

112TH CONGRESS
1ST SESSION

S. _____

To protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself, Mr. FRANKEN, Ms. KLOBUCHAR, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, 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 “Justice for All Reau-
5 thorization Act of 2011”.

6 **SEC. 2. CRIME VICTIMS’ RIGHTS.**

7 Section 3771 of title 18, United States Code, is
8 amended—

9 (1) in subsection (a), by adding at the end the
10 following:

11 “(9) The right to be informed of the rights
12 under this section and the services described in sec-
13 tion 503(c) of the Victims’ Rights and Restitution
14 Act of 1990 (42 U.S.C. 10607(c)) and provided con-
15 tact information for the Office of the Victims’
16 Rights Ombudsman of the Department of Justice.”;

17 (2) in subsection (d)(3), in the fifth sentence,
18 by inserting “, unless the litigants, with the approval
19 of the court, have stipulated to a different time pe-
20 riod for consideration” before the period; and

21 (3) in subsection (e)—

22 (A) by striking “this chapter, the term”
23 and inserting the following: “this chapter:

24 “(1) COURT OF APPEALS.—The term ‘court of
25 appeals’ means—

1 “(A) for a violation of the United States
2 Code, the United States court of appeals for the
3 judicial district in which a defendant is being
4 prosecuted; and

5 “(B) for a violation of the District of Co-
6 lumbia Code, the District of Columbia Court of
7 Appeals.

8 “(2) CRIME VICTIM.—

9 “(A) IN GENERAL.—The term”;

10 (B) by striking “In the case” and inserting
11 the following:

12 “(B) MINORS AND CERTAIN OTHER VIC-
13 TIMS.—In the case”; and

14 (C) by adding at the end the following:

15 “(3) DISTRICT COURT; COURT.—The terms
16 ‘district court’ and ‘court’ include the Superior
17 Court of the District of Columbia.”.

18 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS**

19 **FOR CRIME VICTIMS.**

20 (a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—

21 Section 103(b) of the Justice for All Act of 2004 (Public
22 Law 108–405; 118 Stat. 2264) is amended—

23 (1) in paragraph (1), by striking “\$2,000,000”
24 and all that follows through “2009” and inserting

1 “\$5,000,000 for each of fiscal years 2012, 2013,
2 2014, 2015, and 2016”;

3 (2) in paragraph (2), by striking “\$2,000,000”
4 and all that follows through “2009,” and inserting
5 “\$5,000,000 for each of fiscal years 2012, 2013,
6 2014, 2015, and 2016”;

7 (3) in paragraph (3), by striking “\$300,000”
8 and all that follows through “2009,” and inserting
9 “\$500,000 for each of fiscal years 2012, 2013,
10 2014, 2015, and 2016”;

11 (4) in paragraph (4), by striking “\$7,000,000”
12 and all that follows through “2009,” and inserting
13 “\$11,000,000 for each of fiscal years 2012, 2013,
14 2014, 2015, and 2016”; and

15 (5) in paragraph (5), by striking “\$5,000,000”
16 and all that follows through “2009,” and inserting
17 “\$7,000,000 for each of fiscal years 2012, 2013,
18 2014, 2015, and 2016”.

19 (b) CRIME VICTIMS NOTIFICATION GRANTS.—Sec-
20 tion 1404E(c) of the Victims of Crime Act of 1984 (42
21 U.S.C. 10603e(c)) is amended by striking “this
22 section—” and all that follows and inserting “this section
23 \$5,000,000 for each of the fiscal years 2012, 2013, 2014,
24 2015, and 2016.”.

1 **SEC. 4. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.**

2 (a) IN GENERAL.—Section 2 of the DNA Analysis
3 Backlog Elimination Act of 2000 (42 U.S.C. 14135) is
4 amended to read as follows:

5 **“SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PRO-**
6 **GRAM.**

7 “(a) DEFINITIONS.—In this section—

8 “(1) the term ‘backlog for DNA case work’ has
9 the meaning given that term by the Director, in ac-
10 cordance with subsection (b)(3);

11 “(2) the term ‘Combined DNA Index System’
12 means the Combined DNA Index System of the Fed-
13 eral Bureau of Investigation;

14 “(3) the term ‘Director’ means the Director of
15 the National Institute of Justice;

16 “(4) the term ‘emergency response provider’
17 has the meaning given that term in section 2 of the
18 Homeland Security Act of 2002 (6 U.S.C. 101); and

19 “(5) the term ‘State’ means a State of the
20 United States, the District of Columbia, the Com-
21 monwealth of Puerto Rico, the United States Virgin
22 Islands, American Samoa, Guam, and the Northern
23 Mariana Islands.

