

106TH CONGRESS
1ST SESSION

S. 903

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

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1999

Mr. KOHL (for himself and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

8 (a) DEVELOPMENT OF PLAN.—

9 (1) IN GENERAL.—Not later than 45 days after
10 the date of enactment of this Act, the Director of

1 the Federal Bureau of Investigation, in coordination
2 with the Assistant Attorney General of the Office of
3 Justice Programs at the Department of Justice, and
4 after consultation with representatives of State and
5 local forensic laboratories, shall develop a voluntary
6 plan to assist State and local forensic laboratories in
7 performing DNA analyses of DNA samples collected
8 from convicted offenders.

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

17 (b) PLAN CONDITIONS.—The plan developed under
18 subsection (a) shall—

19 (1) require that each laboratory performing
20 DNA analyses satisfy quality assurance standards
21 and utilize state-of-the-art testing methods, as set
22 forth by the Director of the Federal Bureau of In-
23 vestigation, in coordination with the Assistant Attor-
24 ney General of the Office of Justice Programs of the
25 Department of Justice; and

1 (2) require that each DNA sample collected and
2 analyzed be accessible only—

3 (A) to criminal justice agencies for law en-
4 forcement identification purposes;

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

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

12 (D) if personally identifiable information is
13 removed, for a population statistics database,
14 for identification research and protocol develop-
15 ment purposes, or for quality control purposes.

16 (c) IMPLEMENTATION OF PLAN.—Subject to the
17 availability of appropriations under subsection (d), the Di-
18 rector of the Federal Bureau of Investigation, in coordina-
19 tion with the Assistant Attorney General of the Office of
20 Justice Programs at the Department of Justice, shall im-
21 plement the plan developed pursuant to subsection (a)
22 with State and local forensic laboratories that elect to par-
23 ticipate.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Department of

1 Justice to carry out this section \$15,000,000 for each of
2 fiscal years 2000 and 2001.

3 **SEC. 3. DNA IDENTIFICATION OF FEDERAL, DISTRICT OF**
4 **COLUMBIA, AND MILITARY VIOLENT OFFEND-**
5 **ERS.**

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

10 “(2) the Director of the Federal Bureau of In-
11 vestigation shall expand the combined DNA Identi-
12 fication System (CODIS) to include information on
13 DNA identification records and analyses related to
14 criminal offenses and acts of juvenile delinquency
15 under Federal law, the Uniform Code of Military
16 Justice, and the District of Columbia Code, in ac-
17 cordance with section 210304 of the Violent Crime
18 Control and Law Enforcement Act of 1994 (42
19 U.S.C. 14132).”.

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

24 (1) in subsection (a)(1), by striking “persons
25 convicted of crimes” and inserting “individuals con-

1 victed of criminal offenses or adjudicated delinquent
 2 for acts of juvenile delinquency, including qualifying
 3 offenses (as defined in subsection (d)(1))”;

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

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

8 “(d) INCLUSION OF DNA INFORMATION RELATING
 9 TO VIOLENT OFFENDERS.—

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

11 “(A) the term ‘crime of violence’ has the
 12 meaning given such term in section 924(c)(3) of
 13 title 18, United States Code; and

14 “(B) the term ‘qualifying offense’ means a
 15 criminal offense or act of juvenile delinquency
 16 included on the list established by the Director
 17 of the Federal Bureau of Investigation under
 18 paragraph (2)(A)(i).

19 “(2) REGULATIONS.—

20 “(A) IN GENERAL.—Not later than 90
 21 days after the date of enactment of this sub-
 22 section, and at the discretion of the Director
 23 thereafter, the Director of the Federal Bureau
 24 of Investigation, in consultation with the Direc-
 25 tor of the Bureau of Prisons, the Director of

1 the Court Services and Offender Supervision
2 Agency for the District of Columbia or the
3 Trustee appointed under section 11232(a) of
4 the Balanced Budget Act of 1997 (as appro-
5 priate), and the Chief of Police of the Metro-
6 politan Police Department of the District of Co-
7 lumbia, shall by regulation establish—

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

9 “(ii) standards and procedures for—

10 “(I) the analysis of DNA samples
11 collected from individuals convicted of
12 or adjudicated delinquent for a quali-
13 fying offense;

14 “(II) the inclusion in the index
15 established by this section of the DNA
16 identification records and DNA anal-
17 yses relating to the DNA samples de-
18 scribed in subclause (I); and

19 “(III) the expungement of DNA
20 identification records and DNA anal-
21 yses described in subclause (II) from
22 the index established by this section in
23 any circumstance in which the under-
24 lying conviction or adjudication for

1 the qualifying offense has been re-
2 versed or expunged.

3 “(B) OFFENSES INCLUDED.—The list es-
4 tablished under subparagraph (A)(i) shall
5 include—

6 “(i) each criminal offense or act of ju-
7 venile delinquency under Federal law
8 that—

9 “(I) constitutes a crime of vio-
10 lence; or

11 “(II) in the case of an act of ju-
12 venile delinquency, would, if com-
13 mitted by an adult, constitute a crime
14 of violence;

15 “(ii) each criminal offense under the
16 District of Columbia Code that would, if
17 committed in the special maritime and ter-
18 ritorial jurisdiction of the United States,
19 constitute a crime of violence; and

20 “(iii) any other felony offense under
21 Federal law or the District of Columbia
22 Code, as determined by the Director of the
23 Federal Bureau of Investigation.

