

***In the Senate of the United States,***

*December 6 (legislative day, September 22), 2000.*

*Resolved*, That the bill from the House of Representatives (H.R. 4640) entitled “An Act to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes.”, do pass with the following

**AMENDMENT:**

1       Page 26, after line 6, insert:

2   ***SEC. 11. SENSE OF CONGRESS REGARDING THE OBLIGA-***  
3                   ***TION OF GRANTEE STATES TO ENSURE AC-***  
4                   ***CESS TO POST-CONVICTION DNA TESTING***  
5                   ***AND COMPETENT COUNSEL IN CAPITAL***  
6                   ***CASES.***

7       ***(a) FINDINGS.—Congress finds that—***

8               ***(1) over the past decade, deoxyribo-nucleic acid***  
9               ***testing (referred to in this section as “DNA testing”)***  
10              ***has emerged as the most reliable forensic technique for***

1       *identifying criminals when biological material is left*  
2       *at a crime scene;*

3               *(2) because of its scientific precision, DNA test-*  
4       *ing can, in some cases, conclusively establish the guilt*  
5       *or innocence of a criminal defendant;*

6               *(3) in other cases, DNA testing may not conclu-*  
7       *sively establish guilt or innocence, but may have sig-*  
8       *nificant probative value to a finder of fact;*

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

11               *(5) new forensic DNA testing procedures have*  
12       *made it possible to get results from minute samples*  
13       *that could not previously be tested, and to obtain*  
14       *more informative and accurate results than earlier*  
15       *forms of forensic DNA testing could produce, resulting*  
16       *in some cases of convicted inmates being exonerated*  
17       *by new DNA tests after earlier tests had failed to*  
18       *produce definitive results;*

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

23               *(7) in more than a dozen cases, post-conviction*  
24       *DNA testing that has exonerated an innocent person*

1        *has also enhanced public safety by providing evidence*  
2        *that led to the apprehension of the actual perpetrator;*

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

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

10           *(10) the National Commission on the Future of*  
11        *DNA Evidence, a Federal panel established by the De-*  
12        *partment of Justice and comprised of law enforce-*  
13        *ment, judicial, and scientific experts, has urged that*  
14        *post-conviction DNA testing be permitted in the rel-*  
15        *atively small number of cases in which it is appro-*  
16        *priate, notwithstanding procedural rules that could be*  
17        *invoked to preclude such testing, and notwithstanding*  
18        *the inability of an inmate to pay for the testing;*

19           *(11) only a few States have adopted post-convic-*  
20        *tion DNA testing procedures;*

21           *(12) States have received millions of dollars in*  
22        *DNA-related grants, and more funding is needed to*  
23        *improve State forensic facilities and to reduce the na-*  
24        *tionwide backlog of DNA samples from convicted of-*

1        *fenders and crime scenes that need to be tested or re-*  
2        *tested using upgraded methods;*

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

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

11           *(15) a constitutional error in capital cases is in-*  
12        *competent defense lawyers who fail to present impor-*  
13        *tant evidence that the defendant may have been inno-*  
14        *cent or does not deserve to be sentenced to death; and*

15           *(16) providing quality representation to defend-*  
16        *ants facing the loss of liberty or life is essential to*  
17        *fundamental due process and the speedy final resolu-*  
18        *tion of judicial proceedings.*

19        *(b) SENSE OF CONGRESS.—It is the sense of Congress*  
20       *that—*

21           *(1) Congress should condition forensic science-re-*  
22        *lated grants to a State or State forensic facility on*  
23        *the State's agreement to ensure post-conviction DNA*  
24        *testing in appropriate cases; and*

1           (2) *Congress should work with the States to im-*  
2           *prove the quality of legal representation in capital*  
3           *cases through the establishment of standards that will*  
4           *assure the timely appointment of competent counsel*  
5           *with adequate resources to represent defendants in*  
6           *capital cases at each stage of those proceedings.*

Attest:

*Secretary.*



106TH CONGRESS  
2D SESSION

**H. R. 4640**

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**AMENDMENT**