24 “(b) ESTABLISHMENT OF PROTOCOLS, TECHNICAL
25 ASSISTANCE, AND DEFINITIONS OF EVIDENCE BACKLOG
26 FOR DNA CASE WORK.—

1 “(1) PROTOCOLS AND PRACTICES.—Not later
2 than 18 months after the date of enactment of the
3 Justice for All Reauthorization Act of 2011, the Di-
4 rector shall develop and publish a description of pro-
5 tocols and practices the Director considers appro-
6 priate for the accurate, timely, and effective collec-
7 tion and processing of DNA evidence, including pro-
8 tocols and practices specific to sexual assault cases,
9 which shall address appropriate steps in the inves-
10 tigation of cases that might involve DNA evidence,
11 including—

12 “(A) how to determine—

13 “(i) which evidence is to be collected
14 by law enforcement personnel and for-
15 warded for testing;

16 “(ii) the preferred order in which evi-
17 dence from the same case is to be tested;
18 and

19 “(iii) the preferred order in which evi-
20 dence from different cases is to be tested;

21 “(B) the establishment of a reasonable pe-
22 riod of time in which evidence is to be for-
23 warded by emergency response providers, law
24 enforcement personnel, and prosecutors to a
25 laboratory for testing;

1 “(C) the establishment of reasonable peri-
2 ods of time in which each stage of analytical
3 laboratory testing is to be completed; and

4 “(D) systems to encourage communication
5 within a State or unit of local government
6 among emergency response providers, law en-
7 forcement personnel, prosecutors, courts, de-
8 fense counsel, crime laboratory personnel, and
9 crime victims regarding the status of crime
10 scene evidence to be tested.

11 “(2) TECHNICAL ASSISTANCE AND TRAINING.—
12 The Director shall make available technical assist-
13 ance and training to support States and units of
14 local government in adopting and implementing the
15 protocols and practices developed under paragraph
16 (1) on and after the date on which the protocols and
17 practices are published.

18 “(3) DEFINITION OF BACKLOG FOR DNA CASE
19 WORK.—The Director shall develop and publish a
20 definition of the term ‘backlog for DNA case work’
21 for purposes of this section—

22 “(A) taking into consideration the different
23 stages at which a backlog may develop, includ-
24 ing the investigation and prosecution of a crime
25 by law enforcement personnel, prosecutors, and

1 others, and the laboratory analysis of crime
2 scene samples; and

3 “(B) which may include different criteria
4 or thresholds for the different stages.

5 “(c) AUTHORIZATION OF GRANTS FOR THE COLLEC-
6 TION AND PROCESSING OF DNA EVIDENCE BY LAW EN-
7 FORCEMENT.—

8 “(1) PURPOSE.—The Attorney General may
9 make grants to States or units of local government
10 which may be used to—

11 “(A) ensure that the collection and proc-
12 essing of DNA evidence from crimes, including
13 sexual assault and other serious violent crimes,
14 is carried out in an appropriate and timely
15 manner;

16 “(B) eliminate existing backlogs for DNA
17 case work, including backlogs from sexual as-
18 sault cases; and

19 “(C) ensure effective communication
20 among emergency response providers, law en-
21 forcement personnel, prosecutors, courts, de-
22 fense counsel, crime laboratory personnel, and
23 crime victims regarding the status of crime
24 scene evidence to be tested.

1 “(2) APPLICATION.—A State or unit of local
2 government desiring a grant under this subsection
3 shall submit to the Attorney General an application
4 in such form and containing such information as the
5 Attorney General may require, which shall include—

6 “(A) providing assurances that the State
7 or unit of local government has implemented, or
8 will implement not later than 120 days after
9 the date of the application, a comprehensive
10 plan for the expeditious collection and proc-
11 essing of DNA evidence in accordance with this
12 section; and

13 “(B) specifying the percentage of the
14 amounts received under the grant that the
15 State or unit of local government shall use for
16 the purpose specified in each of subparagraphs
17 (A), (B), and (C) of paragraph (1).

18 “(3) COLLECTION AND PROCESSING OF SAM-
19 PLES.—A plan described in paragraph (2)(A)—

20 “(A) shall require a State or unit of local
21 government to—

22 “(i) adopt the appropriate protocols
23 and practices developed under subsection
24 (b)(1); and

1 “(ii) ensure that emergency response
2 providers, law enforcement personnel, pros-
3 ecutors, and crime laboratory personnel
4 within the jurisdiction of the State or unit
5 of local government receive training on the
6 content and appropriate use of the proto-
7 cols and practices; and

8 “(B) may include the development and im-
9 plementation within the State or unit of local
10 government of an evidence tracking system to
11 ensure effective communication among emer-
12 gency response providers, law enforcement per-
13 sonnel, prosecutors, defense counsel, courts,
14 crime laboratory personnel, and crime victims
15 regarding the status of crime scene evidence
16 subject to DNA analysis.

