raise judicial salaries by deviating from the parameters set forth in the Ethics Reform Act.

To conclude, Mr. Speaker, H.R. 3349 will assist in the administration of justice in our Federal courts and is otherwise noncontroversial and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 3349 and ask that my colleagues support it as well. This legislation gives Federal judges a 2.2 percent cost-of-living pay adjustment for 2004. Members of the Federal judiciary deserve this raise. The hardworking men and women of the Federal bench are a critical, if sometimes underappreciated, part of our constitutional democracy. We should do everything we can to ensure that we attract and retain the highest quality judges.

While judges are predominantly called to service by a sense of duty and honor, financial considerations can be a powerful deterrent to service. Judges already make far less than they could earn in private firms. While this pay disparity will always exist, Congress should at the least ensure that judicial pay does not effectively shrink. The failure to give judges a COLA would constitute just such a reduction in pay.

Unfortunately, Congress has failed several times in the past decade to give Federal judges a COLA pay adjustment.

□ 1030

Thus, over time, the pay of Federal judges has effectively shrunk. We should pass this legislation today to ensure this inequity is not increased further.

I want to make clear to my colleagues that this legislation in no way decouples judicial pay from the pay of Members of Congress and senior executive service. While I personally would not oppose such a decoupling, I know some of my colleagues, perhaps the gentleman who just spoke, would oppose it.

This legislation simply ensures that Federal judges can receive the same COLA increase that Members of Congress and senior executive service officials are already slated to receive for fiscal year 2004. Members of Congress and SES officials receive automatic COLA pay adjustments each year unless Congress specifically prohibits it. Federal judges, on the other hand, do not receive such COLAs unless Congress provides specific statutory authorization each year.

Congress typically provides this authorization in the annual commerce-justice-state appropriations legislation. Unfortunately, Congress has lately had some difficulty in passing the CJS appropriations bill by the start of the calendar year, let alone the fiscal year. The fiscal year 2003 CJS bill did not pass until 2003 was well under way, and now it looks like the fiscal year 2004 CJS bill will not be enacted until sometime in 2004. Such congressional action should not be allowed to imperil the COLA that Federal judges are rightfully do.

I applaud the gentleman from Wisconsin (Chairman SENSENBRENNER) for taking swift action to remedy the situation both earlier this year and now. In January of this year, the chairman of the Committee on the Judiciary ensured that virtually the first action of the 108th Congress was to pass H.R. 16, which authorized COLAs for 2003. He exhibits great forethought by bringing H.R. 3349 before the House before 2004 is upon us. I applaud him for taking swift action to make sure that judges will not be denied their COLAs through congressional inaction.

Of course, if future Congresses continue to have trouble moving the CJS appropriations bill in a timely fashion, the chairman may want to consider a different approach. A simple repeal of section 140 of Public Law 97–92 would dispense with the need to engage in this annual exercise. I commend this approach for the chairman's consideration and will not use this time to argue about whether or not it makes sense to pay judges more than third-year lawyers in excellent law firms. In conclusion, I urge my colleagues to support this measure.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am a cosponsor. This bill provides the Federal judiciary with a much needed cost of living adjustment (COLA) for their salary for fiscal year 2004. I also would like to thank Chairman SENSENBRENNER for his leadership and bipartisanship on this issue.

The Constitution mandates that the pay of Federal judges ''shall not be diminished during their Continuance in Office.'' Unfortunately, by failing to provide judges with annual COLA's over the last decade, they have faced the equivalent of a $77,000 reduction in salary. Currently, Federal district court judges earn $150,000 per year. This is much less than they could earn in private practice; in fact, it is less than an attorney right out of law school can earn in private practice. Even the judges' employees, those who work at the Administrative Office of the U.S. Courts, can make more than their employers. In the last 30 years, while average pay has increased 12 percent for most workers, it has decreased 25 percent for Federal judges.

This issue can seem to be just a matter of salary, but it extends deeply into our concept of a democracy and judicial independence. The Constitution establishes a system of checks and balances, granting independent judges lifetime tenure and the right to an undiminished salary, in order to ensure the judiciary remains independent of financial, political, and social pressures. Unfortunately, many Federal judges are leaving the bench for private practice, and many experienced and qualified private practitioners are deterred from serving in the judiciary. The pay disparity has diminished the independence of our third branch and made it difficult to attract and retain qualified attorneys.

The timing for this legislation also is critical. Last year, Congress passed a continuing resolution that provided a cost of living adjustment to most Federal employees except judges. The omission required us to pass a law early this year to extend the COLA to judges. To ensure that we do not let this issue fall by the wayside again, we must pass this bill today.

I urge my colleagues to vote ''yes'' on this legislation.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3349.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3214) 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, as amended.

The Clerk read as follows:

H.R. 3214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advancing Justice Through DNA Technology Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—DEBBIE SMITH ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2003''.

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(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'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(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.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(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).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

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

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively

involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been indicted or who have waived indictment for a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(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 all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''.

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

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

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2003''.

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2003, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) ELIGIBLE ENTITY.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 207. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 210. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against Indian women;

''(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology,

controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 206;

(7) the use of funds by the Federal Bureau of Investigation under section 207;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 208;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 211;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

SEC. 301. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2003''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

''(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

''(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(3) the specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2003; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

''(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

''(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

''(6) the applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

''(8) the proposed DNA testing of the specific evidence—

''(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

''(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

''(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

''(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if—

''(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) APPLICATION NOT A MOTION.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2003;

''(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2003, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing ... 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect

to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 203, 205, 207, and 312 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 203, 205, 207, or 312, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 323. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 326(b).

