

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. 250

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Justice for All Reau-
- 5 thorization Act of 2012”.

1 **SEC. 2. CRIME VICTIMS' RIGHTS.**

2 (a) IN GENERAL.—Section 3771 of title 18, United
3 States Code, is amended—

4 (1) in subsection (a), by adding at the end the
5 following:

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

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

16 (3) in subsection (e)—

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

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

21 “(A) the United States court of appeals for
22 the judicial district in which a defendant is
23 being prosecuted; or

24 “(B) for a prosecution in the Superior
25 Court of the District of Columbia, the District
26 of Columbia Court of Appeals.

1 “(2) CRIME VICTIM.—

2 “(A) IN GENERAL.—The term”;

3 (B) by striking “In the case” and inserting
4 the following:

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

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

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

11 (b) CRIME VICTIMS FUND.—Section 1402(d)(3) of
12 the Victims of Crime Act of 1984 (42 U.S.C.10601(d)(3))
13 is amended by—

14 (1) inserting “(A)” before “Of the sums”; and

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

16 “(B) Amounts made available under subpara-
17 graph (A) may not be used for any purpose that is
18 not specified in subparagraph (A).”.

19 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS**
20 **FOR CRIME VICTIMS.**

21 (a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—
22 Section 103(b) of the Justice for All Act of 2004 (Public
23 Law 108–405; 118 Stat. 2264) is amended—

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

1 “\$5,000,000 for each of fiscal years 2013, 2014,
2 2015, 2016, and 2017”;

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 2013, 2014,
6 2015, 2016, and 2017”;

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 2013, 2014,
10 2015, 2016, and 2017”;

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 2013, 2014,
14 2015, 2016, and 2017”; 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 2013, 2014,
18 2015, 2016, and 2017”.

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 fiscal years 2013, 2014, 2015,
24 2016, and 2017.”.

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) AWAITING TESTING.—The term ‘awaiting
9 testing’, with respect to DNA case work, has the
10 meaning given that term by the Director, in accord-
11 ance with subsection (b)(3).

12 “(2) BACKLOG FOR DNA CASE WORK.—The
13 term ‘backlog for DNA case work’ has the meaning
14 given that term by the Director, in accordance with
15 subsection (b)(3).

16 “(3) COMBINED DNA INDEX SYSTEM.—The
17 term ‘Combined DNA Index System’ means the
18 Combined DNA Index System of the Federal Bu-
19 reau of Investigation.

20 “(4) DIRECTOR.—The term ‘Director’ means
21 the Director of the National Institute of Justice.

22 “(5) EMERGENCY RESPONSE PROVIDER.—The
23 term ‘emergency response provider’ has the meaning
24 given that term in section 2 of the Homeland Secu-
25 rity Act of 2002 (6 U.S.C. 101).

1 “(6) POSSESSION.—The term ‘possession’, with
2 respect to DNA case work, has the meaning given
3 that term by the Director, in accordance with sub-
4 section (b)(3).

5 “(7) STATE.—The term ‘State’ means a State
6 of the United States, the District of Columbia, the
7 Commonwealth of Puerto Rico, the United States
8 Virgin Islands, American Samoa, Guam, and the
9 Northern Mariana Islands.

10 “(b) ESTABLISHMENT OF PROTOCOLS, TECHNICAL
11 ASSISTANCE, AND DEFINITIONS OF EVIDENCE BACKLOG
12 FOR DNA CASE WORK.—

13 “(1) PROTOCOLS AND PRACTICES.—Not later
14 than 18 months after the date of enactment of the
15 Justice for All Reauthorization Act of 2012, the Di-
16 rector, in consultation with Federal, State, and local
17 law enforcement agencies and government labora-
18 tories, shall develop and publish a description of pro-
19 tocols and practices the Director considers appro-
20 priate for the accurate, timely, and effective collec-
21 tion and processing of DNA evidence, including pro-
22 tocols and practices specific to sexual assault cases,
23 which shall address appropriate steps in the inves-
24 tigation of cases that might involve DNA evidence,
25 including—

1 “(A) how to determine—

2 “ (i) which evidence is to be collected
3 by law enforcement personnel and for-
4 warded for testing;

5 “ (ii) the preferred order in which evi-
6 dence from the same case is to be tested;
7 and

8 “ (iii) what information to take into
9 account when establishing the order in
10 which evidence from different cases is to be
11 tested;

