

106TH CONGRESS
2^D SESSION

H. R. 5000

To provide for post-conviction DNA testing, 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 Federal, District of Columbia, and military offenders for use in such system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2000

Mr. MCCOLLUM 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

A BILL

To provide for post-conviction DNA testing, 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 Federal, District of Columbia, and military offenders for use in such system, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Criminal Justice Integrity and Law Enforcement Assist-
 4 ance Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—POST-CONVICTION DNA TESTING IN FEDERAL COURT

Sec. 101. Post-conviction DNA testing.

Sec. 102. Repeal.

TITLE II—CONVICTED OFFENDER DNA INDEX SYSTEM

Sec. 201. Authorization of grants.

Sec. 202. Collection and use of DNA identification information from certain
 Federal offenders.

Sec. 203. Collection and use of DNA identification information from certain
 District of Columbia offenders.

Sec. 204. Collection and use of DNA identification information from certain of-
 fenders in the Armed Forces.

Sec. 205. Expansion of DNA identification index.

Sec. 206. Conditions of release.

Sec. 207. Technical and conforming amendments.

Sec. 208. Authorization of appropriations.

Sec. 209. Privacy protection standards.

7 **TITLE I—POST-CONVICTION DNA**
 8 **TESTING IN FEDERAL COURT**

9 **SEC. 101. POST-CONVICTION DNA TESTING.**

10 (a) **FEDERAL CRIMINAL PROCEDURE.**—

11 (1) **IN GENERAL.**—Part II of title 18, United
 12 States Code, is amended by inserting after chapter
 13 228 the following:

1 “(1) assert actual innocence of the offense for
2 which the applicant was convicted, under penalty of
3 perjury;

4 “(2) identify the specific evidence (that was se-
5 cured in relation to the investigation or prosecution
6 that resulted in the conviction of the applicant) to
7 be tested and a theory of defense, not inconsistent
8 with previously asserted theories, that the requested
9 DNA testing would support; and

10 “(3) present a prima facie showing that—

11 “(A) the identity of the perpetrator was at
12 issue in the trial that resulted in the conviction
13 of the applicant; and

14 “(B) DNA testing of the specified evidence
15 would, assuming exculpatory results, establish
16 the actual innocence of the applicant of—

17 “(i) the offense for which the appli-
18 cant was convicted; or

19 “(ii) uncharged conduct, if the exon-
20 eration of the applicant of such conduct
21 would result in a mandatory reduction in
22 the sentence of the applicant.

23 “(d) ORDER.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), the court shall order the testing requested

1 in a motion under subsection (a) under reasonable
2 conditions designed to protect the interests of the
3 Government in the integrity of the evidence and the
4 testing process, upon a determination, after review
5 of the record of the trial of the applicant, that—

6 “(A) the applicant has met the require-
7 ments of subsection (c);

8 “(B) the evidence to be tested is in the
9 possession of the Government or the court and
10 has been subject to a chain of custody sufficient
11 to establish that it has not been altered in any
12 material respect; and

13 “(C) the motion is made in a timely man-
14 ner and for the purpose of demonstrating the
15 actual innocence of the applicant and not to
16 delay the execution of sentence or administra-
17 tion of justice.

18 “(2) EXCEPTION.—The court shall not order
19 the testing requested in a motion under subsection
20 (a) if, after review of the record of the trial of the
21 applicant, the court determines that there is no rea-
22 sonable possibility that the testing will produce ex-
23 culpatory evidence that would establish the actual
24 innocence of the applicant of—

1 “(A) the offense for which the applicant
2 was convicted; or

3 “(B) uncharged conduct, if the exoneration
4 of the applicant of such conduct would result in
5 a mandatory reduction in the sentence of the
6 applicant.

7 “(3) FINAL ORDER.—An order under this sub-
8 section is a final order for purposes of section 1291
9 of title 28, United States Code.

10 “(e) TESTING PROCEDURES.—

11 “(1) SELECTION OF LABORATORY.—Any DNA
12 testing ordered under this section shall be conducted
13 by—

14 “(A) a laboratory mutually selected by the
15 Government and the applicant; or

16 “(B) if the Government and the applicant
17 are unable to agree on a laboratory, a labora-
18 tory selected by the court that ordered the test-
19 ing.