17 “(4) REPORTING AND PUBLICATION OF DNA
18 BACKLOGS.—

19 “(A) IN GENERAL.—A plan described in
20 paragraph (2)(A) shall require a State or unit
21 of local government to submit to the Attorney
22 General an annual report reflecting the current
23 backlog for DNA case work within the jurisdic-
24 tion in which the funds are used, which shall in-
25 clude—

1 “(i) a specific breakdown of the num-
2 ber of sexual assault cases that are in a
3 backlog for DNA case work and the per-
4 centage of the amounts received under the
5 grant allocated to reducing the backlog of
6 DNA case work in sexual assault cases;

7 “(ii) for each case that is in a backlog
8 for DNA case work, the identity of each
9 agency, office, or contractor of the State or
10 unit of local government in which work
11 necessary to complete the DNA analysis is
12 pending; and

13 “(iii) any other information the Attor-
14 ney General determines appropriate.

15 “(B) COMPILATION.—The Attorney Gen-
16 eral shall annually compile and publish the re-
17 ports submitted under subparagraph (A) on the
18 website of the Department of Justice.

19 “(d) AUTHORIZATION OF GRANTS FOR DNA TEST-
20 ING AND ANALYSIS BY LABORATORIES.—

21 “(1) PURPOSE.—The Attorney General may
22 make grants to States or units of local government
23 to—

24 “(A) carry out, for inclusion in the Com-
25 bined DNA Index System, DNA analyses of

1 samples collected under applicable legal author-
2 ity;

3 “(B) carry out, for inclusion in the Com-
4 bined DNA Index System, DNA analyses of
5 samples from crime scenes, including samples
6 from rape kits, samples from other sexual as-
7 sault evidence, and samples taken in cases with-
8 out an identified suspect;

9 “(C) increase the capacity of laboratories
10 owned by the State or unit of local government
11 to carry out DNA analyses of samples specified
12 in subparagraph (A) or (B);

13 “(D) collect DNA samples specified in sub-
14 paragraph (A); and

15 “(E) ensure that DNA testing and analysis
16 of samples from crimes, including sexual as-
17 sault and other serious violent crimes, are car-
18 ried out in a timely manner.

19 “(2) APPLICATION.—A State or unit of local
20 government desiring a grant under this subsection
21 shall submit to the Attorney General an application
22 in such form and containing such information as the
23 Attorney General may require, which shall include—

24 “(A) providing assurances that the State
25 or unit of local government has implemented, or

1 will implement not later than 120 days after
2 the date of the application, a comprehensive
3 plan for the expeditious DNA analysis of sam-
4 ples in accordance with this section;

5 “(B) certifying that each DNA analysis
6 carried out under the plan shall be maintained
7 in accordance with the privacy requirements de-
8 scribed in section 210304(b)(3) of the Violent
9 Crime Control and Law Enforcement Act of
10 1994 (42 U.S.C. 14132(b)(3));

11 “(C) specifying the percentage of the
12 amounts received under the grant that the
13 State or unit of local government shall use to
14 carry out DNA analyses of samples described in
15 paragraph (1)(A) and the percentage of the
16 amounts the State or unit of local government
17 shall use to carry out DNA analyses of samples
18 described in paragraph (1)(B);

19 “(D) specifying the percentage of the
20 amounts received under the grant that the
21 State or unit of local government shall use for
22 a purpose described in paragraph (1)(C);

23 “(E) if submitted by a unit of local govern-
24 ment, certifying that the unit of local govern-
25 ment has taken, or is taking, all necessary steps

1 to ensure that the unit of local government is
2 eligible to include in the Combined DNA Index
3 System, directly or through a State law enforce-
4 ment agency, all analyses of samples for which
5 the unit of local government has requested
6 funding; and

7 “(F) specifying the percentage of the
8 amounts received under the grant that the
9 State or unit of local government shall use for
10 the purpose described in paragraph (1)(D).

11 “(3) ANALYSIS OF SAMPLES.—

12 “(A) IN GENERAL.—A plan described in
13 paragraph (2)(A) shall require that, except as
14 provided in subparagraph (C), each DNA anal-
15 ysis be carried out in a laboratory that—

16 “(i) satisfies quality assurance stand-
17 ards; and

18 “(ii) is—

19 “(I) operated by the State or a
20 unit of local government; or

21 “(II) operated by a private entity
22 pursuant to a contract with the State
23 or a unit of local government.