12 “(B) the establishment of a reasonable pe-
13 riod of time in which evidence is to be for-
14 warded by emergency response providers, law
15 enforcement personnel, and prosecutors to a
16 laboratory for testing;

17 “(C) the establishment of reasonable peri-
18 ods of time in which each stage of analytical
19 laboratory testing is to be completed;

20 “(D) systems to encourage communication
21 within a State or unit of local government
22 among emergency response providers, law en-
23 forcement personnel, prosecutors, courts, de-
24 fense counsel, crime laboratory personnel, and

1 crime victims regarding the status of crime
2 scene evidence to be tested; and

3 “(E) standards for conducting the audit of
4 the backlog for DNA case work in sexual as-
5 sult cases required under subsection (c)(5).

6 “(2) TECHNICAL ASSISTANCE AND TRAINING.—

7 The Director shall make available technical assist-
8 ance and training to support States and units of
9 local government in adopting and implementing the
10 protocols and practices developed under paragraph
11 (1) on and after the date on which the protocols and
12 practices are published.

13 “(3) DEFINITIONS.—The Director, in consulta-
14 tion with Federal, State, and local law enforcement
15 agencies and government laboratories, shall develop
16 and publish, for purposes of this section, definitions
17 of—

18 “(A) the term ‘awaiting testing’, which
19 shall take into account the need for testing of
20 the sample to close an open investigation;

21 “(B) the term ‘backlog for DNA case
22 work’, which—

23 “(i) shall take into consideration the
24 different stages at which a backlog may
25 develop, including the investigation and

1 prosecution of a crime by law enforcement
2 personnel, prosecutors, and others, and the
3 laboratory analysis of crime scene samples;
4 and

5 “(ii) may include different criteria or
6 thresholds for the different stages; and

7 “(C) the term ‘possession’.

8 “(c) AUTHORIZATION OF GRANTS.—

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

12 “(A) carry out, for inclusion in the Com-
13 bined DNA Index System, DNA analyses of
14 samples collected under applicable legal author-
15 ity;

16 “(B) carry out, for inclusion in the Com-
17 bined DNA Index System, DNA analyses of
18 samples from crime scenes, including samples
19 from rape kits, samples from other sexual as-
20 sault evidence, and samples taken in cases with-
21 out an identified suspect;

22 “(C) increase the capacity of laboratories
23 owned by the State or unit of local government
24 to carry out DNA analyses of samples specified
25 in subparagraph (A) or (B);

1 “(D) ensure that DNA testing and anal-
2 ysis of samples from crimes, including sexual
3 assault and other violent crimes against per-
4 sons, are carried out in a timely manner;

5 “(E) ensure that the collection and proc-
6 essing of DNA evidence by law enforcement
7 agencies from crimes, including sexual assault
8 and other violent crimes against persons, is car-
9 ried out in an appropriate and timely manner
10 and in accordance with the protocols and prac-
11 tices developed under subsection (b)(1);

12 “(F) ensure effective communication re-
13 garding the status of crime scene evidence to be
14 tested among emergency response providers,
15 law enforcement personnel, prosecutors, courts,
16 defense counsel, crime laboratory personnel, vic-
17 tim service professionals who work for law en-
18 forcement agencies or prosecutors’ offices, and
19 crime victims, which may include the develop-
20 ment and implementation of an evidence track-
21 ing system in accordance with the protocols and
22 practices developed under subsection (b)(1);
23 and

24 “(G) collect DNA samples as described in
25 subparagraph (A).

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) assurances that the State or unit of
7 local government has implemented, or will im-
8 plement not later than 120 days after the date
9 of the award of the grant, a comprehensive
10 plan—

11 “(i) for the expeditious collection,
12 processing, and analysis of DNA evidence
13 in accordance with this section; and

14 “(ii) that requires a State or unit of
15 local government that is awarded a grant
16 under paragraph (1)(E) to—

17 “(I) adopt the appropriate proto-
18 cols and practices developed under
19 subsection (b)(1); and

20 “(II) provide training with re-
21 spect to the protocols and procedures
22 for appropriate personnel within a
23 reasonable time after the promulga-
24 tion of the protocols and practices;

1 “(B) a certification that each DNA anal-
2 ysis carried out under the plan shall be main-
3 tained in accordance with the privacy require-
4 ments described in section 210304(b)(3) of the
5 Violent Crime Control and Law Enforcement
6 Act of 1994 (42 U.S.C. 14132(b)(3));