SEC. 324. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 321, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 321(d)(1)(A), an entity described in section 321(d)(1)(B), or selection committee or similar entity described in section 321(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 321(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 321(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 321(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 321(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 321(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 321(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 321(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 321(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 321(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 322, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 322(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 322(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 322(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 324, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 321(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 323(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 321 and 322 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 321(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 321.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 321 and the uses described in section 322, except as provided in section 325(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 332. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3214, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, news stories extolling the successful use of DNA to solve crimes abound. Consider the following: in 1999, New York authorities linked a man through DNA evidence to at least 22 sexual assaults and robberies that had terrorized the city. In 2002, authorities in Philadelphia, Pennsylvania, and Fort Collins, Colorado, used DNA evidence to link and solve a series of crimes perpetrated by the same individual. In the State of Washington during 2001, DNA evidence provided a major breakthrough of the ''Green River'' killings, a series of crimes that had remained unsolved for years despite a large law enforcement task force and a $15 million investigation.

DNA is generally used to solve crimes in one of two ways. In cases where a suspect is identified, a lawfully obtained sample of that person's DNA can be compared to evidence from the crime scene. The results of this comparison may help establish whether the suspect committed the crime. In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator.

DNA evidence has also been used successfully to free individuals who have been wrongfully convicted. In my home State of Wisconsin, one such individual, Steven Avery, was exonerated by DNA evidence after serving more than 17 years in the Stanley Correctional Institution in Chippewa County for a sexual assault and attempted murder he did not commit. He was released last month, by the same judge who sentenced him in 1986, after DNA tests exonerated him. Evidence collected from the victim was determined to belong to another inmate, who is serving time for a different sexual assault.

In the late 1980s, the Federal Government laid the groundwork for a system of national, State, and local DNA databases for the storage and exchange of DNA profiles. This system, called the Combined DNA Index System, CODIS for short, maintains DNA profiles obtained under Federal, State, and local systems in a series of databases that are available to law enforcement agencies across the country for law enforcement purposes only. Currently, all 50 States and the Federal Government have laws requiring that DNA samples be collected from some categories of offenders for inclusion in CODIS. Evidence from a crime scene can be linked to other crime scenes through the use of the CODIS database to identify repeat offenders or serial criminals. CODIS can be used to compare crime scene evidence to a database of DNA profiles obtained from convicted offenders.

We are fortunate to have this tool available to ensure accuracy and fairness in our criminal justice system. It has the potential to make our great justice system even better. However, if DNA samples are not tested, or not entered into the databases, that potential is completely wasted. Sadly, the reality is that many samples are not being tested or recorded in the database. To have this tool available and not to fully use it is tragic. Many crimes could be solved, many guilty people could be taken off the streets, and many victims could be spared from further crimes.

Despite DNA's enormous potential, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples, samples that could be used to solve violent crimes if the States had the funds to eliminate this backlog. Some estimates indicate that DNA evidence from at least 300,000 rape crime scenes have been collected but never analyzed in a crime lab. In addition, many of the labs are ill equipped to handle the increasing flow of DNA samples and evidence.

The problems of backlogs and the lack of up-to-date technology result in significant delays in the administration of justice. The system needs more research to develop faster methods to analyze DNA evidence. Legal and medical personnel need additional timing and assistance in order to ensure the optimal use of DNA evidence to solve crimes and assist victims. The criminal justice system needs the means to provide DNA testing in appropriate circumstances for individuals who assert that they have been wrongly convicted.

This legislation, cosponsored by 250 Members of the House, will help eliminate these problems. This bipartisan, bicameral legislation authorizes $755 million over 5 years to eliminate the current backlog of rape kits and other crime scene evidence awaiting DNA analysis in crime labs.

It authorizes funding for training for law enforcement, correctional, court, and medical personnel on the use of DNA evidence. H.R. 3214 funds research to improve forensic technology and authorizes $10 million per year in grants to States, local governments, and tribal governments to eliminate forensic backlogs. It also authorizes funding for the use of forensic DNA technology to identify missing persons and unidentified human remains. Most of these provisions are part of the President's DNA initiative.

H.R. 3214 also seeks to prevent wrongful convictions. The Innocence Protection Act provisions of H.R. 3214, which are also the result of bipartisan and bicameral negotiations, will ensure that our justice system is working. They establish rules for post-DNA testing of Federal prison inmates and require the preservation of biological evidence in Federal criminal cases where the defendant remains incarcerated. These provisions also authorize funding to help States to provide competent legal services for both the prosecution and the defense in death penalty cases. They provide funds for postconviction DNA testing and bonus grants to States that adopt adequate procedures for providing postconviction DNA testing and preserving biological evidence.

This legislation came out of the Committee on the Judiciary by a vote on 28 to 1. After that vote, a few Members raised concerns about the new grant program in title III which provides grants to States which put an effective system in place for appointing and compensating attorneys in capital cases. Members from States that already have a system established by statute felt that those States should be eligible to receive these grants for improving both prosecution and defense training. Along with a few other technical tweaks, the manager's amendment allows those States to be eligible for these grants.

Additionally, the manager's amendment provides improvements to the CODIS and NDIS databases by allowing DNA samples which have been lawfully collected, other than from arrestees or voluntary samples, to be entered into CODIS. DNA samples from arrestees

may be analyzed for a match in the database but may not be retained. This distinction provides a balance between protecting individual rights and ensuring that law enforcement has the tools it needs to solve crimes. I think States like Louisiana, which recently had to track down a serial killer, can appreciate the importance of this change in the law.

Finally, I would like to respond to a couple of the complaints that I have heard about this legislation. I have heard that this bill funds advocacy for those who are opposed to capital punishment. That is not the case at all. The legislation specifically prohibits the direct or indirect use of grant funds for representation in a particular case, and the report language further specifies that grants cannot be used for advocacy.

Finally, I heard some complaints from people who support capital punishment that the innocent protection provisions in this bill will make it more difficult for the death penalty to be imposed upon those who have been convicted and have exhausted their appeals. Let me say that I am a supporter of capital punishment; and unless we use the most modern technology to make sure that those who are convicted are indeed guilty, and those who are not guilty are not put to death, sooner or later the Supreme Court will accept the invitation and declare capital punishment per se a violation of the Constitution.

