

108TH CONGRESS  
1ST SESSION

# H. R. 3214

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.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2003

Mr. SENSENBRENNER (for himself, Mr. DELAHUNT, Mr. LAHOOD, Mr. CONYERS, Mr. COBLE, Mr. SCOTT of Virginia, Mr. GREEN of Wisconsin, Mr. WEINER, Mr. SCHIFF, Mr. HYDE, Mr. CANNON, Mr. CHABOT, Mr. SMITH of Texas, Mr. BACHUS, Mr. CARTER, Mr. FEENEY, Mr. FORBES, Mr. GALLEGLY, Mr. GOODLATTE, Ms. HART, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mr. KELLER, Mr. KING of Iowa, Ms. LOFGREN, Mr. MEEHAN, Mr. PENCE, Ms. WATERS, Mr. WATT, Mr. WEXLER, Ms. PRYCE of Ohio, Mr. ABERCROMBIE, Mr. BASS, Mr. BERMAN, Mr. BLUMENAUER, Mr. BOEHNER, Mr. BROWN of Ohio, Mr. CALVERT, Mr. CAMP, Mr. CASE, Mr. CAPUANO, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. CUMMINGS, Mr. DOOLEY of California, Mr. EMANUEL, Mr. ENGEL, Mr. ENGLISH, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILCHREST, Mr. GREENWOOD, Mr. HOEFFEL, Mr. HILL, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KING of New York, Mrs. MALONEY, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCINNIS, Mr. McNULTY, Mr. OBERSTAR, Mr. OLVER, Mr. PETRI, Mr. QUINN, Mr. RODRIGUEZ, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SERRANO, Mr. SHERMAN, Mr. SMITH of Washington, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. WALSH, Mr. WOLF, Ms. WOOLSEY, Mr. STUPAK, Ms. VELÁZQUEZ, Ms. CARSON of Indiana, Mr. GREEN of Texas, Mr. NADLER, Mrs. NAPOLITANO, Mr. SHIMKUS, Ms. CORRINE BROWN of Florida, Mr. LANGEVIN, Mr. MORAN of Virginia, and Mr. MCDERMOTT) 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 deter-

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

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

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
 5       “Advancing Justice Through DNA Technology Act of  
 6       2003”.

7       (b) **TABLE OF CONTENTS.**—The table of contents of  
 8       this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG  
 ELIMINATION ACT OF 2003

Sec. 101. Short title.

Sec. 102. Debbie Smith DNA Backlog Grant Program.

Sec. 103. Expansion of Combined DNA Index System.

Sec. 104. Tolling of statute of limitations.

Sec. 105. Legal assistance for victims of violence.

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

## TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

- Sec. 201. Short title.
- Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
- Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
- Sec. 204. Sexual assault forensic exam program grants.
- Sec. 205. DNA research and development.
- Sec. 206. FBI DNA programs.
- Sec. 207. DNA identification of missing persons.
- Sec. 208. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
- Sec. 209. Tribal coalition grants.
- Sec. 210. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
- Sec. 211. Report to Congress.

## TITLE III—INNOCENCE PROTECTION ACT OF 2003

- Sec. 301. Short title.

## Subtitle A—Exonerating the Innocent Through DNA Testing

- Sec. 311. Federal post-conviction DNA testing.
- Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
- Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.

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

- Sec. 321. Capital representation improvement grants.
- Sec. 322. Capital prosecution improvement grants.
- Sec. 323. Applications.
- Sec. 324. State reports.
- Sec. 325. Evaluations by Inspector General and administrative remedies.
- Sec. 326. Authorization of appropriations.

## Subtitle C—Compensation for the Wrongfully Convicted

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

1 **TITLE I—RAPE KITS AND DNA**  
 2 **EVIDENCE BACKLOG ELIMI-**  
 3 **NATION ACT OF 2003**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Rape Kits and DNA  
 6 Evidence Backlog Elimination Act of 2003”.

1 **SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.**

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

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

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

9 (2) in subsection (a)—

10 (A) in the matter preceding paragraph

11 (1)—

12 (i) by inserting “or units of local gov-

13 ernment” after “eligible States”; and

14 (ii) by inserting “or unit of local gov-

15 ernment” after “State”;

16 (B) in paragraph (2), by inserting before

17 the period at the end the following: “, including

18 samples from rape kits, samples from other sex-

19 ual assault evidence, and samples taken in cases

20 without an identified suspect”; and

21 (C) in paragraph (3), by striking “within

22 the State”;

23 (3) in subsection (b)—

24 (A) in the matter preceding paragraph

25 (1)—

1 (i) by inserting “or unit of local gov-  
2 ernment” after “State” both places that  
3 term appears; and

4 (ii) by inserting “, as required by the  
5 Attorney General” after “application  
6 shall”;

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

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

12 (D) in paragraph (4)—

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

15 (ii) by striking “and” at the end;

16 (E) in paragraph (5)—

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

19 (ii) by striking the period at the end  
20 and inserting a semicolon; and

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

22 “(6) if submitted by a unit of local government,  
23 certify that the unit of local government has taken,  
24 or is taking, all necessary steps to ensure that it is  
25 eligible to include, directly or through a State law

1 enforcement agency, all analyses of samples for  
2 which it has requested funding in the Combined  
3 DNA Index System; and”;

4 (4) in subsection (d)—

5 (A) in paragraph (1)—

6 (i) in the matter preceding subpara-  
7 graph (A), by striking “The plan” and in-  
8 serting “A plan pursuant to subsection  
9 (b)(1)”;

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

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

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

16 (5) in subsection (e)—

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

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

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

25 (7) in subsection (g)—

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

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

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

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

11 (1) in subsection (a)—

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

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

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

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

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

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

1           (3) by amending subsection (c) to read as fol-  
2           lows:

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

4           “(1) IN GENERAL.—The Attorney General shall  
5           distribute grant amounts, and establish appropriate  
6           grant conditions under this section, in conformity  
7           with a formula or formulas that are designed to ef-  
8           fectuate a distribution of funds among eligible  
9           States and units of local government that—

10                   “(A) maximizes the effective utilization of  
11           DNA technology to solve crimes and protect  
12           public safety; and

13                   “(B) allocates grants among eligible enti-  
14           ties fairly and efficiently to address areas where  
15           significant backlogs exist, by considering—

16                           “(i) the number of offender and case-  
17           work samples awaiting DNA analysis in a  
18           jurisdiction;

19                           “(ii) the population in the jurisdiction;  
20           and

21                           “(iii) the number of part I violent  
22           crimes in the jurisdiction.