7 “(C) if submitted by a unit of local govern-
8 ment, a certification that the unit of local gov-
9 ernment has taken, or is taking, all appropriate
10 steps to ensure that the unit of local govern-
11 ment is eligible to include in the Combined
12 DNA Index System, directly or through a State
13 law enforcement agency that is responsible for
14 Combined DNA Index System database oper-
15 ation and administration, all analyses of sam-
16 ples for which the unit of local government has
17 requested funding; and

18 “(D) an estimation of the percentage of
19 the amounts received under the grant that the
20 State or unit of local government shall use for
21 each purpose described in paragraph (1) for
22 which the State or unit of local government re-
23 ceived the grant.

24 “(3) ANALYSIS OF SAMPLES.—

1 “(A) IN GENERAL.—A plan described in
2 paragraph (2)(A) shall require that, except as
3 provided in paragraph (4), each DNA analysis
4 be carried out in a laboratory that—

5 “(i) satisfies quality assurance stand-
6 ards as specified in subparagraph (B); and

7 “(ii) is—

8 “(I) operated by the State or a
9 unit of local government; or

10 “(II) operated by a private entity
11 pursuant to a contract with the State
12 or a unit of local government.

13 “(B) QUALITY ASSURANCE STANDARDS.—

14 “(i) IN GENERAL.—The Director of
15 the Federal Bureau of Investigation shall
16 maintain and make available to States and
17 units of local government a description of
18 quality assurance protocols and practices
19 that the Director of the Federal Bureau of
20 Investigation considers adequate to assure
21 the quality of a forensic laboratory.

22 “(ii) EXISTING STANDARDS.—For
23 purposes of this paragraph, a laboratory
24 satisfies quality assurance standards if the
25 laboratory satisfies the quality control re-

1 requirements described in paragraphs (1)
2 and (2) of section 210304(b) of the Violent
3 Crime Control and Law Enforcement Act
4 of 1994 (42 U.S.C. 14132(b)).

5 “(4) USE OF VOUCHERS OR CONTRACTS FOR
6 CERTAIN PURPOSES.—

7 “(A) IN GENERAL.—A grant for a purpose
8 specified in subparagraph (A), (B), or (D) of
9 paragraph (1) may be made in the form of a
10 voucher or contract for laboratory services, even
11 if the laboratory makes a reasonable profit for
12 the services.

13 “(B) REDEMPTION.—A voucher or con-
14 tract under subparagraph (A) may be redeemed
15 at a laboratory operated on a nonprofit or for-
16 profit basis, by a private entity that satisfies
17 quality assurance standards as specified by
18 paragraph (3)(B) and has been approved by the
19 Attorney General.

20 “(C) PAYMENTS.—The Attorney General
21 may use amounts appropriated to carry out this
22 section to make payments to a laboratory de-
23 scribed under subparagraph (B).

24 “(5) AUDITS AND PUBLICATION OF DNA BACK-
25 LOGS IN SEXUAL ASSAULT CASES.—

1 “(A) IN GENERAL.—A plan described in
2 paragraph (2)(A) shall require the State or unit
3 of local government to submit to the Attorney
4 General an audit every 2 years reflecting the
5 backlog for DNA case work in sexual assault
6 cases within the jurisdiction in which the funds
7 will be used, including a specific breakdown of
8 cases, as determined by the Director (in con-
9 sultation with Federal, State, and local law en-
10 forcement agencies and government laboratories
11 under subsection (b)(1)), and the percentage of
12 the amounts received under the grant allocated
13 to reducing the backlog of DNA case work in
14 sexual assault cases.

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

19 “(d) FORMULA FOR DISTRIBUTION OF GRANTS.—

20 “(1) IN GENERAL.—Subject to paragraphs (2)
21 and (3), the Attorney General shall distribute grant
22 amounts, and establish appropriate grant conditions
23 under this section, in conformity with a formula or
24 formulas that are designed to effectuate a distribu-
25 tion of funds among States and units of local gov-

1 ernment applying for grants under this section
2 that—

3 “(A) maximizes the effective use of DNA
4 technology to solve crimes and protect public
5 safety; and

6 “(B) allocates grants among States and
7 units of local government fairly and efficiently,
8 across rural and urban jurisdictions, to address
9 States and units of local government in which
10 significant backlogs for DNA case work exist,
11 by considering—

12 “(i) the number of offender and case-
13 work samples awaiting testing in a State
14 or unit of local government;

15 “(ii) the population in the State or
16 unit of local government;

17 “(iii) the number of part 1 violent
18 crimes in the State or unit of local govern-
19 ment; and

20 “(iv) the availability of resources to
21 train emergency response providers, law
22 enforcement personnel, prosecutors, and
23 crime laboratory personnel on the effective-
24 ness of appropriate and timely DNA collec-
25 tion, processing, and analysis.

