

Union Calendar No. 21

103D CONGRESS
1ST SESSION

H. R. 829

[Report No. 103-45]

A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

MARCH 29, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. EDWARDS of California (for himself, Mr. HYDE, and Mr. KOPETSKI) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 29, 1993

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 4, 1993]

A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

1 “(12) If any part of a grant made under this
2 part is to be used to develop or improve a DNA anal-
3 ysis capability in a forensic laboratory, a certifi-
4 cation that—

5 “(A) DNA analyses performed at such lab-
6 oratory will satisfy or exceed then current stand-
7 ards for a quality assurance program for DNA
8 analysis, issued by the Director of the Federal
9 Bureau of Investigation under section 3 of the
10 DNA Identification Act of 1993;

11 “(B) DNA samples obtained by, and DNA
12 analyses performed at, such laboratory will be
13 accessible only—

14 “(i) to criminal justice agencies for
15 law enforcement identification purposes;

16 “(ii) for criminal defense purposes, to
17 a defendant, who shall have access to sam-
18 ples and analyses performed in connection
19 with the case in which such defendant is
20 charged; or

21 “(iii) if personally identifiable infor-
22 mation is removed, for a population statis-
23 tics database, for identification research
24 and protocol development purposes, or for
25 quality control purposes; and

1 *officials. The advisory board shall include as members sci-*
2 *entists from state and local forensic laboratories, molecular*
3 *geneticists and population geneticists not affiliated with a*
4 *forensic laboratory, and a representative from the National*
5 *Institute of Standards and Technology. The advisory board*
6 *shall develop, and if appropriate, periodically revise, rec-*
7 *ommended standards for quality assurance, including*
8 *standards for testing the proficiency of forensic laboratories,*
9 *and forensic analysts, in conducting analyses of DNA.*

10 (2) *The Director of the Federal Bureau of Investiga-*
11 *tion, after taking into consideration such recommended*
12 *standards, shall issue (and revise from time to time) stand-*
13 *ards for quality assurance, including standards for testing*
14 *the proficiency of forensic laboratories, and forensic ana-*
15 *lysts, in conducting analyses of DNA.*

16 (3) *The standards described in paragraphs (1) and (2)*
17 *shall specify criteria for quality assurance and proficiency*
18 *tests to be applied to the various types of DNA analyses*
19 *used by forensic laboratories. The standards shall also in-*
20 *clude a system for grading proficiency testing performance*
21 *to determine whether a laboratory is performing acceptably.*

22 (4) *Until such time as the advisory board has made*
23 *recommendations to the Director of the Federal Bureau of*
24 *Investigation and the Director has acted upon those rec-*
25 *ommendations, the quality assurance guidelines adopted by*

1 *the technical working group on DNA analysis methods shall*
2 *be deemed the Director's standards for purposes of this sec-*
3 *tion.*

4 **(b) ADMINISTRATION OF THE ADVISORY BOARD.**—*For*
5 *administrative purposes, the advisory board appointed*
6 *under subsection (a) shall be considered an advisory board*
7 *to the Director of the Federal Bureau of Investigation. Sec-*
8 *tion 14 of the Federal Advisory Committee Act (5 U.S.C.*
9 *App.) shall not apply with respect to the advisory board*
10 *appointed under subsection (a). The board shall cease to*
11 *exist on the date 5 years after the initial appointments are*
12 *made to the board, unless the existence of the board is ex-*
13 *tended by the Director of the Federal Bureau of Investiga-*
14 *tion.*

15 **SEC. 4. INDEX TO FACILITATE LAW ENFORCEMENT EX-**
16 **CHANGE OF DNA IDENTIFICATION INFORMA-**
17 **TION**

18 **(a) IN GENERAL.**—*The Director of the Federal Bureau*
19 *of Investigation may establish an index of—*

20 **(1)** *DNA identification records of persons con-*
21 *victed of crimes;*

22 **(2)** *analyses of DNA samples recovered from*
23 *crime scenes; and*

24 **(3)** *analyses of DNA samples recovered from un-*
25 *identified human remains.*

1 (b) *CONTENT OF INDEX.*—Such index may include
2 only information on DNA identification records and DNA
3 analyses that are—