24 “(B) QUALITY ASSURANCE STANDARDS.—

1 “(i) IN GENERAL.—The Director of
2 the Federal Bureau of Investigation shall
3 maintain and make available to States and
4 units of local government a description of
5 quality assurance protocols and practices
6 that the Director of the Federal Bureau of
7 Investigation considers adequate to assure
8 the quality of a forensic laboratory.

9 “(ii) EXISTING STANDARDS.—For
10 purposes of this paragraph, a laboratory
11 satisfies quality assurance standards if the
12 laboratory satisfies the quality control re-
13 quirements described in paragraphs (1)
14 and (2) of section 210304(b) of the Violent
15 Crime Control and Law Enforcement Act
16 of 1994 (42 U.S.C. 14132(b)).

17 “(4) USE OF VOUCHERS OR CONTRACTS FOR
18 CERTAIN PURPOSES.—

19 “(A) IN GENERAL.—A grant for a purpose
20 specified in subparagraph (A), (B), (E), or (F)
21 of paragraph (1) may be made in the form of
22 a voucher or contract for laboratory services,
23 even if the laboratory makes a reasonable profit
24 for the services.

1 “(ii) for each case that is in a backlog
2 for DNA case work, the identity of each
3 agency, office, or contractor of the State or
4 unit of local government in which work
5 necessary to complete the DNA analysis is
6 pending; and

7 “(iii) any other information the Attor-
8 ney General determines appropriate.

9 “(B) COMPILATION.—The Attorney Gen-
10 eral shall annually compile and publish the re-
11 ports submitted under subparagraph (A) on the
12 website of the Department of Justice.

13 “(e) FORMULA FOR DISTRIBUTION OF GRANTS.—

14 “(1) IN GENERAL.—Subject to paragraphs (2)
15 and (3), the Attorney General shall distribute grant
16 amounts, and establish appropriate grant conditions
17 under this section, in conformity with a formula or
18 formulas that are designed to effectuate a distribu-
19 tion of funds among States and units of local gov-
20 ernment applying for grants under this section
21 that—

22 “(A) maximizes the effective use of DNA
23 technology to solve crimes and protect public
24 safety; and

1 “(B) allocates grants among States and
2 units of local government fairly and efficiently,
3 across rural and urban jurisdictions, to address
4 States and units of local government in which
5 significant backlogs for DNA case work exist,
6 by considering—

7 “(i) the number of offender and case-
8 work samples awaiting DNA analysis in a
9 State or unit of local government;

10 “(ii) the population in the State or
11 unit of local government;

12 “(iii) the number of part 1 violent
13 crimes in the State or unit of local govern-
14 ment; and

15 “(iv) the availability of resources to
16 train emergency response providers, law
17 enforcement personnel, prosecutors, and
18 crime laboratory personnel on the effective-
19 ness of appropriate and timely DNA collec-
20 tion, processing, and analysis.

21 “(2) MINIMUM AMOUNT.—The Attorney Gen-
22 eral shall allocate to each State not less than 0.50
23 percent of the total amount appropriated in a fiscal
24 year for grants under this section, except that the
25 United States Virgin Islands, American Samoa,

1 Guam, and the Northern Mariana Islands shall each
2 be allocated 0.125 percent of the total amount ap-
3 propriated in a fiscal year for grants under this sec-
4 tion.

5 “(3) LIMITATION.—In distributing grant
6 amounts under paragraph (1), the Attorney General
7 shall ensure that for each of fiscal years 2012
8 through 2016, not less than 40 percent of the grant
9 amounts are awarded for purposes described in sub-
10 section (d)(1)(B).

11 “(f) RESTRICTIONS ON USE OF FUND.—

12 “(1) NONSUPPLANTING.—Funds made available
13 under this section shall not be used to supplant
14 funds of a State or unit of local government, and
15 shall be used to increase the amount of funds that
16 would, in the absence of Federal funds, be made
17 available from the State or unit of local government
18 for the purposes described in this Act.

19 “(2) ADMINISTRATIVE COSTS.—A State or unit
20 of local government may not use more than 3 per-
21 cent of the amounts made available under a grant
22 under this section for administrative expenses relat-
23 ing to the grant.

24 “(g) REPORTS TO THE ATTORNEY GENERAL.—Each
25 State or unit of local government that receives a grant

1 under this section shall submit to the Attorney General,
2 for each year in which funds from a grant received under
3 this section are expended, a report at such time and in
4 such manner as the Attorney General may reasonably re-
5 quire, that contains—

6 “(1) a summary of the activities carried out
7 under the grant and an assessment of whether such
8 activities are meeting the needs identified in the ap-
9 plication; and

10 “(2) such other information as the Attorney
11 General may require.