1 “(2) MINIMUM AMOUNT.—The Attorney Gen-
2 eral shall allocate to each State not less than 0.50
3 percent of the total amount appropriated in a fiscal
4 year for grants under this section, except that the
5 United States Virgin Islands, American Samoa,
6 Guam, and the Northern Mariana Islands shall each
7 be allocated 0.125 percent of the total amount ap-
8 propriated in a fiscal year for grants under this sec-
9 tion.

10 “(3) LIMITATION.—In distributing grant
11 amounts under paragraph (1), the Attorney General
12 shall ensure that for each of fiscal years 2013
13 through 2017, not less than 75 percent of the grant
14 amounts are awarded for purposes described in sub-
15 paragraphs (A), (B), or (C) of subsection (c)(1).

16 “(4) AUDIT LIMITATION.—Not more than 3
17 percent of the amount awarded under a grant under
18 this section may be used to conduct an audit under
19 subsection (c)(5).

20 “(e) RESTRICTIONS ON USE OF FUNDS.—

21 “(1) NONSUPPLANTING.—Funds made available
22 under this section shall not be used to supplant
23 funds of a State or unit of local government, and
24 shall be used to increase the amount of funds that
25 would, in the absence of Federal funds, be made

1 available from the State or unit of local government
2 for the purposes described in this Act.

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

8 “(f) REPORTS TO THE ATTORNEY GENERAL.—Each
9 State or unit of local government that receives a grant
10 under this section shall submit to the Attorney General,
11 for each year in which funds from a grant received under
12 this section are expended, a report at such time and in
13 such manner as the Attorney General may reasonably re-
14 quire, that contains—

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

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

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

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

4 “(2) a summary of the information provided by
5 States or units of local government receiving grants
6 under this section; and

7 “(3) a description of the priorities and plan for
8 awarding grants among eligible States and units of
9 local government, and how the plan will ensure the
10 effective use of DNA technology to solve crimes and
11 protect public safety.

12 “(h) EXPENDITURE RECORDS.—

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

18 “(2) ACCESS.—Each State or unit of local gov-
19 ernment that receives a grant under this section
20 shall make available, for the purpose of audit and
21 examination, any records relating to the receipt or
22 use of the grant.

23 “(i) USE OF FUNDS FOR ACCREDITATION AND AU-
24 DITS.—The Attorney General may distribute not more

1 than 1 percent of the amounts made available for grants
2 under this section for a fiscal year—

3 “(1) to States or units of local government to
4 defray the costs incurred by laboratories operated by
5 each such State or unit of local government in pre-
6 paring for accreditation or reaccreditation;

7 “(2) in the form of additional grants to States,
8 units of local government, or nonprofit professional
9 organizations of persons actively involved in forensic
10 science and nationally recognized within the forensic
11 science community to—

12 “(A) defray the costs of external audits of
13 laboratories operated by the State or unit of
14 local government, which participates in the Na-
15 tional DNA Index System, to determine wheth-
16 er the laboratory is in compliance with quality
17 assurance standards;

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

22 “(C) support capacity building efforts; and

23 “(3) in the form of additional grants to non-
24 profit professional associations actively involved in
25 forensic science and nationally recognized within the

1 forensic science community to defray the costs of
2 training persons who conduct external audits of lab-
3 oratories operated by States and units of local gov-
4 ernment and which participate in the National DNA
5 Index System.

6 “(j) USE OF FUNDS FOR OTHER FORENSIC
7 SCIENCES.—The Attorney General may make a grant
8 under this section to a State or unit of local government
9 to alleviate a backlog of cases with respect to a forensic
10 science other than DNA analysis if the State or unit of
11 local government—

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

14 “(A) all of the purposes set forth in sub-
15 section (c) have been met;

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

19 “(C) there is no need for significant lab-
20 oratory equipment, supplies, or additional per-
21 sonnel for timely processing of DNA case work
22 or offender samples; and

23 “(2) demonstrates to the Attorney General that
24 the State or unit of local government requires assist-

1 ance in alleviating a backlog of cases involving a fo-
2 rensic science other than DNA analysis.