I believe that this bill is something that death penalty supporters should be supporting because it will provide for a greater degree of accuracy in making sure that those who are convicted of a crime and sentenced to death by a jury in those States which do allow for capital punishment are truly guilty.

I believe that we have crafted a bill that will do much to assist law enforcement in solving crimes and ensuring that the right people are convicted. I urge my colleagues to recognize the benefit of this legislation and vote in favor of its passage today.

Mr. Speaker, I reserve the balance of my time.

□ 1045

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

This bill is the culmination of many months of diligent bipartisan and bicameral efforts in the service of a common goal, which is to use all of the tools at our disposal to solve crimes and protect the innocent. As indicated by the chair of the committee, the bill consists of three titles. First, it authorizes $755 million for the Debbie Smith DNA Backlog Grant Program to eliminate the current backlog of unanalyzed DNA samples in this Nation's crime laboratories which, I would submit, is bordering on disgraceful. I wish, at this point in time, to commend the gentleman from Wisconsin (Mr. GREEN) and the gentlewoman from New York (Mrs. MALONEY) for their efforts to raise this issue and to see it incorporated in this omnibus bill today. Secondly, it authorizes grant programs to expand and improve the capacity of Federal, State and local crime labs to conduct DNA analyses, reduce other forensic science backlogs, train criminal justice and medical personnel in the use of DNA evidence, and promote the use of DNA technology to identify missing persons. Finally, the bill includes the Innocence Protection Act, a measure which I introduced several years ago with the gentleman from Illinois (Mr. LAHOOD), which will help ensure Federal and State inmates access to DNA testing to establish their innocence and will authorize grants to the States to improve the quality of legal representation for both indigent defendants and the public in capital cases.

I would like to thank Chairman HATCH, Senator BIDEN and all our Senate colleagues for working with us to reach this milestone. I want to express my particular appreciation to Senator LEAHY with whom the gentleman from Illinois and I first introduced the Innocence Protection Act some 3½ years ago and who has worked so hard to advance that legislation.

As with any compromise, the version of the Innocence Protection Act that is included in this bill is not all that I had wished for. But it is an important step forward, and I know that Senator LEAHY shares my satisfaction with this achievement. Finally, I want to pay tribute to the distinguished chair of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), without whose good faith and commitment this process would not have achieved this breakthrough, which I believe represents a remarkable achievement for the Committee on the Judiciary. Our staffs have worked closely together over the course of these months and both he and they deserve our gratitude. In particular, I want to thank the chief of staff of the committee, Phil Kiko, who has made a major personal commitment to this effort and has devoted countless hours to keeping the negotiations on track. I would be remiss not to acknowledge the contribution of my own legislative director, who sits to my right for the last time as this is his last day as a member of my staff. For me, it will be painful to see him leave. He is a man of considerable talent, incredible integrity, a friend and one whose efforts in this particular initiative have truly been prodigious.

The criminal justice system, Mr. Speaker, is about the search for the truth. Like all human enterprises, it is fallible. Judges, juries, police, eyewitnesses, defense attorneys and prosecutors are all human beings and all make mistakes. As a prosecutor for more than 20 years in the greater Boston area, I know that I made my share of them, but we have the means at our disposal to minimize the possibility of error, especially where lives are at stake. We must use them, and especially where public safety is at stake, we must use them.

Debbie Smith, a courageous advocate who has done so much to help her fellow survivors of sexual assault and for whom title I of this bill is named, has said, ''It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets.''

Surely no person in America understands this better than Kirk Bloodsworth, for whom we have named another title of the bill. Mr. Bloodsworth was the first death-row inmate to be exonerated by DNA testing. Not only did DNA establish that he did not commit the terrible crime for which he was convicted, but only a few weeks ago from today, it brought about the identification of the true perpetrator.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect. By eliminating the backlog of unanalyzed DNA samples in the Nation's crime labs, the bill will help ensure that DNA technology is fully deployed to solve past crimes and prevent future ones. And by ensuring that eligible Federal and State inmates have access to postconviction testing that can establish their innocence, the bill will help correct wrongful convictions when they occur and will prompt in those cases renewed efforts to identify the real perpetrator, as it did in the case involving Kirk Bloodsworth.

No one knows whether innocent people have been executed since the death penalty was reinstated in 1976. We do know there have been some very close calls, however. Since 1976, 111 people in 25 States have been released after spending years on death row for crimes they did not commit. Some of them came within days or hours of being put to death. It was cases like these that have called respected, conservative judges like Sandra Day O'Connor to express concern that the system, and I quote: May be well allowing some innocent defendants to be executed.

I think the closing remarks of the chair relative to the position and the posture of those that support the death penalty ought to mark well the words of Sandra Day O'Connor when it comes to this particular legislation. Many of these miscarriages of justice can be corrected by giving eligible inmates access to DNA testing. DNA testing was responsible for exonerating 12 of the people freed from death row and another 126 who were wrongfully convicted of serious crimes. In at least 34 of these cases, the same tests that exonerated an innocent person led to the apprehension of the real perpetrator. Yet access to testing often is litigated, sometimes for years, allowing the real perpetrator to continue to prey upon the neighborhoods and communities in this country. Evidence that might have

established innocence has been misplaced or destroyed. If we are to advance justice, we must ensure that biological material is preserved and DNA testing is made available in every appropriate case.

