (as defined in subsection (d)(1))”;

9 (2) in subsection (b)(2), by striking “, at reg-  
10 ular intervals of not to exceed 180 days,” and insert-  
11 ing “semiannual”; and

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

13 “(d) INCLUSION OF DNA INFORMATION RELATING  
14 TO VIOLENT OFFENDERS.—

15 “(1) DEFINITIONS.—In this subsection—

16 “(A) the term ‘serious violent felony’ has  
17 the meaning given such term in section  
18 3559(c)(1)(F) of title 18, United States Code  
19 and also includes offenses under section  
20 2123(a), 2251, or 2251A of such title;

21 “(B) the term ‘burglary’ means an offense  
22 under chapter 103 of title 18, United States  
23 Code, or any State offense in the nature of bur-  
24 glary; and

1           “(C) the term ‘qualifying offense’ means a  
2 criminal offense included on the list established  
3 by the Director of the Federal Bureau of Inves-  
4 tigation under paragraph (2)(A)(i).

5           “(2) REGULATIONS.—

6           “(A) IN GENERAL.—Not later than 90  
7 days after the date of enactment of this sub-  
8 section, and at the discretion of the Director  
9 thereafter, the Director of the Federal Bureau  
10 of Investigation, in consultation with the Direc-  
11 tor of the Bureau of Prisons, the Director of  
12 the Court Services and Offender Supervision  
13 Agency for the District of Columbia or the  
14 Trustee appointed under section 11232(a) of  
15 the Balanced Budget Act of 1997 (as appro-  
16 priate), and the Chief of Police of the Metro-  
17 politan Police Department of the District of Co-  
18 lumbia, shall by regulation establish—

19                   “(i) a list of qualifying offenses; and

20                   “(ii) standards and procedures for—

21                           “(I) the analysis of DNA samples  
22 collected from individuals convicted of  
23 a qualifying offense;

24                           “(II) the inclusion in the index  
25 established by this section of the DNA

1 identification records and DNA anal-  
2 yses relating to the DNA samples de-  
3 scribed in subclause (I); and

4 “(III) the automatic removal of  
5 DNA identification records and DNA  
6 analyses described in subclause (II)  
7 from the index established by this sec-  
8 tion in any circumstance in which the  
9 underlying conviction for the quali-  
10 fying offense is vitiated or expunged  
11 by appeal or otherwise.

12 “(B) OFFENSES INCLUDED.—The list es-  
13 tablished under subparagraph (A)(i) shall  
14 include—

15 “(i) each criminal offense under Fed-  
16 eral law that constitutes a serious violent  
17 felony or burglary; and

18 “(ii) each criminal offense under the  
19 District of Columbia Code that would, if  
20 committed in the special maritime and ter-  
21 ritorial jurisdiction of the United States,  
22 constitute a serious violent felony or bur-  
23 glary.

24 “(3) FEDERAL OFFENDERS.—

1           “(A) COLLECTION OF SAMPLES FROM FED-  
2 ERAL PRISONERS.—Beginning 180 days after  
3 the date of enactment of this subsection, the  
4 Director of the Bureau of Prisons shall collect  
5 a DNA sample from each individual in the cus-  
6 tody of the Bureau of Prisons who has been  
7 convicted of a qualifying offense.

8           “(B) COLLECTION OF SAMPLES FROM  
9 FEDERAL OFFENDERS ON SUPERVISED RE-  
10 LEASE, PAROLE, OR PROBATION.—Beginning  
11 180 days after the date of enactment of this  
12 subsection, the agency responsible for the su-  
13 pervision under Federal law of an individual on  
14 supervised release, parole, or probation (other  
15 than an individual described in paragraph  
16 (4)(B)(i)) shall collect a DNA sample from each  
17 individual who has been convicted of a quali-  
18 fying offense.

19           “(4) DISTRICT OF COLUMBIA OFFENDERS.—

20           “(A) OFFENDERS IN CUSTODY OF DIS-  
21 TRICT OF COLUMBIA.—

22           “(i) IN GENERAL.—The Government  
23 of the District of Columbia may collect a  
24 DNA sample from each individual in the  
25 custody of the District of Columbia as a

1 result of a conviction for a qualifying of-  
2 fense.

3 “(ii) AUTOMATIC REMOVAL.—The  
4 DNA identification records described in  
5 clause (i) shall be automatically removed  
6 when the underlying conviction for the  
7 qualifying offense is vitiated or expunged  
8 by appeal or otherwise.