3 “(k) EXTERNAL AUDITS AND REMEDIAL EF-
4 FORTS.—If a laboratory operated by a State or unit of
5 local government which has received funds under this sec-
6 tion has undergone an external audit conducted to deter-
7 mine whether the laboratory is in compliance with stand-
8 ards established by the Director of the Federal Bureau
9 of Investigation, and, as a result of the audit, identifies
10 measures to remedy deficiencies with respect to the com-
11 pliance by the laboratory with the standards, the State
12 or unit of local government shall implement any such re-
13 mediation as soon as practicable.

14 “(l) PENALTY FOR NONCOMPLIANCE.—

15 “(1) IN GENERAL.—The Attorney General shall
16 annually compile a list of the States and units of
17 local government receiving a grant under this section
18 that have failed to provide the information required
19 under subsection (c)(5)(A) or (f). The Attorney Gen-
20 eral shall publish each list compiled under this para-
21 graph on the website of the Department of Justice.

22 “(2) REDUCTION IN GRANT FUNDS.—For any
23 State or local government that the Attorney General
24 determines has failed to provide the information re-
25 quired under subsection (c)(5)(A) or (f), the Attor-

1 files into the Combined DNA Index System
2 of the Federal Bureau of Investigation;
3 and

4 (ii) prioritize the need to guarantee
5 the integrity of the Combined DNA Index
6 System.

7 (2) COMMENTS.—The Director shall provide an
8 opportunity for interested parties, including public
9 and private laboratories and State and local law en-
10 forcement agencies, to comment on the findings of
11 the evaluation under paragraph (1) before the report
12 is submitted to Congress in accordance with para-
13 graph (3).

14 (3) REPORT TO CONGRESS.—Not later than 60
15 days after the date on which the Director of the
16 Federal Bureau of Investigation completes the eval-
17 uation under paragraph (1), the Director shall sub-
18 mit to Congress a report of the findings of the eval-
19 uation and any proposed policy changes.

20 (c) TRANSITION PROVISION.—

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

23 (A) the date on which the Director of the
24 National Institute of Justice publishes a defini-
25 tion of the term “backlog for DNA case work”

1 in accordance with section 2(b)(3) of the DNA
2 Analysis Backlog Elimination Act of 2000, as
3 amended by subsection (a); and

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

10 (2) TRANSITION.—Notwithstanding the amend-
11 ments made by subsection (a)—

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

18 (B) the Attorney General may not make a
19 grant under section 2 of the DNA Analysis
20 Backlog Elimination Act of 2000, as amended
21 by subsection (a), until the start of the first full
22 fiscal year after 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 TRAINING AND EDUCATION FOR LAW EN-
9 FORCEMENT.—Section 303(b) of the Justice for All Act
10 of 2004 (42 U.S.C. 14136(b)) is amended by striking
11 “\$12,500,000 for each of fiscal years 2009 through 2014”
12 and inserting “\$5,000,000 for each of fiscal years 2013
13 through 2017”.

14 (b) SEXUAL ASSAULT FORENSIC EXAM PROGRAM
15 GRANTS.—Section 304(c) of the Justice for All Act of
16 2004 (42 U.S.C. 14136a(c)) is amended by striking
17 “\$30,000,000 for each of fiscal years 2009 through 2014”
18 and inserting “\$15,000,000 for each of fiscal years 2013
19 through 2017”.

20 (c) DNA RESEARCH AND DEVELOPMENT.—Section
21 305(c) of the Justice for All Act of 2004 (42 U.S.C.
22 14136b(c)) is amended by striking “\$15,000,000 for each
23 of fiscal years 2005 through 2009” and inserting
24 “\$5,000,000 for each of fiscal years 2013 through 2017”.

1 (d) FBI DNA PROGRAMS.—Section 307(a) of the
2 Justice for All Act of 2004 (Public Law 108–405; 118
3 Stat. 2275) is amended by striking “\$42,100,000 for each
4 of fiscal years 2005 through 2009” and inserting
5 “\$10,000,000 for each of fiscal years 2013 through
6 2017”.