20 “(2) COSTS.—The costs of any testing ordered
21 under this section shall be paid—

22 “(A) by the applicant; or

23 “(B) in the case of an applicant who is in-
24 digent, by the court.

1 “(f) TIME LIMITATION IN CAPITAL CASES.—In any
2 case in which the applicant is sentenced to death—

3 “(1) any DNA testing ordered under this sec-
4 tion shall be completed not later than 120 days after
5 the date on which the Government responds to the
6 motion under subsection (a); and

7 “(2) the court shall order any post-testing pro-
8 cedures under subsection (g) not later than 30 days
9 after the date on which the DNA testing is com-
10 pleted.

11 “(g) POST-TESTING PROCEDURES.—

12 “(1) RESULTS UNFAVORABLE TO APPLICANT.—
13 If the DNA testing conducted under this section
14 produces inconclusive evidence or evidence that is
15 unfavorable to the applicant—

16 “(A) the court shall—

17 “(i) dismiss the application; and

18 “(ii) forward the results of the testing
19 to the appropriate parole board that would
20 have jurisdiction over a request for parole
21 by the applicant; and

22 “(B) the Government shall compare the
23 evidence to DNA evidence from unsolved crimes
24 in the Combined DNA Index System (CODIS).

1 “(2) RESULTS FAVORABLE TO APPLICANT.—If
2 the DNA testing conducted under this section pro-
3 duces exculpatory evidence—

4 “(A) the applicant may, during the 60-day
5 period beginning on the date on which the ap-
6 plicant is notified of the test results, make a
7 motion to the court that ordered the testing for
8 a new trial based on newly discovered evidence
9 under rule 33 of the Federal Rules of Criminal
10 Procedure, notwithstanding any provision of law
11 that would bar such a motion as untimely; and

12 “(B) upon receipt of a motion under sub-
13 paragraph (A), the court that ordered the test-
14 ing shall consider the motion under rule 33 of
15 the Federal Rules of Criminal Procedure, not-
16 withstanding any provision of law that would
17 bar such consideration as untimely.

18 “(h) APPLICABILITY TO FEDERAL HABEAS COR-
19 PUS.—The denial of post-conviction DNA testing by a
20 Federal or State court shall not be a ground for relief in
21 any proceeding under Federal habeas corpus.

22 “(i) COUNSEL.—The court may appoint counsel for
23 an indigent applicant under this section.

1 **“§ 3600A. Prohibition on destruction of biological ma-**
2 **terial**

3 “(a) PROHIBITION.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of law, during the period described in
6 paragraph (2), the Government shall not destroy any
7 biological material preserved in any case in which
8 the identity of the perpetrator was at issue during
9 trial, if the defendant is serving a term of imprison-
10 ment following conviction in that case.

11 “(2) PERIOD DESCRIBED.—The period de-
12 scribed in this paragraph is the period beginning on
13 the date of enactment of this section and ending on
14 the later of—

15 “(A) the expiration of the 30-month period
16 beginning on that date of enactment; or

17 “(B) the date on which any proceedings
18 under section 3600 relating to the case are
19 completed.

20 “(b) SANCTIONS FOR INTENTIONAL VIOLATION.—
21 The court may impose appropriate sanctions, including
22 criminal contempt, for an intentional violation of sub-
23 section (a).”.

24 (2) TECHNICAL AND CONFORMING AMEND-
25 MENT.—The analysis for part II of title 18, United

1 States Code, is amended by inserting after the item
 2 relating to section 228 the following:

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

3 (b) APPLICABILITY.—The amendments made by this
 4 section shall take effect on the date of the enactment of
 5 this title and shall apply with respect to any judgment of
 6 conviction entered before, on, or after that date of enact-
 7 ment.

8 **SEC. 102. REPEAL.**

9 Effective 30 months after the date of the enactment
 10 of this title, this title and the amendments made by this
 11 title are repealed.

12 **TITLE II—CONVICTED** 13 **OFFENDER DNA INDEX SYSTEM**

14 **SEC. 201. AUTHORIZATION OF GRANTS.**

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

18 (1) To carry out, for inclusion in the Combined
 19 DNA Index System of the Federal Bureau of Inves-
 20 tigation, DNA analyses of samples taken from indi-
 21 viduals convicted of a qualifying State offense (as
 22 determined under subsection (b)(2)).

