

(2) By States

(A) As a condition of access to the index described in subsection (a) of this section, a State shall promptly expunge from that index the DNA analysis of a person included in the index by that State if—

(i) the responsible agency or official of that State receives, for each conviction of the person of an offense on the basis of which that analysis was or could have been included in the index, a certified copy of a final court order establishing that such conviction has been overturned; or

(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and the responsible agency or official of that State receives, for each charge against the person on the basis of which the analysis was or could have been included in the index, a certified copy of a final court order establishing that such charge has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable time period.

(B) For purposes of subparagraph (A), a court order is not “final” if time remains for an appeal or application for discretionary review with respect to the order.

(Pub. L. 103-322, title XXI, § 210304, Sept. 13, 1994, 108 Stat. 2069; Pub. L. 106-113, div. B, § 1000(a)(1) [title I, § 120], Nov. 29, 1999, 113 Stat. 1535, 1501A-23; Pub. L. 106-546, § 6(b), Dec. 19, 2000, 114 Stat. 2733; Pub. L. 108-405, title II, § 203(a), (d), title III, § 302, Oct. 30, 2004, 118 Stat. 2269, 2270, 2272; Pub. L. 109-162, title X, § 1002, Jan. 5, 2006, 119 Stat. 3084.)

AMENDMENTS

2006—Subsec. (a)(1)(C). Pub. L. 109-162, § 1002(1), struck out “DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and” after “provided that”.

Subsec. (d)(1)(A). Pub. L. 109-162, § 1002(2), added subpar. (A) and struck out former subpar. (A), which read as follows: “The Director of the Federal Bureau of Investigation shall promptly expunge from the index described in subsection (a) of this section the DNA analysis of a person included in the index on the basis of a qualifying Federal offense or a qualifying District of Columbia offense (as determined under sections 14135a and 14135b of this title, respectively) if the Director receives, for each conviction of the person of a qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned.”

Subsec. (d)(2)(A)(ii). Pub. L. 109-162, § 1002(3), substituted “the responsible agency or official of that State receives, for each charge against the person on the basis of which the analysis was or could have been included in the index, a certified copy of a final court order establishing that such charge has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable time period.” for “all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.”

Subsec. (e). Pub. L. 109-162, § 1002(4), struck out heading and text of subsec. (e). Prior to amendment, text related to authority for keyboard searches.

2004—Subsec. (a)(1). Pub. L. 108-405, § 203(a)(1), substituted “of—” for “of persons convicted of crimes;” and added subpars (A) to (C).

Subsec. (b)(2). Pub. L. 108-405, § 302, amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“prepared by laboratories, and DNA analysts, that undergo semiannual external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 14131 of this title; and”.

Subsec. (d)(2)(A). Pub. L. 108-405, § 203(a)(2)(B), (C), which directed that subsection (d)(2) be amended by substituting “; or” for period at end and by adding cl. (ii) at end, was executed by making the amendment to subpar. (A) of subsec. (d)(2) to reflect the probable intent of Congress.

Pub. L. 108-405, § 203(a)(2)(A), substituted “if—” for “if” and inserted cl. (i) designation before “the responsible agency”.

Subsec. (e). Pub. L. 108-405, § 203(d), added subsec. (e). 2000—Subsec. (b)(1). Pub. L. 106-546, § 6(b)(1), inserted “(or the Secretary of Defense in accordance with section 1565 of title 10)” after “criminal justice agency”.

Subsec. (b)(2). Pub. L. 106-546, § 6(b)(2), substituted “semiannual” for “, at regular intervals of not to exceed 180 days.”.

Subsec. (b)(3). Pub. L. 106-546, § 6(b)(3), inserted “(or the Secretary of Defense in accordance with section 1565 of title 10)” after “criminal justice agencies” in introductory provisions.

Subsec. (d). Pub. L. 106-546, § 6(b)(4), added subsec. (d). 1999—Subsec. (a)(4). Pub. L. 106-113 added par. (4).