12 “(h) REPORTS TO CONGRESS.—Not later than 90
13 days after the end of each fiscal year for which grants
14 are made under this section, the Attorney General shall
15 submit to Congress a report that includes—

16 “(1) the aggregate amount of grants made
17 under this section to each State or unit of local gov-
18 ernment for the fiscal year;

19 “(2) a summary of the information provided by
20 States or units of local government receiving grants
21 under this section; and

22 “(3) a description of the priorities and plan for
23 awarding grants among eligible States and units of
24 local government, and how the plan will ensure the

1 effective use of DNA technology to solve crimes and
2 protect public safety.

3 “(i) EXPENDITURE RECORDS.—

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

9 “(2) ACCESS.—Each State or unit of local gov-
10 ernment that receives a grant under this section
11 shall make available, for the purpose of audit and
12 examination, any records relating to the receipt or
13 use of the grant.

14 “(j) USE OF FUNDS FOR ACCREDITATION AND AU-
15 DITS.—The Attorney General may distribute not more
16 than 1 percent of the amounts made available for grants
17 under this section for a fiscal year—

18 “(1) to States or units of local government to
19 defray the costs incurred by laboratories operated by
20 each such State or unit of local government in pre-
21 paring for accreditation or reaccreditation;

22 “(2) in the form of additional grants to States,
23 units of local government, or nonprofit professional
24 organizations of persons actively involved in forensic

1 science and nationally recognized within the forensic
2 science community to—

3 “(A) defray the costs of external audits of
4 laboratories operated by the State or unit of
5 local government, which participates in the Na-
6 tional DNA Index System, to determine wheth-
7 er the laboratory is in compliance with quality
8 assurance standards;

9 “(B) assess compliance with any plans
10 submitted to the Director that detail the use of
11 funds received by States or units of local gov-
12 ernment under this section; and

13 “(C) support capacity building efforts; and

14 “(3) in the form of additional grants to non-
15 profit professional associations actively involved in
16 forensic science and nationally recognized within the
17 forensic science community to defray the costs of
18 training persons who conduct external audits of lab-
19 oratories operated by States and units of local gov-
20 ernment and which participate in the National DNA
21 Index System.

22 “(k) USE OF FUNDS FOR OTHER FORENSIC
23 SCIENCES.—The Attorney General may make a grant
24 under this section to a State or unit of local government
25 to alleviate a backlog of cases with respect to a forensic

1 science other than DNA analysis if the State or unit of
2 local government—

3 “(1) certifies to the Attorney General that in
4 such State or unit—

5 “(A) all of the purposes set forth in sub-
6 sections (c) and (d) have been met;

7 “(B) there is not a backlog for DNA case
8 work, as defined by the Director in accordance
9 with subsection (b)(3); and

10 “(C) there is no need for significant lab-
11 oratory equipment, supplies, or additional per-
12 sonnel for timely processing of DNA case work
13 or offender samples; and

14 “(2) demonstrates to the Attorney General that
15 the State or unit of local government requires assist-
16 ance in alleviating a backlog of cases involving a fo-
17 rensic science other than DNA analysis.

18 “(1) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—
19 If a laboratory operated by a State or unit of local govern-
20 ment which has received funds under this section has un-
21 dergone an external audit conducted to determine whether
22 the laboratory is in compliance with standards established
23 by the Director of the Federal Bureau of Investigation,
24 and, as a result of the audit, identifies measures to remedy
25 deficiencies with respect to the compliance by the labora-

1 tory with the standards, the State or unit of local govern-
2 ment shall implement any such remediation as soon as
3 practicable.

4 “(m) PENALTY FOR NONCOMPLIANCE.—

5 “(1) IN GENERAL.—The Attorney General shall
6 annually compile a list of the States and units of
7 local government receiving a grant under this section
8 that have failed to provide the information required
9 under subsection (c)(4)(A), (d)(5)(A), or (g). The
10 Attorney General shall publish each list compiled
11 under this paragraph on the website of the Depart-
12 ment of Justice.

13 “(2) REDUCTION IN GRANT FUNDS.—For any
14 State or local government that the Attorney General
15 determines has failed to provide the information re-
16 quired under subsection (c)(4)(A), (d)(5)(A), or (g),
17 the Attorney General may not award a grant under
18 this section for the fiscal year after the fiscal year
19 to which the determination relates in an amount
20 that is more than 50 percent of the amount the
21 State or local government would have otherwise re-
22 ceived.

23 “(n) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Attorney General

1 for grants under subsections (c) and (d) \$151,000,000 for
2 each of fiscal years 2012 through 2016.”.