23 (2) To carry out, for inclusion in such Com-
 24 bined DNA Index System, DNA analyses of samples
 25 from crime scenes.

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

5 (b) ELIGIBILITY.—For a State to be eligible to re-
6 ceive a grant under this section, the chief executive officer
7 of the State shall submit to the Attorney General an appli-
8 cation in such form and containing such information as
9 the Attorney General may require. The application shall—

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

15 (2) include a certification that each DNA anal-
16 ysis carried out under the plan shall be maintained
17 pursuant to the privacy requirements described in
18 section 210304(b)(3) of the Violent Crime Control
19 and Law Enforcement Act of 1994 (42 U.S.C.
20 14132(b)(3));

21 (3) include a certification that the State has de-
22 termined, by statute, rule, or regulation, those of-
23 fenses under State law that shall be treated for pur-
24 poses of this section as qualifying State offenses;

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

6 (5) specify that portion of grant amounts that
7 the State shall use for the purpose specified in sub-
8 section (a)(3).

9 (c) CRIMES WITHOUT SUSPECTS.—A State that pro-
10 poses to allocate grant amounts under paragraph (4) or
11 (5) of subsection (b) for the purposes specified in para-
12 graph (2) or (3) of subsection (a) shall use such allocated
13 amounts to conduct or facilitate DNA analyses of those
14 samples that relate to crimes in connection with which
15 there are no suspects.

16 (d) ANALYSIS OF SAMPLES.—

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

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

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

1 (2) QUALITY ASSURANCE STANDARDS.—(A)

2 The Director of the Federal Bureau of Investigation
3 shall maintain and make available to States a de-
4 scription of quality assurance protocols and practices
5 that the Director considers adequate to assure the
6 quality of a forensic laboratory.

7 (B) For purposes of this section, a laboratory
8 satisfies quality assurance standards if the labora-
9 tory satisfies the quality control requirements de-
10 scribed in paragraphs (1) and (2) of section
11 210304(b) of the Violent Crime Control and Law
12 Enforcement Act of 1994 (42 U.S.C. 14132(b)).

13 (3) USE OF VOUCHERS FOR CERTAIN PUR-
14 POSES.—A grant for the purposes specified in para-
15 graph (1) or (2) of subsection (a) may be made in
16 the form of a voucher for laboratory services, which
17 may be redeemed at a laboratory operated by a pri-
18 vate entity approved by the Attorney General that
19 satisfies quality assurance standards. The Attorney
20 General may make payment to such a laboratory for
21 the analysis of DNA samples using amounts author-
22 ized for those purposes under subsection (j).

23 (e) RESTRICTIONS ON USE OF FUNDS.—

24 (1) NONSUPPLANTING.—Funds made available
25 pursuant to this section shall not be used to sup-

1 plant State funds, but shall be used to increase the
2 amount of funds that would, in the absence of Fed-
3 eral funds, be made available from State sources for
4 the purposes of this title.

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

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

14 (1) a summary of the activities carried out
15 under the grant and an assessment of whether such
16 activities are meeting the needs identified in the ap-
17 plication; and

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

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

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

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

3 (h) EXPENDITURE RECORDS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **SEC. 202. COLLECTION AND USE OF DNA IDENTIFICATION**
8 **INFORMATION FROM CERTAIN FEDERAL OF-**
9 **FENDERS.**

10 (a) COLLECTION OF DNA SAMPLES.—

11 (1) FROM INDIVIDUALS IN CUSTODY.—The Di-
12 rector of the Bureau of Prisons shall collect a DNA
13 sample from each individual in the custody of the
14 Bureau of Prisons who is, or has been, convicted of
15 a qualifying Federal offense (as determined under
16 subsection (d)) or a qualifying military offense, as
17 determined under section 1565 of title 10, United
18 States Code.

19 (2) FROM INDIVIDUALS ON RELEASE, PAROLE,
20 OR PROBATION.—The probation office responsible
21 for the supervision under Federal law of an indi-
22 vidual on probation, parole, or supervised release
23 shall collect a DNA sample from each such indi-
24 vidual who is, or has been, convicted of a qualifying
25 Federal offense (as determined under subsection (d))

1 or a qualifying military offense, as determined under
2 section 1565 of title 10, United States Code.