The bill takes a significant step toward achieving this goal by ensuring eligible inmates access to DNA testing and establishing the Kirk Bloodsworth Postconviction DNA Testing Program, which will help States defray those costs. But DNA is not a magic bullet that will eliminate the problem of wrongful convictions. Biological evidence, which is utilized in DNA testing, is available in less than 20 percent of violent crimes. And even where such evidence exists, postconviction testing only tells us that the system failed. It does not prevent the failures from occurring in the future. The best way to do that is to make sure that every indigent defendant who is facing the death penalty has access to a competent attorney. I was a prosecutor, as I indicated, for over 20 years and I know the adversarial process can find the truth only when the prosecution and the defense are up to the job. Our system of justice depends on it. We cannot tolerate a system that leaves capital defendants at the mercy of lawyers who are poorly trained and poorly compensated who fail to conduct a proper investigation and examine the evidence, or, worse, who drink or sleep their way through the trial. The reality is that that has occurred in the courts of justice here in America. We cannot tolerate a system that relies on reporters and journalism students to develop new evidence which was never presented in court. We cannot tolerate a system in which chance, or the luck of the draw, plays such a profound role in determining whether a defendant lives or dies and a murderer escapes justice.

The bill addresses this problem by authorizing grants to the States to improve the quality of legal representation for both indigent defendants and the prosecution and the people in capital cases. Lawyers assigned by the court to these unpopular and unprofitable cases are often overworked, inexperienced and sometimes incompetent. It is little wonder that over half of all death sentences are overturned on appeal or after postconviction review because of the errors at trial.

Ultimately, however, this bill is not about the death penalty. It is not about DNA backups. It is about restoring public confidence in the integrity of the American justice system as a whole, without which our Constitution and our democracy is put at risk. For the rule of law, due process and everything that we stand for incorporated in our justice system and in our jurisprudence is what sets America apart among the family of nations. That is a goal on which we stand united.

I look forward to working closely with my colleagues to see that this extremely important initiative is signed into law.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. I thank the gentleman for yielding me this time.

Mr. Speaker, let me begin by thanking the gentleman from Massachusetts (Mr. DELAHUNT) and the gentlewoman from New York (Mrs. MALONEY) for their great work and their contributions to this legislation and the gentleman from Illinois (Mr. LAHOOD) for his outstanding work on it, but most of all let me personally and publicly thank the chairman of the Committee on the Judiciary for his work, because without his work, simply put, we would not be here today. I want to thank him so much for his hard work here.

DNA technology is a truly amazing tool for the modern-day investigator and prosecutor. We can identify a perpetrator from one single hair. We can now indict a person by their DNA and match that code to a name at a later time. This is the great promise of DNA technology, the promise of justice. However, sadly, justice is not always timely. Too many people have had to wait years for justice. They wait in fear as their rape kits sit on a shelf untested. They wait as dangerous criminals walk free, free to strike yet again. Debbie Smith, who has been a courageous leader on this issue, went through this battle. I have worked with Mrs. Smith and heard her story numerous times. Each time I hear the passion in her voice on this topic, it encourages me and others to fight even harder to help the hundreds of thousands of victims that have DNA samples taken but have not yet found justice. Today, Debbie, you are victorious. The fact that hundreds of thousands of pieces of vital evidence essentially sit unused is outrageous. It is unacceptable. We need to get these rape kits off the shelves so they can be used to get rapists off the streets.

The Debbie Smith Act is about justice being done. It is about rapists being caught, convicted with irrefutable DNA evidence and put away for a long, long time. It is about helping thousands of victims receive justice by harnessing an exciting, emerging technology.

I urge all of my colleagues to support this legislation. It is a critical part of restoring the public's faith in our justice system.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY) who along with the gentleman from Wisconsin has done such tremendous work.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, this bill marks the end of a very long journey to pass legislation that will put criminals behind bars and protect the innocent. I thank the extraordinary work of the gentleman from Wisconsin (Mr. GREEN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) who brought all the pieces together and the long, long leadership of the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Virginia (Mr. SCOTT), the gentleman from New York (Mr. WEINER) and so many others that have brought this successfully to the floor.

□ 1100

In the 107th Congress, I authored a bill to provide funding to process the backlog of DNA evidence after holding a hearing with Congressman HORN where a courageous rape survivor, Debbie Smith, testified. After her testimony, there was not a dry eye in the room, where she told how she was dragged from her home and brutally raped while her husband slept upstairs. After medical attention and after many years of living in fear, Debbie finally learned that DNA processing techniques had produced a cold hit identifying her assailant.

But her story in many ways is a story of many women. There is great violence against women in America. Every 2 seconds, there is a sexual assault against a woman. And we know that DNA techniques can convict and prevent rapists from attacking in the future. We know that each rapist will attack at least seven or eight times, according to law authorities, and each unprocessed DNA kit represents an innocent person, like Debbie Smith, or a rapist who could attack again if he is not put behind bars.

This bill will literally protect many women from sexual assault. It is an extremely important bill, and it will help with this backlog of hundreds of thousands of rape kits that are sitting on shelves across America gathering dust, when, if it was processed, could convict and place a rapist behind bars.

Mr. Speaker, there are many various important aspects of this bill. I am delighted that it includes the Debbie Smith act. I thank her for her courageous work, and many, many others.

Earlier this year, I reintroduced similar legislation, along with Representative MARK GREEN. The bill would accomplish several critical objections including providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, providing grant money for Sexual Assault Forensic Examiner programs, and providing funding to train law enforcement authorities on the collection and handling of DNA evidence.

I am delighted that the legislation that we are about to pass today includes ''The Debbie Smith Act.'' H.R. 3214 represents a bipartisan and bicameral effort to pass legislation that will put rapists in prison.

Many domestic violence groups and activists, including former Congresswoman Liz Holtzman, have helped us to get to this point. I also want to acknowledge the outstanding efforts of Lifetime Television in fighting against domestic violence and sexual assault. And of course, this bill has had no greater champion than Debbie Smith herself.

Tragically, the dismal reality is that only 6 percent of women who have been raped will ever see their attacker spend a day in jail.