3 (b) REPORT.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of enactment of this Act, the Director of
6 the Federal Bureau of Investigation shall evaluate
7 the policies, standards, and protocols relating to the
8 use of private laboratories in the analysis of DNA
9 evidence, including the mandatory technical review
10 of all outsourced DNA evidence by public labora-
11 tories prior to uploading DNA profiles into the Com-
12 bined DNA Index System of the Federal Bureau of
13 Investigation. The evaluation shall take into consid-
14 eration the need to reduce DNA evidence backlogs
15 while guaranteeing the integrity of the Combined
16 DNA Index System.

17 (2) REPORT TO CONGRESS.—Not later than 30
18 days after the date on which the Director of the
19 Federal Bureau of Investigation completes the eval-
20 uation under paragraph (1), the Director shall sub-
21 mit to Congress a report of the findings of the eval-
22 uation and any proposed policy changes.

23 (c) TRANSITION PROVISION.—

24 (1) DEFINITION.—In this subsection, the term
25 “transition date” means the day after the latter of—

1 (A) the date on which the Director of the
2 National Institute of Justice publishes a defini-
3 tion of the term “backlog for DNA case work”
4 in accordance with section 2(b)(3) of the DNA
5 Analysis Backlog Elimination Act of 2000, as
6 amended by subsection (a); and

7 (B) the date on which the Director of the
8 National Institute of Justice publishes a de-
9 scription of protocols and practices in accord-
10 ance with section 2(b)(1) of the DNA Analysis
11 Backlog Elimination Act of 2000, as amended
12 by subsection (a).

13 (2) GRANT AUTHORITY.—Notwithstanding the
14 amendments made by subsection (a)—

15 (A) the Attorney General may make grants
16 under section 2 of the DNA Analysis Backlog
17 Elimination Act of 2000 (42 U.S.C. 14135), as
18 in effect on the day before the date of enact-
19 ment of this Act, until the transition date; and

20 (B) the Attorney General may not make a
21 grant under section 2 of the DNA Analysis
22 Backlog Elimination Act of 2000, as amended
23 by subsection (a), until the transition date.

1 **SEC. 5. RAPE EXAM PAYMENTS.**

2 Section 2010 of title I of the Omnibus Crime Control
3 and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4) is
4 amended—

5 (1) in subsection (a)(1)—

6 (A) by striking “entity incurs the full” and
7 inserting the following: “entity—

8 “(A) incurs the full”;

9 (B) by striking the period at the end and
10 inserting “; and”; and

11 (C) by adding at the end the following:

12 “(B) coordinates with regional health care
13 providers to notify victims of sexual assault of
14 the availability of rape exams at no cost to the
15 victims.”;

16 (2) in subsection (b)—

17 (A) in paragraph (1), by adding “or” at
18 the end;

19 (B) in paragraph (2), by striking “; or”
20 and inserting a period; and

21 (C) by striking paragraph (3); and

22 (3) in subsection (d), by striking “(d) RULE OF
23 CONSTRUCTION.—” and all that follows through the
24 end of paragraph (1) and inserting the following:

25 “(d) NONCOOPERATION.—

1 “(1) IN GENERAL.—To be in compliance with
2 this section, a State, Indian tribal government, or
3 unit of local government shall comply with sub-
4 section (b) without regard to whether the victim par-
5 ticipates in the criminal justice system or cooperates
6 with law enforcement.”.

7 **SEC. 6. ADDITIONAL REAUTHORIZATIONS.**

8 (a) DNA RESEARCH AND DEVELOPMENT.—Section
9 305(c) of the Justice for All Act of 2004 (42 U.S.C.
10 14136b(c)) is amended by striking “fiscal years 2005
11 through 2009” and inserting “fiscal years 2012 through
12 2016”.

13 (b) FBI DNA PROGRAMS.—Section 307(a) of the
14 Justice for All Act of 2004 (Public Law 108–405; 118
15 Stat. 2275) is amended by striking “fiscal years 2005
16 through 2009” and inserting “fiscal years 2012 through
17 2016”.

18 (c) DNA IDENTIFICATION OF MISSING PERSONS.—
19 Section 308(c) of the Justice for All Act of 2004 (42
20 U.S.C. 14136d(c)) is amended by striking “fiscal years
21 2005 through 2009” and inserting “fiscal years 2012
22 through 2016”.

1 **SEC. 7. PAUL COVERDELL FORENSIC SCIENCES IMPROVE-**
2 **MENT GRANTS.**

3 Section 1001(a)(24) of title I of the Omnibus Crime
4 Control and Safe Streets Act of 1968 (42 U.S.C.
5 3793(a)(24)) is amended—

6 (1) in subparagraph (H), by striking “and” at
7 the end;

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

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

11 “(K) \$35,000,000 for each of fiscal years
12 2012 through 2016.”.