3 (3) INDIVIDUALS ALREADY IN CODIS.—For
4 each individual described in paragraph (1) or (2), if
5 the Combined DNA Index System (in this section
6 referred to as “CODIS”) of the Federal Bureau of
7 Investigation contains a DNA analysis with respect
8 to that individual, or if a DNA sample has been col-
9 lected from that individual under section 1565 of
10 title 10, United States Code, the Director of the Bu-
11 reau of Prisons or the probation office responsible
12 (as applicable) may (but need not) collect a DNA
13 sample from that individual.

14 (4) COLLECTION PROCEDURES.—(A) The Di-
15 rector of the Bureau of Prisons or the probation of-
16 fice responsible (as applicable) may use or authorize
17 the use of such means as are reasonably necessary
18 to detain, restrain, and collect a DNA sample from
19 an individual who refuses to cooperate in the collec-
20 tion of the sample.

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

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

5 (A) guilty of a class A misdemeanor; and

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

8 (b) ANALYSIS AND USE OF SAMPLES.—The Director
9 of the Bureau of Prisons or the probation office respon-
10 sible (as applicable) shall furnish each DNA sample col-
11 lected under subsection (a) to the Director of the Federal
12 Bureau of Investigation, who shall carry out a DNA anal-
13 ysis on each such DNA sample and include the results
14 in CODIS.

15 (c) DEFINITIONS.—In this section:

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

19 (2) The term “DNA analysis” means analysis
20 of the deoxyribonucleic acid (DNA) identification in-
21 formation in a bodily sample.

22 (d) QUALIFYING FEDERAL OFFENSES.—(1) The of-
23 fenses that shall be treated for purposes of this section
24 as qualifying Federal offenses are the following offenses

1 under title 18, United States Code, as determined by the
2 Attorney General:

3 (A) Murder (as described in section 1111 of
4 such title), voluntary manslaughter (as described in
5 section 1112 of such title), or other offense relating
6 to homicide (as described in chapter 51 of such title,
7 sections 1113, 1114, 1116, 1118, 1119, 1120, and
8 1121).

9 (B) An offense relating to sexual abuse (as de-
10 scribed in chapter 109A of such title, sections 2241
11 through 2245), to sexual exploitation or other abuse
12 of children (as described in chapter 110 of such title,
13 sections 2251 through 2252A), or to transportation
14 for illegal sexual activity (as described in chapter
15 117 of such title, sections 2421, 2422, 2423, and
16 2425).

17 (C) Kidnapping (as defined in section
18 3559(e)(2)(E) of such title).

19 (D) Burglary.

20 (E) Attempt or conspiracy to commit any of the
21 above offenses.

22 (2) The initial determination of qualifying Federal of-
23 fenses shall be made not later than 120 days after the
24 date of the enactment of this title.

25 (e) REGULATIONS.—

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

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

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

14 **SEC. 203. COLLECTION AND USE OF DNA IDENTIFICATION**
15 **INFORMATION FROM CERTAIN DISTRICT OF**
16 **COLUMBIA OFFENDERS.**

17 (a) COLLECTION OF DNA SAMPLES.—

18 (1) FROM INDIVIDUALS IN CUSTODY.—The Di-
19 rector of the Bureau of Prisons shall collect a DNA
20 sample from each individual in the custody of the
21 Bureau of Prisons who is, or has been, convicted of
22 a qualifying District of Columbia offense (as deter-
23 mined under subsection (d)).

24 (2) FROM INDIVIDUALS ON RELEASE, PAROLE,
25 OR PROBATION.—The Director of the Court Services

1 and Offender Supervision Agency for the District of
2 Columbia shall collect a DNA sample from each in-
3 dividual under the supervision of the Agency who is
4 on supervised release, parole, or probation who is, or
5 has been, convicted of a qualifying District of Co-
6 lumbia offense (as determined under subsection (d)).

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

15 (4) COLLECTION PROCEDURES.—(A) The Di-
16 rector of the Bureau of Prisons or Agency (as appli-
17 cable) may use or authorize the use of such means
18 as are reasonably necessary to detain, restrain, and
19 collect a DNA sample from an individual who re-
20 fuses to cooperate in the collection of the sample.

21 (B) The Director of the Bureau of Prisons or
22 Agency, as appropriate, may enter into agreements
23 with units of State or local government or with pri-
24 vate entities to provide for the collection of the sam-
25 ples described in paragraph (1) or (2).