23           “(2) MINIMUM AMOUNT.—The Attorney Gen-  
24           eral shall allocate to each State not less than 0.50  
25           percent of the total amount appropriated in a fiscal

1 year for grants under this section, except that the  
2 United States Virgin Islands, American Samoa,  
3 Guam, and the Northern Mariana Islands shall each  
4 be allocated 0.125 percent of the total appropriation.

5 “(3) LIMITATION.—Grant amounts distributed  
6 under paragraph (1) shall be awarded to conduct  
7 DNA analyses of samples from casework or from  
8 victims of crime under subsection (a)(2) in accord-  
9 ance with the following limitations:

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

13 “(B) For fiscal year 2006, not less than  
14 50 percent of the grant amounts shall be  
15 awarded for purposes under subsection (a)(2).

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

19 “(D) For fiscal year 2008, not less than  
20 40 percent of the grant amounts shall be  
21 awarded for purposes under subsection (a)(2).

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

25 (4) in subsection (g)—

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

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

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

6 “(3) a description of the priorities and plan for  
7 awarding grants among eligible States and units of  
8 local government, and how such plan will ensure the  
9 effective use of DNA technology to solve crimes and  
10 protect public safety.”;

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

13 “(1) \$151,000,000 for fiscal year 2005;

14 “(2) \$151,000,000 for fiscal year 2006;

15 “(3) \$151,000,000 for fiscal year 2007;

16 “(4) \$151,000,000 for fiscal year 2008; and

17 “(5) \$151,000,000 for fiscal year 2009.”; and

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

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

23 “(1) to States or units of local government to  
24 defray the costs incurred by laboratories operated by

1 each such State or unit of local government in pre-  
2 paring for accreditation or reaccreditation;

3 “(2) in the form of additional grants to States,  
4 units of local government, or nonprofit professional  
5 organizations of persons actively involved in forensic  
6 science and nationally recognized within the forensic  
7 science community—

8 “(A) to defray the costs of external audits  
9 of laboratories operated by such State or unit  
10 of local government, which are participating in  
11 the National DNA Index System in order to en-  
12 sure compliance with quality assurance stand-  
13 ards;

14 “(B) to assess compliance with any plans  
15 submitted to the National Institute of Justice,  
16 which detail the use of funds received by States  
17 or units of local government under this Act;  
18 and

19 “(C) to support future capacity building  
20 efforts; and

21 “(3) in the form of additional grants to non-  
22 profit professional associations actively involved in  
23 forensic science and nationally recognized within the  
24 forensic science community to defray the costs of  
25 training persons who conduct external audits of lab-

1        oratories operated by States and units of local gov-  
2        ernment and which participate in the National DNA  
3        Index System.

4        “(1) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—  
5        In the event that a laboratory operated by a State or unit  
6        of local government which has received funds under this  
7        Act, has undergone an external audit conducted in order  
8        to demonstrate compliance with standards established by  
9        the Director of the Federal Bureau of Investigation, and,  
10       as a result of such audit, identifies measures to remedy  
11       deficiencies with respect to the compliance by the labora-  
12       tory with such standards, the State or unit of local govern-  
13       ment shall implement any such remediation as soon as  
14       practicable.”.

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

16       (a) INCLUSION OF ALL DNA SAMPLES FROM  
17       STATES.—Section 210304(a)(1) of the DNA Identifica-  
18       tion Act of 1994 (42 U.S.C. 14132(a)(1)) is amended by  
19       striking “of persons convicted of crimes;” and inserting  
20       the following: “of—

21                    “(A) persons convicted of crimes; and

22                    “(B) other persons whose DNA samples  
23                    are collected under applicable legal authorities,  
24                    provided that DNA profiles from DNA samples  
25                    that are voluntarily submitted solely for elimi-

1 nation purposes shall not be included in the  
2 Combined DNA Index System;”.

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

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

13    **“§ 3297. Cases involving DNA evidence**

14          “In a case in which DNA testing implicates an identi-  
15          fied person in the commission of a felony, except for a  
16          felony offense under chapter 109A, no statute of limita-  
17          tions that would otherwise preclude prosecution of the of-  
18          fense shall preclude such prosecution until a period of time  
19          following the implication of the person by DNA testing  
20          has elapsed that is equal to the otherwise applicable limi-  
21          tation period.”.

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

“3297. Cases involving DNA evidence.”.

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

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

7 Section 1201 of the Violence Against Women Act of  
8 2000 (42 U.S.C. 3796gg–6) is amended—

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

11 (2) in subsection (b)—

12 (A) by redesignating paragraphs (1)  
13 through (3) as paragraphs (2) through (4), re-  
14 spectively;

15 (B) by inserting before paragraph (2), as  
16 redesignated by subparagraph (A), the fol-  
17 lowing:

18 “(1) DATING VIOLENCE.—The term ‘dating vio-  
19 lence’ means violence committed by a person who is  
20 or has been in a social relationship of a romantic or  
21 intimate nature with the victim. The existence of  
22 such a relationship shall be determined based on a  
23 consideration of—

24 “(A) the length of the relationship;

25 “(B) the type of relationship; and

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

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

6 (3) in subsection (c)—

7           (A) in paragraph (1)—

8                 (i) by inserting “, dating violence,”  
9 after “between domestic violence”; and

10                (ii) by inserting “dating violence,”  
11 after “victims of domestic violence,”;

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

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

16 (4) in subsection (d)—

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

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

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

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

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

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

5 **SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN**  
6 **ELIMINATING DNA BACKLOG.**

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

10 “(3) USE OF VOUCHERS OR CONTRACTS FOR  
11 CERTAIN PURPOSES.—

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

16 “(B) REDEMPTION.—A voucher or con-  
17 tract under subparagraph (A) may be redeemed  
18 at a laboratory operated on a for-profit basis by  
19 a private entity that satisfies quality assurance  
20 standards and has been approved by the Attor-  
21 ney General.