4 (1) based on analyses performed in accordance
5 with publicly available standards that satisfy or ex-
6 ceed the guidelines for a quality assurance program
7 for DNA analysis, issued by the Director of the Fed-
8 eral Bureau of Investigation under section 3 of the
9 DNA Identification Act of 1993;

10 (2) prepared by laboratories, and DNA analysts,
11 that undergo, at regular intervals of not to exceed 180
12 days, external proficiency testing by a DNA pro-
13 ficiency testing program meeting the standards issued
14 under section 3 of the DNA Identification Act of
15 1993; and

16 (3) maintained by Federal, State, and local
17 criminal justice agencies pursuant to rules that allow
18 disclosure of stored DNA samples and DNA analyses
19 only—

20 (A) to criminal justice agencies for law en-
21 forcement identification purposes;

22 (B) for criminal defense purposes, to a de-
23 fendant, who shall have access to samples and
24 analyses performed in connection with the case
25 in which such defendant is charged; or

1 (C) if personally identifiable information is
2 removed, for a population statistics database, for
3 identification research and protocol development
4 purposes, or for quality control purposes.

5 (c) EXCHANGE SUBJECT TO CANCELLATION.—The ex-
6 change of records authorized by this section is subject to
7 cancellation if the quality control and privacy requirements
8 described in subsection (b) of this section are not met.

9 **SEC. 5. FEDERAL BUREAU OF INVESTIGATION**

10 (a) PROFICIENCY TESTING REQUIREMENTS.—

11 (1) GENERALLY.—Personnel at the Federal Bu-
12 reau of Investigation who perform DNA analyses
13 shall undergo, at regular intervals of not to exceed
14 180 days, external proficiency testing by a DNA pro-
15 ficiency testing program meeting the standards issued
16 under section 3(a). Within one year of the date of en-
17 actment of this Act, the Director of the Federal Bu-
18 reau of Investigation shall arrange for periodic blind
19 external tests to determine the proficiency of DNA
20 analysis performed at the Federal Bureau of Inves-
21 tigation laboratory. As used in this paragraph, the
22 term “blind external test” means a test that is pre-
23 sented to the laboratory through a second agency and
24 appears to the analysts to involve routine evidence.

1 (2) *REPORT.*—For five years after the date of en-
2 actment of this Act, the Director of the Federal Bu-
3 reau of Investigation shall submit to the Committees
4 on the Judiciary of the House and Senate an annual
5 report on the results of each of the tests referred to in
6 paragraph (1).

7 (b) *PRIVACY PROTECTION STANDARDS.*—

8 (1) *GENERALLY.*—Except as provided in para-
9 graph (2), the results of DNA tests performed for a
10 Federal law enforcement agency for law enforcement
11 purposes may be disclosed only—

12 (A) to criminal justice agencies for law en-
13 forcement identification purposes; or

14 (B) for criminal defense purposes, to a de-
15 fendant, who shall have access to samples and
16 analyses performed in connection with the case
17 in which such defendant is charged.

18 (2) *EXCEPTION.*—If personally identifiable infor-
19 mation is removed, test results may be disclosed for
20 a population statistics database, for identification re-
21 search and protocol development purposes, or for
22 quality control purposes.

23 (c) *CRIMINAL PENALTY.*—(1) *Whoever*—

24 (A) by virtue of employment or official position,
25 has possession of, or access to, individually identifi-

1 *able DNA information indexed in a database created*
2 *or maintained by any Federal law enforcement agen-*
3 *cy; and*

4 *(B) willfully discloses such information in any*
5 *manner to any person or agency not entitled to re-*
6 *ceive it;*

7 *shall be fined not more than \$100,000.*

8 *(2) Whoever, without authorization, willfully obtains*
9 *DNA samples or individually identifiable DNA information*
10 *indexed in a database created or maintained by any Fed-*
11 *eral law enforcement agency shall be fined not more than*
12 *\$100,000.*

13 ***SEC. 6. AUTHORIZATION OF APPROPRIATIONS.***

14 *There are authorized to be appropriated to the Federal*
15 *Bureau of Investigation \$4,500,000 for each of fiscal years*
16 *1994 through 1998 to carry out sections 3, 4, and 5 of this*
17 *Act.*

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