Once again, I sincerely thank Chairman SENSENBRENNER for his leadership on this issue, and I urge my colleagues to vote for this legislation so that we can put an end to this travesty of justice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), who has been one of the principal motivators behind this legislation.

(Mr. LAHOOD asked and was given permission to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, I want to thank the chairman of the full committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), and our Senate colleagues, Mr. HATCH and Mr. LEAHY, for their many, many hours of work.

I rise today as a supporter of the death penalty and an original cosponsor of the bill. In the 106th and 107th Congresses, I sponsored the Innocent Protection Act with my friend, the gentleman from Massachusetts (Mr. DELAHUNT), whom I have great admiration for. This bill, which is now included as section 3, includes the Innocence Protection Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides materials necessary to repair a flawed system, and we do have a flawed system. I believe those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel or unprocessed DNA kits. We must permit inmates access to postconviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue rightful punishment of the guilty, we must establish minimum standards for competency of counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit, some within hours of execution. A death sentence is the ultimate punishment, and there must be 100 percent certainty of guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman, I applaud the gentleman from Massachusetts (Mr. DELAHUNT) and our Senate colleagues, and I ask Members to support this legislation.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Committee on the Judiciary Subcommittee on Crime, Terrorism and Homeland Security, and a leader on these issues.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

This bill makes DNA technology available to our criminal justice system in a way that effectively enhances the efficiency and certainty in exonerating the innocent, as well as identifying, prosecuting and convicting the guilty.

In recent years, the advent of DNA evidence has shown us, unequivocally, we have been convicting and incarcerating innocent people, while allowing many guilty people to go free. As a result of DNA identifications, many offenders have been convicted. At the same time, 138 convicted and sentenced individuals have been exonerated by DNA evidence, including 12 who were on death row.

The numbers of suspects who have been excluded as offenders at the outset of criminal investigations is even greater. The FBI reveals that 25 percent of suspects who are DNA tested are, in fact, exonerated.

This bill includes the provisions of the Debbie Smith Act, which authorizes significant funding to process DNA analysis for evidence. Many evidence kits are not now analyzed simply because of lack of funding, which means that many offenders are evading justice just because of lack of funds. This bill will mean they will be tracked down and prosecuted.

Virginia is a leader in solving crimes and DNA technology, and all States will benefit from the provisions of the Debbie Smith Act. The Debbie Smith Act is from Virginia.

While DNA technology has provided uncontrovertible proof that innocent people have been convicted and sentenced, DNA evidence covers only a small portion of those who are ultimately found to be innocent. One frequent reason for innocent people being convicted and sentenced, even to death, is incompetent and ineffective counsel. This is also the reason why many convictions are overturned. So we are pleased that there are minimum standards assured in the bill for qualifications of attorneys who will represent potential death row inmates.

Mr. Speaker, this will actually also mean that not only innocent people will not be convicted, but also many of the convictions will in fact be upheld on appeal.

I urge my colleagues to support the legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I rise with great reluctance today to oppose this bill, particularly because of the respect I have for the chairman and for the main sponsor on the Democratic side. I certainly support the goals of this legislation, but I think it is appropriate to ask, why is Congress authorizing $100 million in Federal funds to operate a State program?

There seems to me to be no reason for Congress to finance the State public defender system. Basic precepts of federalism dictate that each level of government should finance its own operations. Once States become accustomed to and budget for Federal funds, they can never reject the money, and Federal funding inevitably comes with increased Federal strings. We have seen that in every other area, most notably public education.

In the long run, States risk losing control over their own public defender programs. I believe there is no reason to start down that path.

I would like to yield to the gentleman from Arizona (Mr. SHADEGG), who has direct experience in the State Attorney General's office.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Arizona.

(Mr. SHADEGG asked and was given permission to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, rise reluctantly to oppose the legislation, in admiration for the committee chairman and the ranking member, but I think it is important for our colleagues to know that this legislation, while it does many good things and is certainly well-intended, is opposed by the National District Attorney's Association. They wrote the Speaker of the U.S. House very recently to express their concern. They talked about the good aspects of the bill, but they expressed concern on two topics, both the funding in the bill, in terms of what it would do to death penalty cases, but also and most importantly, the standard of proof that the bill sets for a new trial.

Specifically, the National District Attorney's Association wrote that the standard of evidence is set dangerously low. What they mean by that is under this legislation, convicted felons will have the ability to make a demand for a retrial under circumstances which are far lower than any other circumstances similar in other situations, and they expressed grave concern about that. Convicted criminals will be allowed to make consecutive, multiple requests for DNA testing under this bill. They would have an ability to tie up the courts over and over again by submitting separate requests.

I reluctantly urge my colleagues to oppose this bill and join the National District Attorneys' Association in opposing the bill so we can improve it and pass it in an improved fashion.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEINER), another author and a champion of the Debbie Smith Act and a member of the committee.

Mr. WEINER. Mr. Speaker, I thank the gentleman from Massachusetts for

his great leadership and the chairman of the committee.

Mr. Speaker, the way we treat the victims of rape in this country is a crime. Evidence that is collected at crime scenes often sits for years, sometimes beyond the statute of limitations, completely untouched by human hands. When that victim goes into a hospital emergency room, frequently they sit in triage with dozens of other people for hours at a time waiting to be examined by someone with no experience in such cases. With this legislation, we change both of those things.

More than 350,000 rape kits, evidence, sits on warehouse shelves throughout the country. We had as many as 16,000 in New York City, until the city began its own program of trying to analyze that evidence.

The technology exists, quite frankly, to match victims' DNA collected at crime scenes with those of criminals. We can make hits and we can often put people away; 154 cold cases have resulted in cases being solved, and in 204 more cases, we know who did it. And now it is just a matter of finding that perpetrator of a crime.

Can you imagine being a person who has been victimized in that way, having that crime scene created, having the evidence taken in the most invasive of ways, only to learn that it is sitting and sitting and sitting without any effort to analyze it.