9 “(iii) DEFINITION.—In this subpara-  
10 graph, the term ‘individual in the custody  
11 of the District of Columbia’—

12 “(I) includes any individual in  
13 the custody of, or under supervision  
14 by, any agency of the Government of  
15 the District of Columbia; and

16 “(II) does not include an indi-  
17 vidual who is under the supervision of  
18 the Director of the Court Services and  
19 Offender Supervision Agency for the  
20 District of Columbia or the Trustee  
21 appointed under section 11232(a) of  
22 the Balanced Budget Act of 1997.

23 “(B) OFFENDERS ON SUPERVISED RE-  
24 LEASE, PROBATION, OR PAROLE.—Beginning  
25 180 days after the date of enactment of this

1 subsection, the Director of the Court Services  
2 and Offender Supervision Agency for the Dis-  
3 trict of Columbia, or the Trustee appointed  
4 under section 11232(a) of the Balanced Budget  
5 Act of 1997, as appropriate, shall collect a  
6 DNA sample from each individual under the su-  
7 pervision of the Agency or Trustee, respectively,  
8 who is on supervised release, parole, or proba-  
9 tion who has been convicted of a qualifying of-  
10 fense.

11 “(5) WAIVER; COLLECTION PROCEDURES.—  
12 Notwithstanding any other provision of this sub-  
13 section, a person or agency responsible for the col-  
14 lection of DNA samples under this subsection may—

15 “(A) waive the collection of a sample from  
16 an individual under this subsection if another  
17 person or agency has collected such a sample  
18 from the individual under this subsection or  
19 subsection (e); and

20 “(B) use or authorize the use of such  
21 means as are necessary to restrain and collect  
22 a DNA sample from an individual who refuses  
23 to cooperate in the collection of the sample.

24 “(e) INCLUSION OF DNA INFORMATION RELATING  
25 TO VIOLENT MILITARY OFFENDERS.—

1           “(1) IN GENERAL.—Not later than 120 days  
2 after the date of enactment of this subsection, the  
3 Secretary of Defense shall prescribe regulations  
4 that—

5           “(A) specify categories of conduct punish-  
6 able under the Uniform Code of Military Jus-  
7 tice (referred to in this subsection as ‘qualifying  
8 military offenses’) that are comparable to quali-  
9 fying offenses (as defined in subsection (d)(1));  
10 and

11           “(B) set forth standards and procedures  
12 for—

13           “(i) the analysis of DNA samples col-  
14 lected from individuals convicted of a  
15 qualifying military offense;

16           “(ii) the inclusion in the index estab-  
17 lished by this section of the DNA identi-  
18 fication records and DNA analyses relating  
19 to the DNA samples described in clause  
20 (i); and

21           “(iii) the automatic removal of DNA  
22 identification records and DNA analyses  
23 described in clause (ii) from the index es-  
24 tablished by this section in any cir-  
25 cumstance in which the underlying convic-

1           tion for the qualifying military offense is  
2           vitiating or expunged by appeal or other-  
3           wise.

4           “(2) COLLECTION OF SAMPLES.—Beginning  
5           180 days after the date of enactment of this sub-  
6           section, the Secretary of Defense shall collect a  
7           DNA sample from each individual under the juris-  
8           diction of the Secretary of a military department  
9           who has been convicted of a qualifying military of-  
10          fense.

11          “(3) WAIVER; COLLECTION PROCEDURES.—  
12          Notwithstanding any other provision of this sub-  
13          section, the Secretary of Defense may—

14                 “(A) waive the collection of a sample from  
15                 an individual under this subsection if another  
16                 person or agency has collected such a sample  
17                 from the individual under subsection (d); and

18                 “(B) use or authorize the use of such  
19                 means as are necessary to restrain and collect  
20                 a DNA sample from an individual who refuses  
21                 to cooperate in the collection of the sample.

22          “(f) CRIMINAL PENALTY.—

23                 “(1) IN GENERAL.—An individual from whom  
24                 the collection of a DNA sample is required under

1 subsection (d) who fails to cooperate in the collection  
2 of that sample shall be—

3 “(A) guilty of a class A misdemeanor; and

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

6 “(2) MILITARY OFFENDERS.—An individual  
7 from whom the collection of a DNA sample is re-  
8 quired under subsection (e) who fails to cooperate in  
9 the collection of that sample may be punished as a  
10 court martial may direct as a violation of the Uni-  
11 form Code of Military Justice.

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated—

14 “(1) to the Department of Justice to carry out  
15 subsection (d) of this section (including to reimburse  
16 the Federal judiciary for any reasonable costs in-  
17 curred in implementing such subsection, as deter-  
18 mined by the Attorney General) and section 3(d) of  
19 the Violent Offender DNA Identification Act of  
20 1999—

21 “(A) \$6,600,000 for fiscal year 2000; and

22 “(B) such sums as may be necessary for  
23 each of fiscal years 2001 through 2004;

24 “(2) to the Court Services and Offender Super-  
25 vision Agency for the District of Columbia or the

1 Trustee appointed under section 11232(a) of the  
2 Balanced Budget Act of 1997 (as appropriate), such  
3 sums as may be necessary for each of fiscal years  
4 2000 through 2004; and

5 “(3) to the Department of Defense to carry out  
6 subsection (e)—

7 “(A) \$600,000 for fiscal year 2000; and

8 “(B) \$300,000 for each of fiscal years  
9 2001 through 2004.”.