§ 14133. Federal Bureau of Investigation**(a) Proficiency testing requirements****(1) Generally**

(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo semiannual external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 14131 of this title.

(B) Within 1 year after September 13, 1994, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory.

(C) In this paragraph, “blind external test” means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) Report

For 5 years after September 13, 1994, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests described in paragraph (1).

(b) Privacy protection standards**(1) Generally**

Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes¹ or rules; and

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) Exception

If personally identifiable information is removed, test results may be disclosed for a pop-

¹ So in original. Probably should be “statutes”.

ulation statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) Criminal penalty

(1) A person who—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) knowingly discloses such information in any manner to any person or agency not authorized to receive it,

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

(2) A person who, without authorization, knowingly obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than \$250,000, or imprisoned for a period of not more than one year, or both.

(Pub. L. 103-322, title XXI, § 210305, Sept. 13, 1994, 108 Stat. 2070; Pub. L. 106-546, § 8(c), Dec. 19, 2000, 114 Stat. 2735; Pub. L. 108-405, title II, § 203(e)(1), Oct. 30, 2004, 118 Stat. 2270.)

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108-405 substituted “\$250,000, or imprisoned for a period of not more than one year, or both” for “\$100,000”.

2000—Subsec. (a)(1)(A). Pub. L. 106-546 substituted “semiannual” for “, at regular intervals of not to exceed 180 days,”.

§ 14134. Authorization of appropriations

There are authorized to be appropriated to the Federal Bureau of Investigation to carry out sections 14131, 14132, and 14133 of this title—

- (1) \$5,500,000 for fiscal year 1996;
- (2) \$8,000,000 for fiscal year 1997;
- (3) \$8,000,000 for fiscal year 1998;
- (4) \$2,500,000 for fiscal year 1999; and
- (5) \$1,000,000 for fiscal year 2000.

(Pub. L. 103-322, title XXI, § 210306, Sept. 13, 1994, 108 Stat. 2071.)

§ 14135. The Debbie Smith DNA Backlog Grant Program

(a) Authorization of grants

The Attorney General may make grants to eligible States or units of local government for use by the State or unit of local government for the following purposes:

(1) To carry out, for inclusion in the Combined DNA Index System of the Federal Bureau of Investigation, DNA analyses of samples collected under applicable legal authority.

(2) To carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes, including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect.

(3) To increase the capacity of laboratories owned by the State or by units of local government to carry out DNA analyses of samples specified in paragraph (1) or (2).

(4) To collect DNA samples specified in paragraph (1).

(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.

(6) To implement a DNA arrestee collection process consistent with sections 14137 to 14137c of this title.

(7) To conduct an audit consistent with subsection (n) of the samples of sexual assault evidence that are in the possession of the State or unit of local government and are awaiting testing.

(8) To ensure that the collection and processing of DNA evidence by law enforcement agencies from crimes, including sexual assault and other violent crimes against persons, is carried out in an appropriate and timely manner and in accordance with the protocols and practices developed under subsection (o)(1).

(b) Eligibility

For a State or unit of local government to be eligible to receive a grant under this section, the chief executive officer of the State or unit of local government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. The application shall, as required by the Attorney General—

(1) provide assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of such application, a comprehensive plan for the expeditious DNA analysis of samples in accordance with this section;

(2) include a certification that each DNA analysis carried out under the plan shall be maintained pursuant to the privacy requirements described in section 14132(b)(3) of this title;

(3) include a certification that the State or unit of local government has determined, by statute, rule, or regulation, those offenses under State law that shall be treated for purposes of this section as qualifying State offenses;

(4) specify the allocation that the State or unit of local government shall make, in using grant amounts to carry out DNA analyses of samples, as between samples specified in subsection (a)(1) of this section and samples specified in subsection (a)(2) of this section;

(5) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(3) of this section;

(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and

(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4) of this section.

(c) Formula for distribution of grants

(1) In general

The Attorney General shall distribute grant amounts, and establish appropriate grant con-