24 “(3) FEDERAL OFFENDERS.—

1 “(A) COLLECTION OF SAMPLES FROM FED-
2 ERAL PRISONERS.—

3 “(i) IN GENERAL.—Beginning 180
4 days after the date of enactment of this
5 subsection, the Director of the Bureau of
6 Prisons shall collect a DNA sample from
7 each individual in the custody of the Bu-
8 reau of Prisons who has been convicted of
9 or adjudicated delinquent for a qualifying
10 offense.

11 “(ii) TIME AND MANNER.—The Direc-
12 tor of the Bureau of Prisons shall specify
13 the time and manner of collection of DNA
14 samples under this subparagraph.

15 “(B) COLLECTION OF SAMPLES FROM
16 FEDERAL OFFENDERS ON SUPERVISED RE-
17 LEASE, PAROLE, OR PROBATION.—

18 “(i) IN GENERAL.—Beginning 180
19 days after the date of enactment of this
20 subsection, the agency responsible for the
21 supervision under Federal law of an indi-
22 vidual on supervised release, parole, or pro-
23 bation (other than an individual described
24 in paragraph (4)(B)(i)) shall collect a
25 DNA sample from each individual who has

1 been convicted of or adjudicated delinquent
2 for a qualifying offense.

3 “(ii) TIME AND MANNER.—The Direc-
4 tor of the Administrative Office of the
5 United States Courts shall specify the time
6 and manner of collection of DNA samples
7 under this subparagraph.

8 “(4) DISTRICT OF COLUMBIA OFFENDERS.—

9 “(A) OFFENDERS IN CUSTODY OF DIS-
10 TRICT OF COLUMBIA.—

11 “(i) IN GENERAL.—The Government
12 of the District of Columbia may—

13 “(I) identify 1 or more categories
14 of individuals who are in the custody
15 of, or under supervision by, the Dis-
16 trict of Columbia, from whom DNA
17 samples should be collected; and

18 “(II) collect a DNA sample from
19 each individual in any category identi-
20 fied under clause (i).

21 “(ii) DEFINITION.—In this subpara-
22 graph, the term ‘individuals in the custody
23 of, or under supervision by, the District of
24 Columbia’—

1 “(I) includes any individual in
2 the custody of, or under supervision
3 by, any agency of the Government of
4 the District of Columbia; and

5 “(II) does not include an indi-
6 vidual who is under the supervision of
7 the Director of the Court Services and
8 Offender Supervision Agency for the
9 District of Columbia or the Trustee
10 appointed under section 11232(a) of
11 the Balanced Budget Act of 1997.

12 “(B) OFFENDERS ON SUPERVISED RE-
13 LEASE, PROBATION, OR PAROLE.—

14 “(i) IN GENERAL.—Beginning 180
15 days after the date of enactment of this
16 subsection, the Director of the Court Serv-
17 ices and Offender Supervision Agency for
18 the District of Columbia, or the Trustee
19 appointed under section 11232(a) of the
20 Balanced Budget Act of 1997, as appro-
21 priate, shall collect a DNA sample from
22 each individual under the supervision of
23 the Agency or Trustee, respectively, who is
24 on supervised release, parole, or probation

1 who has been convicted of or adjudicated
2 delinquent for a qualifying offense.

3 “(ii) TIME AND MANNER.—The Direc-
4 tor or the Trustee, as appropriate, shall
5 specify the time and manner of collection
6 of DNA samples under this subparagraph.

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

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

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

20 “(e) INCLUSION OF DNA INFORMATION RELATING
21 TO VIOLENT MILITARY OFFENDERS.—

22 “(1) IN GENERAL.—Not later than 120 days
23 after the date of enactment of this subsection, the
24 Secretary of Defense shall prescribe regulations
25 that—

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

7 “(B) set forth standards and procedures
8 for—

9 “(i) the analysis of DNA samples col-
10 lected from individuals convicted of a
11 qualifying military offense;

12 “(ii) the inclusion in the index estab-
13 lished by this section of the DNA identi-
14 fication records and DNA analyses relating
15 to the DNA samples described in clause
16 (i); and

17 “(iii) the expungement of DNA identi-
18 fication records and DNA analyses de-
19 scribed in clause (ii) from the index estab-
20 lished by this section in any circumstance
21 in which the underlying conviction for the
22 qualifying military offense has been re-
23 versed or the underlying record has been
24 expunged for any other reason.

25 “(2) COLLECTION OF SAMPLES.—

1 “(A) IN GENERAL.—Beginning 180 days
2 after the date of enactment of this subsection,
3 the Secretary of Defense shall collect a DNA
4 sample from each individual under the jurisdic-
5 tion of the Secretary of a military department
6 who has been convicted of a qualifying military
7 offense.

8 “(B) TIME AND MANNER.—The Secretary
9 of Defense shall specify the time and manner of
10 collection of DNA samples under this para-
11 graph.

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

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

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

23 “(f) CRIMINAL PENALTY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (c) CONDITIONS OF RELEASE.—

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

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

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

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

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

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

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

23 (d) REPORT AND EVALUATION.—Not later than 1
24 year after the date of enactment of this Act, the Attorney
25 General, acting through the Assistant Attorney General

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

4 (1) conduct an evaluation to—

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

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

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

24 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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