10 (c) CONDITIONS OF RELEASE.—

11 (1) CONDITIONS OF PROBATION.—Section  
12 3563(a) of title 18, United States Code, is  
13 amended—

14 (A) in paragraph (7), by striking “and” at  
15 the end;

16 (B) in paragraph (8), by striking the pe-  
17 riod at the end and inserting “; and”; and

18 (C) by inserting after paragraph (8) the  
19 following:

20 “(9) that the defendant cooperate in the collec-  
21 tion of a DNA sample from the defendant if the col-  
22 lection of such a sample is required pursuant to sec-  
23 tion 210304 of the Violent Crime Control and Law  
24 Enforcement Act of 1994 (42 U.S.C. 14132).”.

1           (2) CONDITIONS OF SUPERVISED RELEASE.—  
2           Section 3583(d) of title 18, United States Code, is  
3           amended by inserting before “The court shall also  
4           order” the following: “The court shall order, as an  
5           explicit condition of supervised release, that the de-  
6           fendant cooperate in the collection of a DNA sample  
7           from the defendant, if the collection of such a sam-  
8           ple is required pursuant to section 210304 of the  
9           Violent Crime Control and Law Enforcement Act of  
10          1994 (42 U.S.C. 14132).”.

11          (3) CONDITIONS OF RELEASE GENERALLY.—If  
12          the collection of a DNA sample from an individual  
13          on probation, parole, or supervised release (including  
14          an individual on parole pursuant to chapter 311 of  
15          title 18, United States Code, as in effect on October  
16          30, 1997) is required pursuant to section 210304 of  
17          the Violent Crime Control and Law Enforcement  
18          Act of 1994 (42 U.S.C. 14132), and the sample has  
19          not otherwise been collected, the individual shall co-  
20          operate in the collection of a DNA sample as a con-  
21          dition of that probation, parole, or supervised re-  
22          lease.

23          (d) REPORT AND EVALUATION.—Not later than one  
24          year after the date of enactment of this Act, the Attorney  
25          General, acting through the Assistant Attorney General

1 for the Office of Justice Programs of the Department of  
2 Justice and the Director of the Federal Bureau of Inves-  
3 tigation, shall—

4 (1) conduct an evaluation to—

5 (A) identify criminal offenses, including of-  
6 fenses other than qualifying offenses (as defined  
7 in section 210304(d)(1) of the Violent Crime  
8 Control and Law Enforcement Act of 1994 (42  
9 U.S.C. 14132(d)(1)), as added by this section)  
10 that, if serving as a basis for the mandatory  
11 collection of a DNA sample under section  
12 210304 of the Violent Crime Control and Law  
13 Enforcement Act of 1994 (42 U.S.C. 14132) or  
14 under State law, are likely to yield DNA  
15 matches, and the relative degree of such likeli-  
16 hood with respect to each such offense; and

17 (B) determine the number of investigations  
18 aided (including the number of suspects  
19 cleared), and the rates of prosecution and con-  
20 viction of suspects identified through DNA  
21 matching; and

22 (2) submit to Congress a report describing the  
23 results of the evaluation under paragraph (1).

24 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

1           (1) DRUG CONTROL AND SYSTEM IMPROVE-  
2           MENT GRANTS.—Section 503(a)(12)(C) of title I of  
3           the Omnibus Crime Control and Safe Streets Act of  
4           1968 (42 U.S.C. 3753(a)(12)(C)) is amended by  
5           striking “, at regular intervals of not to exceed 180  
6           days,” and inserting “semiannual”.

7           (2) DNA IDENTIFICATION GRANTS.—Section  
8           2403(3) of title I of the Omnibus Crime Control and  
9           Safe Streets Act of 1968 (42 U.S.C. 3796kk–2(3))  
10          is amended by striking “, at regular intervals not ex-  
11          ceeding 180 days,” and inserting “semiannual”.

12          (3) FEDERAL BUREAU OF INVESTIGATION.—  
13          Section 210305(a)(1)(A) of the Violent Crime Con-  
14          trol and Law Enforcement Act of 1994 (42 U.S.C.  
15          14133(a)(1)(A)) is amended by striking “, at reg-  
16          ular intervals of not to exceed 180 days,” and insert-  
17          ing “semiannual”.

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