22 “(C) PAYMENTS.—The Attorney General  
23 may use amounts authorized under subsection  
24 (j) to make payments to a laboratory described  
25 under subparagraph (B) for the collection of

1 DNA samples or DNA analysis of samples from  
2 casework.”.

3 **TITLE II—DNA SEXUAL ASSAULT**  
4 **JUSTICE ACT OF 2003**

5 **SEC. 201. SHORT TITLE.**

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

8 **SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLI-**  
9 **ANCE WITH FEDERAL STANDARDS.**

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

13 “(2) prepared by laboratories that—

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

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

1 **SEC. 203. 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 States and units of local government to provide  
6 training, technical assistance, education, and information  
7 relating to the identification, collection, preservation, anal-  
8 ysis, and use of DNA samples and DNA 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 the fiscal years 2005 through 2009 to carry out this  
22 section.

23 **SEC. 204. 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, in-  
16 cluding—

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; and

23 (D) State sexual assault coalitions.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated \$30,000,000 for each

1 of the fiscal years 2005 through 2009 to carry out this  
2 section.

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

4 (a) IMPROVING DNA TECHNOLOGY.—The Attorney  
5 General shall make grants to States and units of local gov-  
6 ernment for research and development to improve forensic  
7 DNA technology, including increasing the identification  
8 accuracy and efficiency of DNA analysis, decreasing time  
9 and expense, and increasing portability.

10 (b) DEMONSTRATION PROJECTS.—The Attorney  
11 General shall conduct research through grants for dem-  
12 onstration projects involving coordinated training and  
13 commitment of resources to law enforcement agencies and  
14 key criminal justice participants to demonstrate and  
15 evaluate the use of forensic DNA technology in conjunc-  
16 tion with other forensic tools. The demonstration projects  
17 shall include scientific evaluation of the public safety bene-  
18 fits, improvements to law enforcement operations, and  
19 cost-effectiveness of increased collection and use of DNA  
20 evidence.

21 (c) NATIONAL FORENSIC SCIENCE COMMISSION.—

22 (1) APPOINTMENT.—The Attorney General  
23 shall appoint a National Forensic Science Commis-  
24 sion (in this section referred to as the “Commis-  
25 sion”), composed of persons experienced in criminal

1 justice issues, including persons from the forensic  
2 science and criminal justice communities, to carry  
3 out the responsibilities under paragraph (2).

4 (2) RESPONSIBILITIES.—The Commission  
5 shall—

6 (A) assess the present and future resource  
7 needs of the forensic science community;

8 (B) make recommendations to the Attor-  
9 ney General for maximizing the use of forensic  
10 technologies and techniques to solve crimes and  
11 protect the public;

12 (C) identify potential scientific advances  
13 that may assist law enforcement in using foren-  
14 sic technologies and techniques to protect the  
15 public;

16 (D) make recommendations to the Attor-  
17 ney General for programs that will increase the  
18 number of qualified forensic scientists available  
19 to work in public crime laboratories;

20 (E) disseminate, through the National In-  
21 stitute of Justice, best practices concerning the  
22 collection and analyses of forensic evidence to  
23 help ensure quality and consistency in the use  
24 of forensic technologies and techniques to solve  
25 crimes and protect the public;

1 (F) examine additional issues pertaining to  
2 forensic science as requested by the Attorney  
3 General;

4 (G) examine Federal, State, and local pri-  
5 vacy protection statutes, regulations, and prac-  
6 tices relating to access to, or use of, stored  
7 DNA samples or DNA analyses, to determine  
8 whether such protections are sufficient;

9 (H) make specific recommendations to the  
10 Attorney General, as necessary, to enhance the  
11 protections described in subparagraph (G) to  
12 ensure—

13 (i) the appropriate use and dissemina-  
14 tion of DNA information;

15 (ii) the accuracy, security, and con-  
16 fidentiality of DNA information;

17 (iii) the timely removal and destruc-  
18 tion of obsolete, expunged, or inaccurate  
19 DNA information; and

20 (iv) that any other necessary meas-  
21 ures are taken to protect privacy; and

22 (I) provide a forum for the exchange and  
23 dissemination of ideas and information in fur-  
24 therance of the objectives described in subpara-  
25 graphs (A) through (H).

1           (3) PERSONNEL; PROCEDURES.—The Attorney  
2       General shall—

3           (A) designate the Chair of the Commission  
4       from among its members;

5           (B) designate any necessary staff to assist  
6       in carrying out the functions of the Commis-  
7       sion; and

8           (C) establish procedures and guidelines for  
9       the operations of the Commission.

10       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
11       are authorized to be appropriated \$15,000,000 for each  
12       of the fiscal years 2005 through 2009 to carry out this  
13       section.

14       **SEC. 206. FBI DNA PROGRAMS.**

15       (a) AUTHORIZATION OF APPROPRIATIONS.—There  
16       are authorized to be appropriated to the Federal Bureau  
17       of Investigation \$42,100,000 for each of the fiscal years  
18       2005 through 2009 to carry out the DNA programs and  
19       activities described under subsection (b).

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

23           (1) nuclear DNA analysis;

24           (2) mitochondrial DNA analysis;

25           (3) regional mitochondrial DNA laboratories;

- 1 (4) the Combined DNA Index System;
- 2 (5) the Federal Convicted Offender DNA Pro-
- 3 gram; and
- 4 (6) DNA research and development.

5 **SEC. 207. DNA IDENTIFICATION OF MISSING PERSONS.**

6 (a) IN GENERAL.—The Attorney General shall make

7 grants to States and units of local government to promote

8 the use of forensic DNA technology to identify missing

9 persons and unidentified human remains.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There

11 are authorized to be appropriated \$2,000,000 for each of

12 the fiscal years 2005 through 2009 to carry out this sec-

13 tion.

14 **SEC. 208. ENHANCED CRIMINAL PENALTIES FOR UNAU-**

15 **THORIZED DISCLOSURE OR USE OF DNA IN-**

16 **FORMATION.**

17 Section 10(c) of the DNA Analysis Backlog Elimini-

18 nation Act of 2000 (42 U.S.C. 14135e(c)) is amended to

19 read as follows:

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

21 discloses a sample or result described in subsection (a) in

22 any manner to any person not authorized to receive it,

23 or obtains or uses, without authorization, such sample or

24 result, shall be fined not more than \$100,000. Each in-

1 stance of disclosure, obtaining, or use shall constitute a  
2 separate offense under this subsection.”.