Why do we have this problem? One word, money. Now the Federal Government, for the second time in this House we are passing legislation to deal with that backlog, $75 million over the next 5 years.

For those of us who have become concerned that in the past money has been grabbed by the States, never makes it to the city, this allows cities to make direct applications. This is an opportunity for us to bring justice to thousands of women. This is an opportunity for us to allow women who have been victimized by rape not to be victimized a second time by a system that does not pay enough attention to it.

I would point out to my colleagues that one of the indexed crimes is going up while all the others is going down, and that is crimes against women, rape. That is because people who perpetrate rape, we know, do it again and again and again and again. One crime we solve may stop seven women from being victimized in the future. That is why these provisions are so important.

We all see DNA evidence through the lens of our own interests. I see it as both what my friend, the gentleman from Massachusetts (Mr. DELAHUNT), says and through my lens as someone who cares about civil liberties, but also wants these crimes solved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

I rise in support of this legislation. People across the country, including 100,000 women watching Lifetime Television, have signed a petition supporting the bill. My constituents, law enforcement, have supported this bill. There are a number of reasons.

Nearly 12 years ago, a high school girl from the Pittsburgh area was raped and murdered shortly after she arrived in Fort Lauderdale for a vacation. For 12 years, that crime went unsolved. The family of that young girl was left not only with the loss of a daughter and sister, but also with the void of not knowing who committed the crime. Finally, a detective in Florida was able to match the DNA evidence to that of a convicted murderer on death row in Arkansas, and the mystery was solved.

That Fort Lauderdale officer said of matching the DNA evidence, ''It is basically getting that needle in the haystack and making the haystack smaller.''

This is what H.R. 3214 accomplishes. It makes the haystack smaller. DNA evidence is not just effective in murder cases, it is an extremely valuable tool in sexual assault cases.

A year ago, a man kidnapped and raped two women near Pittsburgh, but they could not identify him because the crimes occurred in the dark. As our district attorney noted, but for the work of the police and the coroner's division of laboratories, the man would never have been apprehended. Instead, because of DNA evidence, his crimes earned him a sentence of over 200 years in prison.

While these are all positive cases, unfortunately, there is a backlog of DNA samples. Experts have determined that DNA evidence from over 180,000 rape crime scenes have been collected and never analyzed. Imagine those families, wondering, waiting and worrying.

In addition, many labs do not have the technology to analyze these samples. The funding in this bill will provide grants to local governments to eliminate that backlog, improve technology used to collect and analyze that DNA evidence, and catch those criminals. Ultimately, this funding will help not only solve crimes, but it will make our communities safer.

In addition, the bill will improve the accuracy of our judicial system for those who believe they may have been wrongfully convicted. Despite criticisms of opponents of this bill, it will not open the floodgates of litigation by prisoners claiming innocence. It will not remove the State's responsibility for prosecution. It will help them to accomplish their purpose, and that is our job here.

Mr. DELAHUNT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished member of the Committee on the Judiciary, someone whose input into this effort has been well-noted, and who has made a very significant contribution.

□ 1115

Mr. SCHIFF. Mr. Speaker, I appreciate the gentleman yielding me this time and his effort on this legislation.

As lead cosponsor of the Advancing Justice Through DNA Technology Act of 2003, I rise in strong support of this landmark piece of legislation that will solve countless crimes and potentially exonerate innocent individuals wrongly imprisoned.

For years we have attempted to deal with crime by focusing almost exclusively on increasing sentences of those that we catch rather than catching those who continue to elude all punishment. We have been tough on crime, but not always smart about our tactics.

As a former Federal prosecutor, I have long recognized what a powerful tool the use of DNA profiles has become in solving crime. The FBI DNA database contains about 1.5 million DNA profiles and has yielded thousands of matches in criminal investigations, and thousands of additional matches can and must be made.

For this reason, I introduced legislation earlier this year to increase the effectiveness of DNA databases. This legislation was aimed at replicating nationwide the success that many States have had, and I am pleased that many of these policy improvements have been included in the bill before us today.

I want to thank the majority and minority members of the House and Senate for their willingness to work together to incorporate some of the provisions that I authored to provide additional database searching capabilities for Federal, State, and local law enforcement agencies. These additional tools will help solve thousands of cold cases, including unsolved murders and rapes.

The legislation before us provides much-needed funding to eliminate the backlog of unanalyzed samples and will do much to protect the innocent and apprehend the guilty.

Mr. DELAHUNT. Mr. Speaker, I have no further speakers; but I yield the balance of the time on this side of the aisle to the gentleman from North Carolina (Mr. COBLE), my friend and the chairman of the Subcommittee on Crime and a well-known crime fighter.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in hearty support for this legislation. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), and the gentleman from Virginia (Mr. SCOTT) and many others on the subcommittee and the full committee for their hard work.

Mr. Speaker, this is a good piece of legislation, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the two gentlemen from Arizona and their arguments in opposition to the bill, I think, are really misdirected. The gentleman from Arizona (Mr. FLAKE) said that the system of

federalism in terms of State public defenders is abused by this bill, and this really is not the case at all.

One of the reasons capital convictions end up being overturned has been that there has not been adequate counsel. This bill provides money to make sure that there is adequate counsel, not just on the defense side, but on the prosecution side as well, because States that use a public defender system to provide a defense in capital cases are eligible under this bill for both prosecution and defense frames.

The other gentleman from Arizona (Mr. SHADEGG) argues that the low standard for requiring new trials would allow criminals to go free. The bill does set appropriate standards for postconviction testing and new trials, but a judge must find that there is reasonable probability that the defendant did not actually commit the offense in order to even order a DNA test; and the preponderance of evidence standard would kick in once the court has ordered the test, and the test is either not inculpatory or is inconclusive. The court would then take the DNA test into account with all other evidence in deciding whether or not to order a new trial.