7 (e) DNA IDENTIFICATION OF MISSING PERSONS.—
8 Section 308(c) of the Justice for All Act of 2004 (42
9 U.S.C. 14136d(c)) is amended by striking “fiscal years
10 2005 through 2009” and inserting “fiscal years 2013
11 through 2017”.

12 **SEC. 7. PAUL COVERDELL FORENSIC SCIENCES IMPROVE-**
13 **MENT GRANTS.**

14 Section 1001(a)(24) of title I of the Omnibus Crime
15 Control and Safe Streets Act of 1968 (42 U.S.C.
16 3793(a)(24)) is amended—

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

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

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

22 “(J) \$25,000,000 for each of fiscal years
23 2013 through 2017.”.

1 **SEC. 8. IMPROVING THE QUALITY OF REPRESENTATION IN**
2 **STATE CAPITAL CASES.**

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

5 (1) in subsection (a), by striking “\$75,000,000
6 for each of fiscal years 2005 through 2009” and in-
7 serting “\$30,000,000 for each of fiscal years 2013
8 through 2017”; and

9 (2) in subsection (b), by inserting before the pe-
10 riod at the end the following: “, or upon a showing
11 of good cause, and at the discretion of the Attorney
12 General, the State may determine a fair allocation of
13 funds across the uses described in sections 421 and
14 422”.

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

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

18 (1) in subsection (a)—

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

21 (B) in paragraph (3)(A), by striking “and
22 the applicant did not—” and all that follows
23 through “knowingly fail to request” and insert-
24 ing “and the applicant did not knowingly fail to
25 request”; and

1 (2) in subsection (g)(2)(B), by striking
2 “death”.

3 (b) **PRESERVATION OF BIOLOGICAL EVIDENCE.**—
4 Section 3600A(c) of title 18, United States Code, is
5 amended—

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

7 (2) by redesignating paragraphs (3), (4), and
8 (5) as paragraphs (2), (3), and (4), respectively.

9 **SEC. 10. INCENTIVE GRANTS TO STATES TO ENSURE CON-**
10 **SIDERATION OF CLAIMS OF ACTUAL INNO-**
11 **CENCE.**

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

14 (1) in the matter preceding paragraph (1), by
15 striking “fiscal years 2005 through 2009” and in-
16 serting “fiscal years 2013 through 2017”; and

17 (2) by striking paragraph (2) and inserting the
18 following:

19 “(2) for eligible entities that are a State or unit
20 of local government, provide a certification by the
21 chief legal officer of the State in which the eligible
22 entity operates or the chief legal officer of the juris-
23 diction in which the funds will be used for the pur-
24 poses of the grants, that the State or jurisdiction—

1 “(A) provides DNA testing of specified evi-
2 dence under a State statute or a State or local
3 rule or regulation to persons convicted after
4 trial and under a sentence of imprisonment or
5 death for a State felony offense, in a manner
6 intended to ensure a reasonable process for re-
7 solving claims of actual innocence that ensures
8 post-conviction DNA testing in at least those
9 cases that would be covered by section 3600(a)
10 of title 18, United States Code, had they been
11 Federal cases, and, if the results of the testing
12 exclude the applicant as the perpetrator of the
13 offense, permits the applicant to apply for post-
14 conviction relief, notwithstanding any provision
15 of law that would otherwise bar the application
16 as untimely; and

17 “(B) preserves biological evidence, as de-
18 fined in section 3600A of title 18, United
19 States Code, under a State statute or a State
20 or local rule, regulation, or practice in a man-
21 ner intended to ensure that reasonable meas-
22 ures are taken by the State or jurisdiction to
23 preserve biological evidence secured in relation
24 to the investigation or prosecution of, at a min-

1 imum, murder, non-negligent manslaughter,
2 and sexual offenses.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
4 412(b) of the Justice for All Act of 2004 (42 U.S.C.
5 14136e(b)) is amended—

6 (1) by striking “fiscal years 2005 through
7 2009” and inserting “fiscal years 2013 through
8 2017”; and

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

11 **SEC. 11. ESTABLISHMENT OF BEST PRACTICES FOR EVI-**
12 **DENCE RETENTION.**

13 (a) IN GENERAL.—Subtitle A of title IV of the Jus-
14 tice for All Act of 2004 (Public Law 108–405; 118 Stat.
15 2278) is amended by adding at the end the following:

16 **“SEC. 414. ESTABLISHMENT OF BEST PRACTICES FOR EVI-**
17 **DENCE RETENTION.**

18 “(a) IN GENERAL.—The Director of the National In-
19 stitute of Justice, in consultation with Federal, State, and
20 local law enforcement agencies and government labora-
21 tories, shall—