3 **SEC. 209. TRIBAL COALITION GRANTS.**

4 Section 2001 of title I of the Omnibus Crime Control  
5 and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is  
6 amended by adding at the end the following:

7 “(d) TRIBAL COALITION GRANTS.—

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

11 “(A) increasing awareness of domestic vio-  
12 lence and sexual assault against Indian women;

13 “(B) enhancing the response to violence  
14 against Indian women at the tribal, Federal,  
15 and State levels; and

16 “(C) identifying and providing technical  
17 assistance to coalition membership and tribal  
18 communities to enhance access to essential serv-  
19 ices to Indian women victimized by domestic  
20 and sexual violence.

21 “(2) GRANTS TO TRIBAL COALITIONS.—The At-  
22 torney General shall award grants under paragraph  
23 (1) to—

24 “(A) established nonprofit, nongovern-  
25 mental tribal coalitions addressing domestic vio-

1           lence and sexual assault against Indian women;  
2           and

3           “(B) individuals or organizations that pro-  
4           pose to incorporate as nonprofit, nongovern-  
5           mental tribal coalitions to address domestic vio-  
6           lence and sexual assault against Indian women.

7           “(3) ELIGIBILITY FOR OTHER GRANTS.—Re-  
8           ceipt of an award under this subsection by tribal do-  
9           mestic violence and sexual assault coalitions shall  
10          not preclude the coalition from receiving additional  
11          grants under this title to carry out the purposes de-  
12          scribed in subsection (b).”.

13 **SEC. 210. EXPANSION OF PAUL COVERDELL FORENSIC**  
14 **SCIENCES IMPROVEMENT GRANT PROGRAM.**

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

18           (1) in subsection (a)—

19                   (A) by striking “shall use the grant to  
20                   carry out” and inserting “shall use the grant  
21                   to—

22                   “(1) carry out”;

23                   (B) by striking the period at the end and  
24                   inserting a semicolon; and

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

1           “(2) eliminate a backlog in the analysis of fo-  
2           rensic science evidence, including firearms examina-  
3           tion, latent prints, toxicology, controlled substances,  
4           forensic pathology, questionable documents, and  
5           trace evidence; and

6           “(3) train, assist, and employ forensic labora-  
7           tory personnel, as needed, to eliminate a forensic  
8           evidence 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) DEFINED TERM.—As used in this section, the  
14          term ‘forensic evidence backlog’ means forensic evidence  
15          that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 211. REPORT TO CONGRESS.**

2 (a) IN GENERAL.—Not later than 2 years after the  
3 date of enactment of this Act, the Attorney General shall  
4 submit to Congress a report on the implementation of this  
5 Act.

6 (b) CONTENTS.—The report submitted under sub-  
7 section (a) shall include a description of—

8 (1) the progress made by Federal, State, and  
9 local entities in—

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

15 (B) analyzing samples from crime scenes,  
16 including evidence collected from sexual as-  
17 saults and other serious violent crimes, and en-  
18 tering such DNA analyses in CODIS; and

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

21 (2) the priorities and plan for awarding grants  
22 among eligible States and units of local government  
23 to ensure that the purposes of this Act are carried  
24 out;

25 (3) the distribution of grant amounts under this  
26 Act among eligible States and local governments,

1 and whether the distribution of such funds has  
2 served the purposes of the Debbie Smith DNA  
3 Backlog Grant Program;

4 (4) grants awarded and the use of such grants  
5 by eligible entities for DNA training and education  
6 programs for law enforcement, correctional per-  
7 sonnel, court officers, medical personnel, victim serv-  
8 ice providers, and other personnel authorized under  
9 sections 203 and 204;

10 (5) grants awarded and the use of such grants  
11 by eligible entities to conduct DNA research and de-  
12 velopment programs to improve forensic DNA tech-  
13 nology, and implement demonstration projects under  
14 section 205;

15 (6) the steps taken to establish the National  
16 Forensic Science Commission, and the activities of  
17 the Commission under section 205(c);

18 (7) the use of funds by the Federal Bureau of  
19 Investigation under section 206;

20 (8) grants awarded and the use of such grants  
21 by eligible entities to promote the use of forensic  
22 DNA technology to identify missing persons and un-  
23 identified human remains under section 207;

1 (9) grants awarded and the use of such grants  
 2 by eligible entities to eliminate forensic science back-  
 3 logs under section 210;

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

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

8 **TITLE III—INNOCENCE**  
 9 **PROTECTION ACT OF 2003**

10 **SEC. 301. SHORT TITLE.**

11 This title may be cited as the “Innocence Protection  
 12 Act of 2003”.

13 **Subtitle A—Exonerating the**  
 14 **Innocent Through DNA Testing**

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

16 (a) FEDERAL CRIMINAL PROCEDURE.—

17 (1) IN GENERAL.—Part II of title 18, United  
 18 States Code, is amended by inserting after chapter  
 19 228 the following:

20 **“CHAPTER 228A—POST-CONVICTION DNA**  
 21 **TESTING**

“Sec.

“3600. DNA testing.

“3600A. Prohibition on destruction of biological evidence.