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

5 (A) guilty of a class A misdemeanor; and

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

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

14 (c) DEFINITIONS.—In this section:

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

18 (2) The term “DNA analysis” means analysis
19 of the deoxyribonucleic acid (DNA) identification in-
20 formation in a bodily sample.

21 (d) QUALIFYING DISTRICT OF COLUMBIA OF-
22 FENSES.—The Government of the District of Columbia
23 may determine those offenses under the District of Colum-
24 bia Code that shall be treated for purposes of this section
25 as qualifying District of Columbia offenses.

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

6 (f) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Court Services
8 and Offender Supervision Agency for the District of Co-
9 lumbia to carry out this section such sums as may be nec-
10 essary for each of fiscal years 2001 through 2005.

11 **SEC. 204. COLLECTION AND USE OF DNA IDENTIFICATION**
12 **INFORMATION FROM CERTAIN OFFENDERS**
13 **IN THE ARMED FORCES.**

14 (a) IN GENERAL.—(1) Chapter 80 of title 10, United
15 States Code, is amended by adding at the end the fol-
16 lowing new section:

17 **“§ 1565. DNA identification information: collection**
18 **from certain offenders; use**

19 “(a) COLLECTION OF DNA SAMPLES.—(1) The Sec-
20 retary concerned shall collect a DNA sample from each
21 member of the armed forces under the Secretary’s juris-
22 diction who is, or has been, convicted of a qualifying mili-
23 tary offense (as determined under subsection (d)).

24 “(2) For each member described in paragraph (1),
25 if the Combined DNA Index System (in this section re-

1 ferred to as ‘CODIS’) of the Federal Bureau of Investiga-
2 tion contains a DNA analysis with respect to that member,
3 or if a DNA sample has been or is to be collected from
4 that member under section 202(a) of the Criminal Justice
5 Integrity and Law Enforcement Assistance Act, the Sec-
6 retary concerned may (but need not) collect a DNA sam-
7 ple from that member.

8 “(3) The Secretary concerned may enter into agree-
9 ments with other Federal agencies, units of State or local
10 government, or private entities to provide for the collection
11 of samples described in paragraph (1).

12 “(b) ANALYSIS AND USE OF SAMPLES.—The Sec-
13 retary concerned shall furnish each DNA sample collected
14 under subsection (a) to the Secretary of Defense. The Sec-
15 retary of Defense shall carry out a DNA analysis on each
16 such DNA sample and furnish the results of each such
17 analysis to the Director of the Federal Bureau of Inves-
18 tigation for inclusion in CODIS.

19 “(c) DEFINITIONS.—In this section:

20 “(1) The term ‘DNA sample’ means a tissue,
21 fluid, or other bodily sample of an individual on
22 which a DNA analysis can be carried out.

23 “(2) The term ‘DNA analysis’ means analysis
24 of the deoxyribonucleic acid (DNA) identification in-
25 formation in a bodily sample.

1 “(d) QUALIFYING MILITARY OFFENSES.—(1) Sub-
2 ject to paragraph (2), the Secretary of Defense, in con-
3 sultation with the Attorney General, shall determine those
4 felony or sexual offenses under the Uniform Code of Mil-
5 itary Justice that shall be treated for purposes of this sec-
6 tion as qualifying military offenses.

7 “(2) An offense under the Uniform Code of Military
8 Justice that is comparable to a qualifying Federal offense
9 (as determined under section 202(d) of the Criminal Jus-
10 tice Integrity and Law Enforcement Assistance Act), as
11 determined by the Secretary in consultation with the At-
12 torney General, shall be treated for purposes of this sec-
13 tion as a qualifying military offense.

14 “(e) EXPUNGEMENT.—(1) The Secretary of Defense
15 shall promptly expunge, from the index described in sub-
16 section (a) of section 210304 of the Violent Crime Control
17 and Law Enforcement Act of 1994, the DNA analysis of
18 a person included in the index on the basis of a qualifying
19 military offense if the Secretary receives, for each convic-
20 tion of the person of a qualifying offense, a certified copy
21 of a final court order establishing that such conviction has
22 been overturned.