22 “(1) establish best practices for evidence reten-
23 tion to focus on the preservation of biological evi-
24 dence; and

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

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

6 “(A) be designed in consultation with local
7 governments, and all segments of the criminal
8 justice system, including judges, prosecutors,
9 law enforcement personnel, corrections per-
10 sonnel, and providers of indigent defense serv-
11 ices, victim services, juvenile justice delinquency
12 prevention programs, community corrections,
13 and reentry services;

14 “(B) include a description of how the State
15 will allocate funding within and among each of
16 the uses described in subparagraphs (A)
17 through (G) of section 501(a)(1);

18 “(C) describe the process used by the State
19 for gathering evidence-based data and devel-
20 oping and using evidence-based and evidence-
21 gathering approaches in support of funding de-
22 cisions; and

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

1 “(i) address changing circumstances
2 in the State, if any;

3 “(ii) describe how the State plans to
4 adjust funding within and among each of
5 the uses described in subparagraphs (A)
6 through (G) of section 501(a)(1);

7 “(iii) provide an ongoing assessment
8 of need;

9 “(iv) discuss the accomplishment of
10 goals identified in any plan previously pre-
11 pared under this paragraph; and

12 “(v) reflect how the plan influenced
13 funding decisions in the previous year.

14 “(b) TECHNICAL ASSISTANCE.—

15 “(1) STRATEGIC PLANNING.—Not later than 90
16 days after the date of enactment of this subsection,
17 the Attorney General shall begin to provide technical
18 assistance to States and local governments request-
19 ing support to develop and implement the strategic
20 plan required under subsection (a)(6).

21 “(2) PROTECTION OF CONSTITUTIONAL
22 RIGHTS.—Not later than 90 days after the date of
23 enactment of this subsection, the Attorney General
24 shall begin to provide technical assistance to States
25 and local governments, including any agent thereof

1 with responsibility for administration of justice, re-
2 requesting support to meet the obligations established
3 by the Sixth Amendment to the Constitution of the
4 United States, which shall include—

5 “(A) public dissemination of practices,
6 structures, or models for the administration of
7 justice consistent with the requirements of the
8 Sixth Amendment; and

9 “(B) assistance with adopting and imple-
10 menting a system for the administration of jus-
11 tice consistent with the requirements of the
12 Sixth Amendment.

13 “(3) AUTHORIZATION OF APPROPRIATIONS.—
14 There is authorized to be appropriated \$5,000,000
15 for each of fiscal years 2013 through 2017 to carry
16 out this subsection.”

17 (c) APPLICABILITY.—The requirement to submit a
18 strategic plan under section 501(a)(6) of title I of the Om-
19 nibus Crime Control and Safe Streets Act of 1968, as
20 added by subsection (b), shall apply to any application
21 submitted under such section 501 for a grant for any fis-
22 cal year beginning after the date that is 1 year after the
23 date of enactment of this Act.

1 **SEC. 13. OVERSIGHT AND ACCOUNTABILITY.**

2 All grants awarded by the Department of Justice that
3 are authorized under this Act shall be subject to the fol-
4 lowing:

5 (1) **AUDIT REQUIREMENT.**—Beginning in fiscal
6 year 2013, and each fiscal year thereafter, the In-
7 spector General of the Department of Justice shall
8 conduct audits of recipients of grants under this Act
9 to prevent waste, fraud, and abuse of funds by
10 grantees. The Inspector General shall determine the
11 appropriate number of grantees to be audited each
12 year.

13 (2) **MANDATORY EXCLUSION.**—A recipient of
14 grant funds under this Act that is found to have an
15 unresolved audit finding shall not be eligible to re-
16 ceive grant funds under this Act during the 2 fiscal
17 years beginning after the 12-month period described
18 in paragraph (5).

19 (3) **PRIORITY.**—In awarding grants under this
20 Act, the Attorney General shall give priority to eligi-
21 ble entities that, during the 3 fiscal years before
22 submitting an application for a grant under this Act,
23 did not have an unresolved audit finding showing a
24 violation in the terms or conditions of a Department
25 of Justice grant program.