22 **“§ 3600. DNA testing**

23 “(a) IN GENERAL.—Upon a written motion by an in-  
 24 dividual under a sentence of imprisonment or death pursu-

1 ant to a conviction for a Federal offense (referred to in  
2 this section as the ‘applicant’), the court that entered the  
3 judgment of conviction shall order DNA testing of specific  
4 evidence if—

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

7 “(A) the Federal offense for which the ap-  
8 plicant is under a sentence of imprisonment or  
9 death; or

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

11 “(i)(I) such offense was legally nec-  
12 essary to make the applicant eligible for a  
13 sentence as a career offender under section  
14 3559(e) or an armed career offender under  
15 section 924(e), and exoneration of such of-  
16 fense would entitle the applicant to a re-  
17 duced sentence; or

18 “(II) evidence of such offense was ad-  
19 mitted during a Federal death sentencing  
20 hearing and exoneration of such offense  
21 would entitle the applicant to a reduced  
22 sentence or new sentencing hearing; and

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

24 “(I) the applicant demonstrates  
25 that there is no adequate remedy

1 under State law to permit DNA test-  
2 ing of the specified evidence relating  
3 to the State offense; and

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

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

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

14 “(A) was not previously subjected to DNA  
15 testing and the applicant did not knowingly and  
16 voluntarily waive the right to request DNA test-  
17 ing of that evidence in a court proceeding after  
18 the date of enactment of the Innocence Protec-  
19 tion Act of 2003; or

20 “(B) was previously subjected to DNA testing  
21 and the applicant is requesting DNA testing using  
22 a new method or technology that is substantially  
23 more probative than the prior DNA testing;

24 “(4) the specific evidence to be tested is in the  
25 possession of the Government and has been subject

1 to a chain of custody and retained under conditions  
2 sufficient to ensure that such evidence has not been  
3 substituted, contaminated, tampered with, replaced,  
4 or altered in any respect material to the proposed  
5 DNA testing;

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

9 “(6) the applicant identifies a theory of defense  
10 that—

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

13 “(B) would establish the actual innocence  
14 of the applicant of the Federal or State offense  
15 referenced in the applicant’s assertion under  
16 paragraph (1);

17 “(7) if the applicant was convicted following a  
18 trial, the identity of the perpetrator was at issue in  
19 the trial;

20 “(8) the proposed DNA testing of the specific  
21 evidence—

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

1           “(B) assuming the DNA test result ex-  
2           cludes the applicant, would raise a reasonable  
3           probability that the applicant did not commit  
4           the offense;

5           “(9) the applicant certifies that the applicant  
6           will provide a DNA sample for purposes of compari-  
7           son; and

8           “(10) the applicant’s motion is filed for the  
9           purpose of demonstrating the applicant’s actual in-  
10          nocence of the Federal or State offense, and not to  
11          delay the execution of the sentence or the adminis-  
12          tration of justice.

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

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

17                         “(A) notify the Government; and

18                         “(B) allow the Government a reasonable  
19                 time period to respond to the motion.

20                 “(2) PRESERVATION ORDER.—To the extent  
21                 necessary to carry out proceedings under this sec-  
22                 tion, the court shall direct the Government to pre-  
23                 serve the specific evidence relating to a motion under  
24                 subsection (a).

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

5           “(c) TESTING PROCEDURES.—

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

9           “(2) EXCEPTION.—Notwithstanding paragraph  
10          (1), the court may order DNA testing by another  
11          qualified laboratory if the court makes all necessary  
12          orders to ensure the integrity of the specific evidence  
13          and the reliability of the testing process and test re-  
14          sults.

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

17                  “(A) by the applicant; or

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

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

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

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

6           “(e) REPORTING OF TEST RESULTS.—

7           “(1) IN GENERAL.—The results of any DNA  
8           testing ordered under this section shall be simulta-  
9           neously disclosed to the court, the applicant, and the  
10          Government.

11          “(2) CODIS.—The Government shall submit  
12          any test results relating to the DNA of the applicant  
13          to the Combined DNA Index System (referred to in  
14          this subsection as ‘CODIS’).

15          “(3) RETENTION OF DNA SAMPLE.—

16                 “(A) ENTRY INTO CODIS.—If the DNA  
17                 test results obtained under this section are in-  
18                 conclusive or show that the applicant was the  
19                 source of the DNA evidence, the DNA sample  
20                 of the applicant may be retained in CODIS.

21                 “(B) MATCH WITH OTHER OFFENSE.—If  
22                 the DNA test results obtained under this sec-  
23                 tion exclude the applicant as the source of the  
24                 DNA evidence, and a comparison of the DNA  
25                 sample of the applicant results in a match be-

1           tween the DNA sample of the applicant and an-  
2           other offense, the Attorney General shall notify  
3           the appropriate agency and preserve the DNA  
4           sample of the applicant.

5           “(C) NO MATCH.—If the DNA test results  
6           obtained under this section exclude the appli-  
7           cant as the source of the DNA evidence, and a  
8           comparison of the DNA sample of the applicant  
9           does not result in a match between the DNA  
10          sample of the applicant and another offense,  
11          the Attorney General shall destroy the DNA  
12          sample of the applicant and ensure that such  
13          information is not retained in CODIS if there  
14          is no other legal authority to retain the DNA  
15          sample of the applicant in CODIS.

16          “(f) POST-TESTING PROCEDURES; INCONCLUSIVE  
17          AND INCULPATORY RESULTS.—

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

22               “(2) INCULPATORY RESULTS.—If DNA test re-  
23               sults obtained under this section show that the ap-  
24               plicant was the source of the DNA evidence, the  
25               court shall—

1 “(A) deny the applicant relief; and

2 “(B) on motion of the Government—

3 “(i) make a determination whether  
4 the applicant’s assertion of actual inno-  
5 cence was false, and, if the court makes  
6 such a finding, the court may hold the ap-  
7 plicant in contempt;

8 “(ii) assess against the applicant the  
9 cost of any DNA testing carried out under  
10 this section;

11 “(iii) forward the finding to the Direc-  
12 tor of the Bureau of Prisons, who, upon  
13 receipt of such a finding, may deny, wholly  
14 or in part, the good conduct credit author-  
15 ized under section 3632 on the basis of  
16 that finding;

17 “(iv) if the applicant is subject to the  
18 jurisdiction of the United States Parole  
19 Commission, forward the finding to the  
20 Commission so that the Commission may  
21 deny parole on the basis of that finding;  
22 and

23 “(v) if the DNA test results relate to  
24 a State offense, forward the finding to any  
25 appropriate State official.

1           “(3) SENTENCE.—In any prosecution of an ap-  
2           plicant under chapter 79 for false assertions or other  
3           conduct in proceedings under this section, the court,  
4           upon conviction of the applicant, shall sentence the  
5           applicant to a term of imprisonment of not less than  
6           3 years, which shall run consecutively to any other  
7           term of imprisonment the applicant is serving.