Mr. Speaker, this is a good bill. It will ensure that the guilty have a better chance of being convicted and will serve their punishment, and those who are innocent will have a better chance of being found not guilty and go free. I urge the House to support this bill.

Mr. EMANUEL. Mr. Speaker, today I rise as a strong supporter and cosponsor of H.R. 3214 the ''Advancing Justice Through DNA Technology Act of 2003.'' This bill would provide prosecutors with solid DNA evidence, and a stronger defense for the accused. Ultimately, it will strengthen and renew faith in our judicial system. Allow me to offer just one example of why this bill is so important.

In 1999, Shawn Armbrust, Tom McCann and other students at the Medill School of Journalism at Northwestern University discovered that Illinois death row inmate Anthony Porter had been falsely convicted. Also through the hard work of other Medill students, the ''Ford City Four'' were also found to be wrongfully accused. The public exposure of the discoveries led to a review of all death row cases in Illinois and ultimately 156 inmates were given a blanket commutation. These remarkable events focused the global spotlight on Illinois and caused many to question the basic tenets of the judicial system. Disturbingly, Illinois, and indeed many other States, may have wrongfully executed innocent people. The Medill students combined their investigative reporting skills with new technology to free those wrongly accused. Similarly, this bill will go a long way towards ensuring that those wrongly accused. Similarly, this bill will go a long way towards ensuring that those accused of crimes have a better defense. It will also help prosecutors ensure that justice is served.

Mr. Speaker, the students at Medill opened the door by highlighting the flaws in Illinois' system. Now it is our job to guarantee a fair and impartial judicial system. H.R. 3214, the ''Advancing Justice Through DNA Technology Act of 2003'' takes us one step closer to righting the system.

Mr. NADLER. Mr. Speaker, I strongly support this legislation.

I want particularly to congratulate Mr. DELAHUNT who first introduced the Innocence Protection Act several years ago, and has worked tirelessly on this matter ever since. I want to thank the chairman and the members of the committee from both sides of the aisle for working together to put politics and sound bites aside and to pass meaningful legislation to fight crime and advance the cause of justice.

I am pleased that this bill includes the modified Innocence Protection Act that aims to reduce the possibility that innocent people will be put to death. I understand this is a delicate compromise, but I must say that this bill is only a first step, not a final step, in our efforts to reform our Nation's capital punishment laws. These laws are broken and major reform and full funding of this legislation is necessary to prevent the innocent from being wrongfully convicted and executed.

It is imperative that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way toward that goal. On the issue of rape kits, again, let me say, ''It's about time.'' Many Members have been personally involved in the fight to test rape kits for several years now. I have worked with NOW, RAINN, and Liftime Television to raise awareness of this issue and to build consensus for decisive action. Together we have pushed, prodded, and demanded that Federal funding be provided to test these kits right away. Today, we are one step closer to our goal.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, but also actually appropriate funding when the time comes to pass the Commerce Justice State appropriations bill.

This issue is too important to ignore. Police Departments must have the resources they need to solve crimes and put criminals behind bars.

I am pleased that this bill includes a provision similar to the ''Rape Kit DNA Analysis Backlog Elimination Act'' which I introduced back in March 2002, which would have provided $250 million to eliminate the rape kit backlog 2 years ago. The bill before us today acknowledges that we were right back then when we requested major increases in funding, since this bill offers even more funding for this task. In addition, I am pleased to see that, like my bill, the phrase ''rape kits'' has been specifically added to our current law to further underscore the need for this funding to address rape crimes in particular. These heinous crimes deserve our full attention and the victims of the crimes deserve the certainty that DNA evidence can bring to them.

Once again, I am pleased to support this bill because it represents a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them in prison.

Mr. CASE. Mr. Speaker, I rise today in strong support of H.R. 3214, the Advancing Justice Through DNA Technology Act of 2003, and urge my colleagues to vote in support of final passage of this vital legislation.

Recently, my Honolulu Police Department received a grant from the U.S. Justice Department to cover the costs of conducting DNA analysis on backlogged cases, many of which are sexual assault crimes. While I am sure that we are all grateful for funding such as this, we must recognize that much more must be done, on a broader, more coordinated basis, to take full advantage of the legitimate uses of DNA evidence in criminal justice.

As an original cosponsor of H.R. 3214, I believe that this bill will bring a far better measure of justice to both victims and accuseds. It will also provide desperately needed support and resources for our local law enforcement efforts.

H.R. 3214 establishes new procedures for DNA testing for Federal inmates, and authorizes $5 million in grants over 6 years to help States defray the costs of post-conviction DNA testing. In addition, $755 million is authorized to help decrease the backlog of more than 300,000 rape kits, and more than $500 million is provided for grant programs to improve the capacity of federal, state and local crime labs to conduct DNA analyses, train criminal justice personnel in how to use DNA evidence, and promote the use of DNA technology to identify missing persons.

I commend the work of the members of the Committee on the Judiciary, especially Chairman SENSENBRENNER and Ranking Member CONYERS, who worked together in a true bipartisan fashion to develop the legislation and bring it to the floor in such a swift manner. Your efforts yielded broad support as H.R. 3214 has 249 cosponsors, which includes 69 Republicans, 179 Democrats, and 1 Independent.

Again, I urge my colleagues to support final passage of H.R. 3214.

Ms. PRYCE of Ohio. Mr. Speaker, today the House considers legislation that makes important progress in our fight against crime. H.R. 3214 represents months of bipartisan work by Members who are dedicated to improving law enforcement in our country. Through the increased and improved use of DNA evidence, law enforcement officials will be able to better identify criminals while protecting the innocent. I wholeheartedly support this bill.

Across the country, States are experiencing unprecedented backlogs in analyzing DNA evidence in criminal cases. These backlogs create interminable delays, robbing our system of the accuracy and efficiency necessary to identify the innocent, punish the perpetrators, and provide justice to victims. President Bush has recognized the gravity of this problem, and H.R. 3214 provides $755 million to help enact his initiative to reduce the backlogs of unanalyzed DNA evidence.

