

103^D CONGRESS
1ST SESSION

H. R. 829

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 3), 1993

Received

AN ACT

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 *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 “DNA Identification
5 Act of 1993”.

1 **SEC. 2. FUNDING TO IMPROVE THE QUALITY AND AVAIL-**
2 **ABILITY OF DNA ANALYSES FOR LAW EN-**
3 **FORCEMENT IDENTIFICATION PURPOSES.**

4 (a) DRUG CONTROL AND SYSTEM IMPROVEMENT
5 GRANT PROGRAM.—Section 501(b) of title I of the Omni-
6 bus Crime Control and Safe Streets Act of 1968 (42
7 U.S.C. 3751(b)) is amended—

8 (1) in paragraph (20) by striking “and” at the
9 end,

10 (2) in paragraph (21) by striking the period at
11 the end and inserting “; and”, and

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

13 “(22) developing or improving in a forensic lab-
14 oratory a capability to analyze deoxyribonucleic acid
15 (hereinafter in this title referred to as ‘DNA’) for
16 identification purposes.”.

17 (b) STATE APPLICATIONS.—Section 503(a) of title I
18 of the Omnibus Crime Control and Safe Streets Act of
19 1968 (42 U.S.C. 3753(a)) is amended by adding at the
20 end thereof the following new paragraph:

21 “(12) If any part of a grant made under this
22 part is to be used to develop or improve a DNA
23 analysis capability in a forensic laboratory, a certifi-
24 cation that—

25 “(A) DNA analyses performed at such lab-
26 oratory will satisfy or exceed then current

1 standards for a quality assurance program for
2 DNA analysis, issued by the Director of the
3 Federal Bureau of Investigation under section 3
4 of the DNA Identification Act of 1993;

5 “(B) DNA samples obtained by, and DNA
6 analyses performed at, such laboratory will be
7 accessible only—

8 “(i) to criminal justice agencies for
9 law enforcement identification purposes;

10 “(ii) for criminal defense purposes, to
11 a defendant, who shall have access to sam-
12 ples and analyses performed in connection
13 with the case in which such defendant is
14 charged; or

15 “(iii) if personally identifiable infor-
16 mation is removed, for a population statis-
17 tics database, for identification research
18 and protocol development purposes, or for
19 quality control purposes; and

20 “(C) such laboratory, and each analyst
21 performing DNA analyses at such laboratory,
22 will undergo, at regular intervals of not to ex-
23 ceed 180 days, external proficiency testing by a
24 DNA proficiency testing program meeting the

1 standards issued under section 3 of the DNA
2 Identification Act of 1993.”.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
4 1001(a) of the Omnibus Crime Control and Safe Streets
5 Act of 1968 (42 U.S.C. 3793(a)) is amended by adding
6 at the end the following:

7 “(11) There are authorized to be appropriated
8 for each of the fiscal years 1994 through 1998
9 \$10,000,000 for grants to the States for DNA anal-
10 ysis.”.

11 **SEC. 3. QUALITY ASSURANCE AND PROFICIENCY TESTING**
12 **STANDARDS.**

13 (a) PUBLICATION OF QUALITY ASSURANCE AND PRO-
14 FICIENCY TESTING STANDARDS.—(1) Not later than 180
15 days after the date of the enactment of this Act, the Direc-
16 tor of the Federal Bureau of Investigation shall appoint
17 an advisory board on DNA quality assurance methods.
18 The Director shall appoint members of the board from
19 among nominations proposed by the head of the National
20 Academy of Sciences and professional societies of crime
21 laboratory officials. The advisory board shall include as
22 members scientists from state and local forensic labora-
23 tories, molecular geneticists and population geneticists not
24 affiliated with a forensic laboratory, and a representative
25 from the National Institute of Standards and Technology.

1 The advisory board shall develop, and if appropriate, peri-
2 odically revise, recommended standards for quality assur-
3 ance, including standards for testing the proficiency of fo-
4 rensic laboratories, and forensic analysts, in conducting
5 analyses of DNA.

6 (2) The Director of the Federal Bureau of Investiga-
7 tion, after taking into consideration such recommended
8 standards, shall issue (and revise from time to time)
9 standards for quality assurance, including standards for
10 testing the proficiency of forensic laboratories, and foren-
11 sic analysts, in conducting analyses of DNA.

12 (3) The standards described in paragraphs (1) and
13 (2) shall specify criteria for quality assurance and pro-
14 ficiency tests to be applied to the various types of DNA
15 analyses used by forensic laboratories. The standards shall
16 also include a system for grading proficiency testing per-
17 formance to determine whether a laboratory is performing
18 acceptably.

19 (4) Until such time as the advisory board has made
20 recommendations to the Director of the Federal Bureau
21 of Investigation and the Director has acted upon those
22 recommendations, the quality assurance guidelines adopt-
23 ed by the technical working group on DNA analysis meth-
24 ods shall be deemed the Director's standards for purposes
25 of this section.

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

12 **SEC. 4. INDEX TO FACILITATE LAW ENFORCEMENT EX-**
13 **CHANGE OF DNA IDENTIFICATION INFORMA-**
14 **TION**

15 (a) IN GENERAL.—The Director of the Federal Bu-
16 reau of Investigation may establish an index of—

17 (1) DNA identification records of persons con-
18 victed of crimes;

19 (2) analyses of DNA samples recovered from
20 crime scenes; and

21 (3) analyses of DNA samples recovered from
22 unidentified human remains.

23 (b) CONTENT OF INDEX.—Such index may include
24 only information on DNA identification records and DNA
25 analyses that are—

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

7 (2) prepared by laboratories, and DNA ana-
8 lysts, that undergo, at regular intervals of not to ex-
9 ceed 180 days, external proficiency testing by a
10 DNA proficiency testing program meeting the stand-
11 ards issued under section 3 of the DNA Identifica-
12 tion Act of 1993; and

13 (3) maintained by Federal, State, and local
14 criminal justice agencies pursuant to rules that allow
15 disclosure of stored DNA samples and DNA analy-
16 ses only—

17 (A) to criminal justice agencies for law en-
18 forcement identification purposes;

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

23 (C) if personally identifiable information is
24 removed, for a population statistics database,

1 for identification research and protocol develop-
2 ment purposes, or for quality control purposes.

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

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

9 (a) PROFICIENCY TESTING REQUIREMENTS.—

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

1 (2) REPORT.—For five years after the date of
2 enactment of this Act, the Director of the Federal
3 Bureau of Investigation shall submit to the Commit-
4 tees on the Judiciary of the House and Senate an
5 annual report on the results of each of the tests re-
6 ferred to in 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
10 a Federal law enforcement agency for law enforce-
11 ment 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 in-
19 formation is removed, test results may be disclosed
20 for a population statistics database, for identification
21 research 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-