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

10           “(1) IN GENERAL.—Notwithstanding any law  
11           that would bar a motion under this paragraph as  
12           untimely, if DNA test results obtained under this  
13           section exclude the applicant as the source of the  
14           DNA evidence, the applicant may file a motion for  
15           a new trial or resentencing, as appropriate. The  
16           court shall establish a reasonable schedule for the  
17           applicant to file such a motion and for the Govern-  
18           ment to respond to the motion.

19           “(2) STANDARD FOR GRANTING MOTION FOR  
20           NEW TRIAL OR RESENTENCING.—The court shall  
21           grant the motion of the applicant for a new trial or  
22           resentencing, as appropriate, if the DNA test re-  
23           sults, when considered with all other evidence in the  
24           case (regardless of whether such evidence was intro-  
25           duced at trial), establish by a preponderance of the

1 evidence that a new trial would result in an acquittal  
2 of—

3 “(A) in the case of a motion for a new  
4 trial, the Federal offense for which the appli-  
5 cant is under sentence of imprisonment or  
6 death; and

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

9 “(i) such offense was legally necessary  
10 to make the applicant eligible for a sen-  
11 tence as a career offender under section  
12 3559(e) or an armed career offender under  
13 section 924(e), and exoneration of such of-  
14 fense would entitle the applicant to a re-  
15 duced sentence; or

16 “(ii) 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 a new sentencing proceeding.

21 “(h) OTHER LAWS UNAFFECTED.—

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

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

4           “(3) APPLICATION NOT A MOTION.—An appli-  
5           cation under this section shall not be considered to  
6           be a motion under section 2255 for purposes of de-  
7           termining whether the application or any other mo-  
8           tion is a second or successive motion under section  
9           2255.

10   **“§ 3600A. Prohibition on destruction of biological evi-**  
11                                   **dence**

12           “(a) IN GENERAL.—Notwithstanding any other pro-  
13           vision of law, the Government shall not destroy biological  
14           evidence that was secured in the investigation or prosecu-  
15           tion of a Federal offense, if a defendant is under a sen-  
16           tence of imprisonment for such offense.

17           “(b) DEFINED TERM.—For purposes of this section,  
18           the term ‘biological evidence’ means evidence that was se-  
19           cured in the investigation or prosecution of a Federal of-  
20           fense and preserved until the time of conviction, and which  
21           the Government knows is—

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.—The prohibition of the de-  
2       struction of biological evidence under subsection (a) shall  
3       not apply if—

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

8               “(2) the defendant knowingly and voluntarily  
9       waived the right to request DNA testing of such evi-  
10      dence in a court proceeding conducted after the date  
11      of enactment of the Innocence Protection Act of  
12      2003;

13              “(3) the defendant is notified after conviction  
14      that the biological evidence may be destroyed and  
15      the defendant does not file a motion under section  
16      3600 within 180 days of receipt of the notice; or

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

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

23       “(d) OTHER PRESERVATION REQUIREMENT.—Noth-  
24      ing in this section shall preempt or supersede any statute,  
25      regulation, court order, or other provision of law that may

1 require evidence, including biological evidence, to be pre-  
2 served.

3 “(e) REGULATIONS.—The Attorney General shall  
4 promulgate regulations to implement and enforce this sec-  
5 tion, including appropriate disciplinary sanctions to ensure  
6 that employees comply with such regulations.

7 “(f) CRIMINAL PENALTY.—Whoever knowingly and  
8 intentionally destroys, alters, or tampers with biological  
9 evidence that is required to be preserved under this section  
10 with the intent to prevent that evidence from being sub-  
11 jected to DNA testing or prevent the production or use  
12 of that evidence in an official proceeding, shall be fined  
13 under this title, imprisoned for not more than 5 years,  
14 or both.”

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

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

19 (b) SYSTEM FOR REPORTING MOTIONS.—

20 (1) ESTABLISHMENT.—The Attorney General  
21 shall establish a system for reporting and tracking  
22 motions filed in accordance with section 3600 of title  
23 18, United States Code.

24 (2) OPERATION.—In operating the system es-  
25 tablished under paragraph (1), the courts shall pro-

1       vide to the Attorney General any requested assist-  
2       ance in operating such a system and in ensuring the  
3       accuracy and completeness of information included  
4       in that system.

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

8           (A) a list of motions filed under section  
9       3600 of title 18, United States Code, as added  
10      by this Act;

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

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

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

18          (4) ADDITIONAL INFORMATION.—The report re-  
19      quired to be submitted under paragraph (3) may in-  
20      clude any other information the Attorney General  
21      determines to be relevant in assessing the operation,  
22      utility, or costs of section 3600 of title 18, United  
23      States Code, as added by this Act, and any rec-  
24      ommendations the Attorney General may have relat-



1 **SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CON-**  
2 **SIDERATION OF CLAIMS OF ACTUAL INNO-**  
3 **CENCE.**

4 (a) **FUNDING.**—For each of the fiscal years 2005  
5 through 2009, all funds appropriated to carry out sections  
6 203, 205, 207, and 312 shall be reserved for grants eligi-  
7 ble entities that—

8 (1) meet the requirements under section 203,  
9 205, 207, or 312, as appropriate; and

10 (2) demonstrate that the State in which the eli-  
11 gible entity operates—

12 (A) provides post-conviction DNA testing  
13 of specified evidence—

14 (i) under a State statute enacted be-  
15 fore the date of enactment of this Act (or  
16 extended or renewed after such date), to  
17 any person convicted after trial and under  
18 a sentence of imprisonment or death for a  
19 State offense, in a manner that ensures a  
20 meaningful process for resolving a claim of  
21 actual innocence; or

22 (ii) under a State statute enacted  
23 after the date of enactment of this Act, or  
24 under a State rule, regulation, or practice,  
25 to any person under a sentence of impris-  
26 onment or death for a State offense, in a

1 manner comparable to section 3600(a) of  
2 title 18, United States Code (provided that  
3 the State statute, rule, regulation, or prac-  
4 tice may make post-conviction DNA test-  
5 ing available in cases in which such testing  
6 is not required by such section), and if the  
7 results of such testing exclude the appli-  
8 cant, permits the applicant to apply for  
9 post-conviction relief, notwithstanding any  
10 provision of law that would otherwise bar  
11 such application as untimely; and

12 (B) preserves biological evidence secured in  
13 relation to the investigation or prosecution of a  
14 State offense—

15 (i) under a State statute or a State or  
16 local rule, regulation, or practice, enacted  
17 or adopted before the date of enactment of  
18 this Act (or extended or renewed after  
19 such date), in a manner that ensures that  
20 reasonable measures are taken by all juris-  
21 dictions within the State to preserve such  
22 evidence; or

23 (ii) under a State statute or a State  
24 or local rule, regulation, or practice, en-  
25 acted or adopted after the date of enact-

1           ment of this Act, in a manner comparable  
2           to section 3600A of title 18, United States  
3           Code, if—

4                   (I) all jurisdictions within the  
5                   State comply with this requirement;  
6                   and

7                   (II) such jurisdictions may pre-  
8                   serve such evidence for longer than  
9                   the period of time that such evidence  
10                  would be required to be preserved  
11                  under such section 3600A.