1 (4) REIMBURSEMENT.—If an entity is awarded
2 grant funds under this Act during the 2-fiscal-year
3 period in which the entity is barred from receiving
4 grants under paragraph (2), the Attorney General
5 shall—

6 (A) deposit an amount equal to the grant
7 funds that were improperly awarded to the
8 grantee into the General Fund of the Treasury;
9 and

10 (B) seek to recoup the costs of the repay-
11 ment to the fund from the grant recipient that
12 was erroneously awarded grant funds.

13 (5) DEFINED TERM.—In this section, the term
14 “unresolved audit finding” means an audit report
15 finding in the final audit report of the Inspector
16 General of the Department of Justice that the
17 grantee has utilized grant funds for an unauthorized
18 expenditure or otherwise unallowable cost that is not
19 closed or resolved within a 12-month period begin-
20 ning on the date when the final audit report is
21 issued.

22 (6) NONPROFIT ORGANIZATION REQUIRE-
23 MENTS.—

24 (A) DEFINITION.—For purposes of this
25 section and the grant programs described in

1 this Act, the term “‘nonprofit organization’”
2 means an organization that is described in sec-
3 tion 501(c)(3) of the Internal Revenue Code of
4 1986 and is exempt from taxation under section
5 501(a) of such Code.

6 (B) PROHIBITION.—The Attorney General
7 shall not award a grant under any grant pro-
8 gram described in this Act to a nonprofit orga-
9 nization that holds money in offshore accounts
10 for the purpose of avoiding paying the tax de-
11 scribed in section 511(a) of the Internal Rev-
12 enue Code of 1986.

13 (C) DISCLOSURE.—Each nonprofit organi-
14 zation that is awarded a grant under a grant
15 program described in this Act and uses the pro-
16 cedures prescribed in regulations to create a re-
17 buttable presumption of reasonableness for the
18 compensation of its officers, directors, trustees
19 and key employees, shall disclose to the Attor-
20 ney General, in the application for the grant,
21 the process for determining such compensation,
22 including the independent persons involved in
23 reviewing and approving such compensation, the
24 comparability data used, and contemporaneous
25 substantiation of the deliberation and decision.

1 Upon request, the Attorney General shall make
2 the information disclosed under this subsection
3 available for public inspection.

4 (7) ADMINISTRATIVE EXPENSES.—Unless oth-
5 erwise explicitly provided in authorizing legislation,
6 not more than 7.5 percent of the amounts author-
7 ized to be appropriated under this Act may be used
8 by the Attorney General for salaries and administra-
9 tive expenses of the Department of Justice.

10 (8) CONFERENCE EXPENDITURES.—

11 (A) LIMITATION.—No amounts authorized
12 to be appropriated to the Department of Justice
13 under this Act may be used by the Attorney
14 General or by any individual or organization
15 awarded discretionary funds through a coopera-
16 tive agreement under this Act, to host or sup-
17 port any expenditure for conferences that uses
18 more than \$20,000 in Department funds, un-
19 less the Deputy Attorney General or the appro-
20 priate Assistant Attorney General, Director, or
21 principal deputy as the Deputy Attorney Gen-
22 eral may designate, provides prior written au-
23 thorization that the funds may be expended to
24 host a conference.

1 (B) WRITTEN APPROVAL.—Written ap-
2 proval under subparagraph (A) shall include a
3 written estimate of all costs associated with the
4 conference, including the cost of all food and
5 beverages, audio/visual equipment, honoraria
6 for speakers, and any entertainment.

7 (C) REPORT.—The Deputy Attorney Gen-
8 eral shall submit an annual report to the Com-
9 mittee on the Judiciary of the Senate and the
10 Committee on the Judiciary of the House of
11 Representatives on all conference expenditures
12 approved by operation of this paragraph.

13 (9) PROHIBITION ON LOBBYING ACTIVITY.—

14 (A) IN GENERAL.—Amounts authorized to
15 be appropriated under this Act may not be uti-
16 lized by any grant recipient to—

17 (i) lobby any representative of the De-
18 partment of Justice regarding the award of
19 grant funding; or

20 (ii) lobby any representative of a Fed-
21 eral, state, local, or tribal government re-
22 garding the award of grant funding.

23 (B) PENALTY.—If the Attorney General
24 determines that any recipient of a grant under

1 this Act has violated subparagraph (A), the At-
2 torney General shall—

3 (i) require the grant recipient to repay
4 the grant in full; and

5 (ii) prohibit the grant recipient from
6 receiving another grant under this Act for
7 not less than 5 years.