13 **SEC. 8. IMPROVING THE QUALITY OF REPRESENTATION IN**
14 **STATE CAPITAL CASES.**

15 Section 426 of the Justice for All Act of 2004 (42
16 U.S.C. 14163e) is amended—

17 (1) in subsection (a), by striking “\$75,000,000
18 for each of fiscal years 2005 through 2009” and in-
19 serting “\$50,000,000 for each of fiscal years 2012
20 through 2016”; and

21 (2) in subsection (b), by inserting before the pe-
22 riod at the end the following: “, or upon a showing
23 of good cause, and at the discretion of the Attorney
24 General, the State may determine a fair allocation of
25 funds across the uses described in sections 421 and
26 422.”.

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

2 (a) IN GENERAL.—Section 3600 of title 18, United
3 States Code, is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)(B)(i), by striking
6 “death”; and

7 (B) in paragraph (3)(A), by striking “and
8 the applicant did not—” and all that follows
9 through “knowingly fail to request” and insert-
10 ing “and the applicant did not knowingly fail to
11 request”; and

12 (2) in subsection (g)(2)—

13 (A) in the matter preceding subparagraph
14 (A), by striking “establish by compelling evi-
15 dence” and inserting “establish by a preponder-
16 ance of the evidence”; and

17 (B) in subparagraph (B), by striking
18 “death”.

19 (b) PRESERVATION OF BIOLOGICAL EVIDENCE.—
20 Section 3600A(c) of title 18, United States Code, is
21 amended—

22 (1) by striking paragraph (2); and

23 (2) by redesignating paragraphs (3), (4), and
24 (5) as paragraphs (2), (3), and (4), respectively.

1 **SEC. 10. INCENTIVE GRANTS TO STATES TO ENSURE CON-**
2 **SIDERATION OF CLAIMS OF ACTUAL INNO-**
3 **CENCE.**

4 (a) IN GENERAL.—Section 413 of the Justice for All
5 Act of 2004 (42 U.S.C. 14136 note) is amended—

6 (1) in the matter preceding paragraph (1), by
7 striking “fiscal years 2005 through 2009” and in-
8 serting “fiscal years 2012 through 2016”; and

9 (2) by striking paragraph (2) and inserting the
10 following:

11 “(2) provide a certification by the chief legal of-
12 ficer of the State in which the eligible entity oper-
13 ates or the chief legal officer of the jurisdiction in
14 which the funds will be used for the purposes of the
15 grants, that the State or jurisdiction—

16 “(A) provides DNA testing of specified evi-
17 dence under a State statute to persons con-
18 victed after trial and under a sentence of im-
19 prisonment or death for a State felony offense,
20 in a manner that ensures a reasonable process
21 for resolving claims of actual innocence con-
22 sistent with section 3600(a) of title 18, United
23 States Code (which may include making post-
24 conviction DNA testing available in cases in
25 which the testing would not be required under
26 that section) and, if the results of the testing

1 exclude the applicant as the perpetrator of the
2 offense, permits the applicant to apply for post-
3 conviction relief, notwithstanding any provision
4 of law that would otherwise bar the application
5 as untimely; and

6 “(B) preserves biological evidence under a
7 State statute or a State or local rule, regula-
8 tion, or practice in a manner intended to ensure
9 that reasonable measures are taken by the
10 State or jurisdiction to preserve biological evi-
11 dence secured in relation to the investigation or
12 prosecution of a State felony offense (including,
13 at a minimum murder, non-negligent man-
14 slaughter and sexual offenses) in a manner con-
15 sistent with section 3600A of title 18, United
16 States (which may require preservation of bio-
17 logical evidence for longer than the period of
18 time that the evidence would be required to be
19 preserved under that section).”.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
21 412(b) of the Justice for All Act of 2004 (42 U.S.C.
22 14136e(b)) is amended—

23 (1) by striking “fiscal years 2005 through
24 2009” and inserting “fiscal years 2012 through
25 2016”; and

1 (2) by striking “\$5,000,000” and inserting
2 “\$10,000,000”.

3 **SEC. 11. ESTABLISHMENT OF NATIONAL STANDARDS PRO-**
4 **MULGATED BY NIJ.**

5 (a) IN GENERAL.—Subtitle A of title IV of the Jus-
6 tice for All Act of 2004 (Public Law 108–405; 118 Stat.
7 2278) is amended by adding at the end the following:

8 **“SEC. 414. ESTABLISHMENT OF NATIONAL STANDARDS**
9 **PROMULGATED BY NIJ.**

10 “(a) IN GENERAL.—The Director of the National In-
11 stitute of Justice shall—

12 “(1) establish best practices for evidence reten-
13 tion; and

14 “(2) assist State, local, and tribal governments
15 in adopting and implementing the best practices es-
16 tablished under paragraph (1).