12       (b) CERTIFICATION.—For fiscal year 2005, an eligi-  
13       ble entity shall be deemed to comply with the requirements  
14       of this section if an authorized officer of the State in which  
15       the eligible entity operates certifies that the State will  
16       comply with such requirements within 1 year of the certifi-  
17       cation.

18       **Subtitle B—Improving the Quality**  
19       **of Representation in State Cap-**  
20       **ital Cases**

21       **SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT**  
22       **GRANTS.**

23       (a) IN GENERAL.—The Attorney General shall award  
24       grants to States for the purpose of improving the quality

1 of legal representation provided to indigent defendants in  
2 State capital cases.

3 (b) DEFINED TERM.—In this section, the term “legal  
4 representation” means legal counsel and investigative, ex-  
5 pert, and other services necessary for competent represen-  
6 tation.

7 (c) USE OF FUNDS.—Grants awarded under sub-  
8 section (a)—

9 (1) shall be used to establish, implement, or im-  
10 prove an effective system for providing competent  
11 legal representation to—

12 (A) indigents charged with an offense sub-  
13 ject to capital punishment;

14 (B) indigents who have been sentenced to  
15 death and who seek appellate or collateral relief  
16 in State court; and

17 (C) indigents who have been sentenced to  
18 death and who seek review in the Supreme  
19 Court of the United States; and

20 (2) shall not be used to fund representation in  
21 specific capital cases.

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

1           (1) invests the responsibility for identifying and  
2           appointing qualified attorneys to represent indigents  
3           in capital cases in—

4                   (A) a public defender program that relies  
5                   on staff attorneys, members of the private bar,  
6                   or both, to provide representation in capital  
7                   cases; or

8                   (B) an entity established by statute or by  
9                   the highest State court with jurisdiction in  
10                  criminal cases, which is composed of individuals  
11                  with demonstrated knowledge and expertise in  
12                  capital representation; and

13           (2) requires the entity described in paragraph  
14           (1) to—

15                   (A) establish qualifications for attorneys  
16                   who may be appointed to represent indigents in  
17                   capital cases;

18                   (B) establish and maintain a roster of  
19                   qualified attorneys;

20                   (C) assign 2 attorneys from the roster to  
21                   represent an indigent in a capital case, or pro-  
22                   vide the trial judge a list of not more than 2  
23                   pairs of attorneys from the roster, from which  
24                   1 pair shall be assigned, provided that, in any  
25                   case in which the State elects not to seek the

1 death penalty, a court may find, subject to any  
2 requirement of State law, that a second attor-  
3 ney need not remain assigned to represent the  
4 indigent to ensure competent representation;

5 (D) conduct, sponsor, or approve special-  
6 ized training programs for attorneys rep-  
7 resenting defendants in capital cases;

8 (E) monitor the performance of attorneys  
9 who are appointed and their attendance at  
10 training programs, and remove from the roster  
11 attorneys who fail to deliver effective represen-  
12 tation or who fail to comply with such require-  
13 ments as the entity may establish regarding  
14 participation in training programs; and

15 (F) ensure funding for the full cost of  
16 competent legal representation by the defense  
17 team and outside experts selected by counsel,  
18 who shall be compensated as follows:

19 (i) Attorneys employed by a public de-  
20 fender program shall be compensated ac-  
21 cording to a salary scale that is commensu-  
22 rate with the salary scale of the prosecu-  
23 tor's office in the jurisdiction.

24 (ii) Appointed attorneys shall be com-  
25 pensated for actual time and service, com-

1           puted on an hourly basis and at a reason-  
2           able hourly rate in light of the qualifica-  
3           tions and experience of the attorney and  
4           the local market for legal representation in  
5           cases reflecting the complexity and respon-  
6           sibility of capital cases.

7           (iii) Non-attorney members of the de-  
8           fense team, including investigators, mitiga-  
9           tion specialists, and experts, shall be com-  
10          pensated at a rate that reflects the special-  
11          ized skills needed by those who assist coun-  
12          sel with the litigation of death penalty  
13          cases.

14          (iv) Attorney and non-attorney mem-  
15          bers of the defense team shall be reim-  
16          bursed for reasonable incidental expenses.

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

18          (a) IN GENERAL.—The Attorney General shall award  
19          grants to States for the purpose of improving the rep-  
20          resentation of the public in State capital cases.

21          (b) USE OF FUNDS.—

22                  (1) PERMITTED USES.—Grants awarded under  
23          subsection (a) shall be used to—

1 (A) design and implement training pro-  
2 grams for State and local prosecutors to ensure  
3 effective representation in State capital cases;

4 (B) develop and implement appropriate  
5 standards and qualifications for State and local  
6 prosecutors who litigate State capital cases;

7 (C) assess the performance of State and  
8 local prosecutors who litigate State capital  
9 cases, provided that such assessment shall not  
10 include participation by the assessor in the trial  
11 of any specific capital case;

12 (D) identify and implement any potential  
13 legal reforms that may be appropriate to mini-  
14 mize the potential for error in the trial of cap-  
15 ital cases;

16 (E) establish a program under which State  
17 and local prosecutors conduct a systematic re-  
18 view of cases in which a death sentence was im-  
19 posed in order to identify cases in which post-  
20 conviction DNA testing may be appropriate;  
21 and

22 (F) provide support and assistance to the  
23 families of murder victims.