23 “(2) For purposes of paragraph (1), the term ‘quali-
24 fying offense’ means any of the following offenses:

1 “(A) A qualifying Federal offense, as deter-
2 mined under section 202 of the Criminal Justice In-
3 tegrity and Law Enforcement Assistance Act.

4 “(B) A qualifying District of Columbia offense,
5 as determined under section 203 of the Criminal
6 Justice Integrity and Law Enforcement Assistance
7 Act.

8 “(C) A qualifying military offense.

9 “(3) For purposes of paragraph (1), a court order
10 is not ‘final’ if time remains for an appeal or application
11 for discretionary review with respect to the order.

12 “(f) REGULATIONS.—This section shall be carried
13 out under regulations prescribed by the Secretary of De-
14 fense, in consultation with the Secretary of Transportation
15 and the Attorney General. Those regulations shall apply,
16 to the extent practicable, uniformly throughout the armed
17 forces.”.

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

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

21 (b) INITIAL DETERMINATION OF QUALIFYING MILI-
22 TARY OFFENSES.—The initial determination of qualifying
23 military offenses under section 1565(d) of title 10, United
24 States Code, as added by subsection (a)(1), shall be made

1 not later than 120 days after the date of the enactment
2 of this title.

3 (c) COMMENCEMENT OF COLLECTION.—Collection of
4 DNA samples under section 1565(a) of such title, as
5 added by subsection (a)(1), shall, subject to the avail-
6 ability of appropriations, commence not later than the
7 date that is 60 days after the date of the initial determina-
8 tion referred to in subsection (b).

9 **SEC. 205. EXPANSION OF DNA IDENTIFICATION INDEX.**

10 (a) USE OF CERTAIN FUNDS.—Section 811(a)(2) of
11 the Antiterrorism and Effective Death Penalty Act of
12 1996 (28 U.S.C. 531 note) is amended to read as follows:

13 “(2) the Director of the Federal Bureau of In-
14 vestigation shall expand the combined DNA Identifi-
15 cation System (CODIS) to include analyses of
16 DNA samples collected from—

17 “(A) individuals convicted of a qualifying
18 Federal offense, as determined under section
19 202(d) of the Criminal Justice Integrity and
20 Law Enforcement Assistance Act;

21 “(B) individuals convicted of a qualifying
22 District of Columbia offense, as determined
23 under section 203(d) of the Criminal Justice
24 Integrity and Law Enforcement Assistance Act;
25 and

1 “(C) members of the Armed Forces con-
2 victed of a qualifying military offense, as deter-
3 mined under section 1565(d) of title 10, United
4 States Code.”.

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

9 (1) in subsection (b)(1), by inserting after
10 “criminal justice agency” the following: “(or the
11 Secretary of Defense in accordance with section
12 1565 of title 10, United States Code)”;

13 (2) in subsection (b)(2)—

14 (A) by striking “, at regular intervals of
15 not to exceed 180 days,” and inserting “semi-
16 annual”; and

17 (B) by inserting before the semicolon the
18 following: “ (or prepared by the Secretary of
19 Defense in accordance with section 1565 of title
20 10, United States Code)”;

21 (3) in subsection (b)(3), by inserting after
22 “criminal justice agency” the following: “(or the
23 Secretary of Defense in accordance with section
24 1565 of title 10, United States Code)”; and

1 (4) by adding at the end the following new sub-
2 section:

3 “(d) EXPUNGEMENT OF RECORDS.—(1) The Direc-
4 tor of the Federal Bureau of Investigation shall promptly
5 expunge from the index described in subsection (a) the
6 DNA analysis of a person included in the index on the
7 basis of a qualifying Federal offense or a qualifying Dis-
8 trict of Columbia offense (as determined under section
9 202 and 203 of the Criminal Justice Integrity and Law
10 Enforcement Assistance Act, respectively) if the Director
11 receives, for each conviction of the person of a qualifying
12 offense, a certified copy of a final court order establishing
13 that such conviction has been overturned.

14 “(2) For purposes of paragraph (1), the term ‘quali-
15 fying offense’ means any of the following offenses:

16 “(A) A qualifying Federal offense, as deter-
17 mined under section 202 of the Criminal Justice In-
18 tegrity and Law Enforcement Assistance Act.

19 “(B) A qualifying District of Columbia offense,
20 as determined under section 203 of the Criminal
21 Justice Integrity and Law Enforcement Assistance
22 Act.