17 “(b) DEADLINE.—Not later than 1 year after the
18 date of enactment of this section, the Director of the Na-
19 tional Institute of Justice shall publish the best practices
20 established under subsection (a)(1).”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 The table of contents in section 1(b) of the Justice for
23 All Act of 2004 (Public Law 108–405; 118 Stat. 2260)
24 is amended by inserting after the item relating to section
25 413 the following:

“Sec. 414. Establishment of national standards promulgated by NIJ.”.

1 **SEC. 12. EFFECTIVE ADMINISTRATION OF CRIMINAL JUS-**
2 **TICE.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Effective Administration of Criminal Justice Act of
5 2011”.

6 (b) **STRATEGIC PLANNING.**—Section 502 of title I of
7 the Omnibus Crime Control and Safe Streets Act of 1968
8 (42 U.S.C. 3752) is amended—

9 (1) by inserting “(a) **IN GENERAL.**—” before
10 “To request a grant”; and

11 (2) by adding at the end the following:

12 “(6) A comprehensive State-wide plan detailing
13 how grants received under this section will be used
14 to improve the administration of the criminal justice
15 system, which shall—

16 “(A) be designed in consultation with local
17 governments, and all segments of the criminal
18 justice system, including judges, prosecutors,
19 law enforcement personnel, corrections per-
20 sonnel, and providers of indigent defense serv-
21 ices, victim services, juvenile justice delinquency
22 prevention programs, community corrections,
23 and reentry services;

24 “(B) include a description of how the State
25 will allocate funding within and among each of

1 the uses described in subparagraphs (A)
2 through (G) of section 501(a)(1);

3 “(C) describe the process used by the State
4 for gathering evidence-based data and devel-
5 oping and using evidence-based and evidence-
6 gathering approaches in support of funding de-
7 cisions; and

8 “(D) be updated every 5 years, with an-
9 nual progress reports that—

10 “(i) address changing circumstances
11 in the State, if any;

12 “(ii) describe how the State plans to
13 adjust funding within and among each of
14 the uses described in subparagraphs (A)
15 through (G) of section 501(a)(1);

16 “(iii) provide an ongoing assessment
17 of need;

18 “(iv) discuss the accomplishment of
19 goals identified in any plan previously pre-
20 pared under this paragraph; and

21 “(v) reflect how the plan influenced
22 funding decisions in the previous year.

23 “(b) TECHNICAL ASSISTANCE.—

24 “(1) STRATEGIC PLANNING.—Not later than 90
25 days after the date of enactment of this subsection,

1 the Attorney General shall begin to provide technical
2 assistance to States and local governments request-
3 ing support to develop and implement the strategic
4 plan required under subsection (a)(6).

5 “(2) PROTECTION OF CONSTITUTIONAL
6 RIGHTS.—Not later than 90 days after the date of
7 enactment of this subsection, the Attorney General
8 shall begin to provide technical assistance to States
9 and local governments, including any agent thereof
10 with responsibility for administration of justice, re-
11 questing support to meet the obligations established
12 by the Sixth Amendment to the Constitution of the
13 United States, which shall include—

14 “(A) public dissemination of practices,
15 structures, or models for the administration of
16 justice consistent with the requirements of the
17 Sixth Amendment; and

18 “(B) assistance with adopting and imple-
19 menting a system for the administration of jus-
20 tice consistent with the requirements of the
21 Sixth Amendment.

22 “(3) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated \$5,000,000
24 for each of fiscal years 2012 through 2016 to carry
25 out this subsection.”.

1 (c) PROTECTION OF CONSTITUTIONAL RIGHTS.—

2 (1) UNLAWFUL CONDUCT.—It shall be unlawful
3 for any governmental authority, or any agent there-
4 of, or any person acting on behalf of a governmental
5 authority, to engage in a pattern or practice of con-
6 duct by officials or employees of any governmental
7 agency with responsibility for the administration of
8 justice, including the administration of programs or
9 services that provide appointed counsel to indigent
10 defendants, that deprives persons of their rights to
11 assistance of counsel as protected under the Sixth
12 Amendment and Fourteenth Amendment to the
13 Constitution of the United States.

14 (2) CIVIL ACTION BY ATTORNEY GENERAL.—
15 Whenever the Attorney General has reasonable cause
16 to believe that a violation of paragraph (1) has oc-
17 curred, the Attorney General, for or in the name of
18 the United States, may, in a civil action, obtain ap-
19 propriate equitable and declaratory relief to elimi-
20 nate the pattern or practice.

21 (3) EFFECTIVE DATE.—This subsection shall
22 take effect 2 years after the date of enactment of
23 this Act.