1           (2) PROHIBITED USE.—Grants awarded under  
2           subsection (a) shall not be used to fund the prosecu-  
3           tion of specific capital cases.

4 **SEC. 323. APPLICATIONS.**

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

8           (b) APPLICATION.—

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

14          (2) CONTENTS.—Each application submitted  
15          under paragraph (1) shall contain—

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

21                (B) a description of the communities to be  
22                served by the grant, including the nature of ex-  
23                isting capital defender services and capital pros-  
24                ecution programs within such communities;

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

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

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

12 (D) assurances that Federal funds received  
13 under this subtitle shall be—

14 (i) used to supplement and not sup-  
15 plant non-Federal funds that would other-  
16 wise be available for activities funded  
17 under this subtitle; and

18 (ii) allocated equally between the uses  
19 described in section 321 and the uses de-  
20 scribed in section 322.

21 **SEC. 324. STATE REPORTS.**

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

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

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

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

8           (1) an accounting of all amounts expended;

9           (2) an explanation of the means by which the  
10 State—

11           (A) invests the responsibility for identi-  
12 fying and appointing qualified attorneys to rep-  
13 resent indigents in capital cases in an entity de-  
14 scribed in section 321(d)(1); and

15           (B) requires the entity described in section  
16 321(d)(1) to—

17           (i) establish qualifications for attor-  
18 neys who may be appointed to represent  
19 indigents in capital cases in accordance  
20 with section 321(d)(2)(A);

21           (ii) establish and maintain a roster of  
22 qualified attorneys in accordance with sec-  
23 tion 321(d)(2)(B);

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

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

5 (v) monitor the performance and  
6 training program attendance of appointed  
7 attorneys, and remove from the roster at-  
8 torneys who fail to deliver effective rep-  
9 resentation or fail to comply with such re-  
10 quirements as the entity may establish re-  
11 garding participation in training programs,  
12 in accordance with section 321(d)(2)(E);  
13 and

14 (vi) ensure funding for the full cost of  
15 competent legal representation by the de-  
16 fense team and outside experts selected by  
17 counsel, in accordance with section  
18 321(d)(2)(F), including a statement set-  
19 ting forth—

20 (I) if the State employs a public  
21 defender program under section  
22 321(d)(1)(A), the salaries received by  
23 the attorneys employed by such pro-  
24 gram and the salaries received by at-

1                   torneys in the prosecutor’s office in  
2                   the jurisdiction;

3                   (II) if the State employs ap-  
4                   pointed attorneys under section  
5                   321(d)(1)(B), the hourly fees received  
6                   by such attorneys for actual time and  
7                   service and the basis on which the  
8                   hourly rate was calculated;

9                   (III) the amounts paid to non-  
10                  attorney members of the defense  
11                  team, and the basis on which such  
12                  amounts were determined; and

13                  (IV) the amounts for which at-  
14                  torney and non-attorney members of  
15                  the defense team were reimbursed for  
16                  reasonable incidental expenses; and

17                  (3) a statement confirming that the funds have  
18                  not been used to fund representation in specific cap-  
19                  ital cases or to supplant non-Federal funds.

20                  (c)     CAPITAL     PROSECUTION     IMPROVEMENT

21     GRANTS.—With respect to the funds provided under sec-  
22     tion 322, a report under subsection (a) shall include—

23                  (1) an accounting of all amounts expended;

24                  (2) a description of the means by which the

25     State has—

1 (A) designed and established training pro-  
2 grams for State and local prosecutors to ensure  
3 effective representation in State capital cases in  
4 accordance with section 322(b)(1)(A);

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

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

12 (D) identified and implemented any poten-  
13 tial legal reforms that may be appropriate to  
14 minimize the potential for error in the trial of  
15 capital cases in accordance with section  
16 322(b)(1)(D);

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

24 (F) provided support and assistance to the  
25 families of murder victims; and

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

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

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

10           (a) EVALUATION BY INSPECTOR GENERAL.—

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

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

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

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

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

9           (b) ADMINISTRATIVE REVIEW.—

10           (1) COMMENT.—Upon receiving the report  
11           under subsection (a)(1), the Attorney General shall  
12           provide the State with an opportunity to comment  
13           regarding the findings and conclusions of the report.

14           (2) CORRECTIVE ACTION PLAN.—If the Attor-  
15           ney General, after reviewing the report under sub-  
16           section (a)(1), determines that a State is not in com-  
17           pliance with the terms and conditions of the grant,  
18           the Attorney General shall consult with the appro-  
19           priate State authorities to enter into a plan for cor-  
20           rective action. If the State does not agree to a plan  
21           for corrective action that has been approved by the  
22           Attorney General within 90 days after the submis-  
23           sion of the report under subsection (a)(1), the Attor-  
24           ney General shall, within 30 days, direct the State

1 to take corrective action to bring the State into com-  
2 pliance.

3 (3) REPORT TO CONGRESS.—Not later than 90  
4 days after the earlier of the implementation of a cor-  
5 rective action plan or a directive to implement such  
6 a plan under paragraph (2), the Attorney General  
7 shall submit a report to Congress as to whether the  
8 State has taken corrective action and is in compli-  
9 ance with the 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 321 and 322  
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 the fiscal years 2005 through 2009 shall be  
2 made available to the Inspector General for purposes of  
3 carrying out this section. Such sums shall remain available  
4 until expended.

5 **SEC. 326. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) **AUTHORIZATION FOR GRANTS.**—There are au-  
7 thorized to be appropriated \$100,000,000 for each of the  
8 fiscal years 2005 through 2009 to carry out this subtitle.

9 (b) **RESTRICTION ON USE OF FUNDS TO ENSURE**  
10 **EQUAL ALLOCATION.**—Each State receiving a grant  
11 under this subtitle shall allocate the funds equally between  
12 the uses described in section 321 and the uses described  
13 in section 322.

14 **Subtitle C—Compensation for the**  
15 **Wrongfully Convicted**

16 **SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES**  
17 **FOR THE WRONGFULLY CONVICTED.**

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

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

3 It is the sense of Congress that States should provide  
4 reasonable compensation to any person found to have been  
5 unjustly convicted of an offense against the State and sen-  
6 tenced to death.

○