23 “(C) A qualifying military offense, as deter-
24 mined under section 1565 of title 10, United States
25 Code.

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

4 **SEC. 206. CONDITIONS OF RELEASE.**

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

7 (1) in paragraph (7), by striking “and” at the
8 end;

9 (2) in paragraph (8), by striking the period at
10 the end and inserting “; and”; and

11 (3) by inserting after paragraph (8) the fol-
12 lowing:

13 “(9) that the defendant cooperate in the collec-
14 tion of a DNA sample from the defendant if the col-
15 lection of such a sample is authorized pursuant to
16 section 202 of the Criminal Justice Integrity and
17 Law Enforcement Assistance Act.”.

18 (b) CONDITIONS OF SUPERVISED RELEASE.—Section
19 3583(d) of title 18, United States Code, is amended by
20 inserting before “The court shall also order” the following:
21 “The court shall order, as an explicit condition of super-
22 vised release, that the defendant cooperate in the collec-
23 tion of a DNA sample from the defendant, if the collection
24 of such a sample is authorized pursuant to section 202

1 of the Criminal Justice Integrity and Law Enforcement
2 Assistance Act.”.

3 (c) CONDITIONS OF PAROLE.—Section 4209 of title
4 18, United States Code, insofar as such section remains
5 in effect with respect to certain individuals, is amended
6 by inserting before “In every case, the Commission shall
7 also impose” the following: “In every case, the Commis-
8 sion shall impose as a condition of parole that the parolee
9 cooperate in the collection of a DNA sample from the pa-
10 rolee, if the collection of such a sample is authorized pur-
11 suant to section 202 or section 203 of the Criminal Justice
12 Integrity and Law Enforcement Assistance Act or section
13 1565 of title 10.”.

14 (d) CONDITIONS OF RELEASE GENERALLY.—If the
15 collection of a DNA sample from an individual on proba-
16 tion, parole, or supervised release is authorized pursuant
17 to section 202 or 203 of this title or section 1565 of title
18 10, United States Code, the individual shall cooperate in
19 the collection of a DNA sample as a condition of that pro-
20 bation, parole, or supervised release.

21 **SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.**

22 (a) DRUG CONTROL AND SYSTEM IMPROVEMENT
23 GRANTS.—Section 503(a)(12)(C) of title I of the Omnibus
24 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
25 3753(a)(12)(C)) is amended by striking “, at regular in-

1 tervals of not to exceed 180 days,” and inserting “semi-
2 annual”.

3 (b) DNA IDENTIFICATION GRANTS.—Section
4 2403(3) of title I of the Omnibus Crime Control and Safe
5 Streets Act of 1968 (42 U.S.C. 3796kk–2(3)) is amended
6 by striking “, at regular intervals not exceeding 180
7 days,” and inserting “semiannual”.

8 (c) FEDERAL BUREAU OF INVESTIGATION.—Section
9 210305(a)(1)(A) of the Violent Crime Control and Law
10 Enforcement Act of 1994 (42 U.S.C. 14133(a)(1)(A)) is
11 amended by striking “, at regular intervals of not to ex-
12 ceed 180 days,” and inserting “semiannual”.

13 **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to the Attor-
15 ney General to carry out this title (including to reimburse
16 the Federal judiciary for any reasonable costs incurred in
17 implementing such title, as determined by the Attorney
18 General) such sums as may be necessary.

19 **SEC. 209. PRIVACY PROTECTION STANDARDS.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), any sample collected under, or any result of any anal-
22 ysis carried out under, section 201, 202, or 203 may be
23 used only for a purpose specified in such section.

24 (b) PERMISSIVE USES.—A sample or result described
25 in subsection (a) may be disclosed under the cir-

1 cumstances under which disclosure of information in-
2 cluded in the Combined DNA Index System is allowed,
3 as specified in subparagraphs (A) through (D) of section
4 210304(b)(3) of the Violent Crime Control and Law En-
5 forcement Act of 1994 (42 U.S.C. 14132(b)(3)).

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

7 (1) discloses a sample or result described in
8 subsection (a) in any manner to any person not au-
9 thorized to receive it; or

10 (2) obtains, without authorization, a sample or
11 result described in subsection (a),
12 shall be fined not more than \$100,000.

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