More specifically, H.R. 3214 includes essential provisions that provide for the testing of thousands of unexamined rape kits. According to the Department of Justice, across the United States there are at least 350,000 rape kit DNA samples that need to be analyzed. Many of these kits have been sitting on the shelves of laboratories for years. As a woman and as a Member of Congress, I find the delay in the processing of these kits appalling and unacceptable.

DNA evidence from rape kits can provide solid evidence of a perpetrator's identity. Often, these samples are the key piece of evidence, providing ''cold hits'' in cases for which there is no suspect. It is a crime in itself that the processing of these kits has been delayed so long. It is time for the Federal Government to provide the States with the assistance and direction needed to correct this injustice.

The bill we consider today provides $151 million each year for the next 4 years for

States to eliminate their rape kit backlogs. The bill also ensures that private laboratories can assist in processing rape kits. These measures will ensure that thousands of women in the United States will finally have closure.

I urge my colleagues to support this important legislation.

Mr. CONYERS. Mr. Speaker, I want to thank Chairman SENSENBRENNER, Representative DELAHUNT and Members on both sides of the aisle for their hard work in developing this bipartisan, bicameral compromise. H.R. 3214 takes the first of hopefully many steps toward improving the integrity of our criminal justice system.

First and foremost, the bill provides Federal inmates with access to DNA testing, thereby enabling them to establish their innocence after being subjected to a wrongful conviction. As many of you know, over the past few years, more than 110 innocent Americans have already been exonerated thanks to post-conviction DNA testing. This provision will ensure that others wrongfully convicted will also have an equal chance at obtaining justice.

Second, the bill authorizes grants to be awarded to States with the express purpose of improving the quality of legal representation afforded indigent defendants in capital cases. Experts have indicated that many of the most egregious cases in which an innocent person was wrongfully convicted involved attorneys who were incompetent, ill-trained, or simply ineffective. These grants will dramatically alter this situation by providing defendants with defense counsel that meet a minimum standard of competency.

Finally, the bill contains a provision—not often mentioned—but of extreme importance to those that have been subjected to a wrongful conviction. I'm speaking of the provision in the bill that increases the maximum amount of damages an individual may be awarded for being wrongfully imprisoned from $5,000 to $50,000 per year in noncapital cases and up to $100,000 per year in capital cases.

Having pointed out the many virtues of the bill, I must admit this bill remains far from perfect. I would prefer the legislation include an outright ban on the use of the Federal death penalty. I also think the bill would have been considerably better if it addressed some of the many factors that contribute to the unacceptably high rate of wrongful convictions, including eyewitness error, perjury, false confessions, and police torture.

Nevertheless, I strongly support the delicate compromise that has been reached today. And, I urge my colleagues to support this worthwhile initiative.

Mr. COBLE. Mr. Speaker, very seldom do we find a law enforcement tool that benefits everyone involved in the criminal justice system equally. DNA is this tool. Prosecutors, defendants and victims all benefit from the fact that DNA provides an unquestionable evidence of guilt and innocence. Forensic DNA technology is the future of investigations and Congress must ensure that the criminal justice system has the necessary resources so that this technology can keep pace with the future demands an eliminate any backlog that may slow its progress.

The bill before us would ensure just that. The ''Advancing Justice Through DNA Technology Act,'' would provide grants to improve the administration of justice by eliminating the DNA backlog, testing rape kits, improving forensic science and DNA labs in states, and providing training for law enforcement, prosecutors, medical personnel in DNA analysis.

There is no question that the current federal and state DNA collection and analysis system needs improvement. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples. In addition, these labs may be ill-equipped to handle the increasing influx of DNA samples and evidence. More research is needed to develop faster methods for analyzing DNA evidence and professionals involved in the criminal justice system need additional training and assistance to solve crimes.

The bill would also provide grants to states to improve the quality of legal representation for both indigent defendants and the public in capital cases. As my Chairman stated earlier, it is important to note that these grants may not be used for representation in a particular case or to fund political advocacy. This prohibition will prevent such dollars from being used to promote an anti-death penalty agenda.

The bill would also allow funding to process post conviction DNA test if certain criteria are met.

It is important to clarify that the bill allows DNA testing of evidence only when an applicant can show that it is consistent with a theory of defense, that testing would produce new material evidence to support the theory of defense, and assuming it excluded the defendant, would raise a reasonable probability that the applicant did not commit the offense.

Further, a judge would only be authorized to grant a new trial after considering potentially exculpatory DNA evidence in conjunction with all other evidence in the case.

Finally, a defendant could only apply for post conviction testing if the specific evidence to be tested was not previously subjected to DNA testing or new technology in testing has been developed and the defendant did not voluntarily waive his right to have the evidence tested. Again, it is important to note, a judge would still have to have to consider all evidence in the case.

I believe that the Innocence Protection Act provisions in the bill are necessary to both protect the rights of those wrongfully convicted and to preserve the integrity of the death penalty. As a proponent of capital punishment in appropriate cases, I also believe that individuals convicted of a crime and subsequently sentenced to death by a jury of their peers should have fair access to competent legal advice and due process under the law.

It is my opinion that as technology improves and new tools are available to investigate crimes and prosecute criminals, we must grow our justice system to accommodate such tools to preserve equal justice for all.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHADEGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REAUTHORIZING THE BAN ON UNDETECTABLE FIREARMS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to reauthorize the ban on undetectable firearms, as amended.

The Clerk read as follows:

H.R. 3348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THE BAN ON UNDETECTABLE FIREARMS.

Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended—

(1) by striking ''15'' and inserting ''25'';

(2) in subparagraph (B)—

(A) by striking ''and (h)'' and inserting ''through (o)''; and

(B) by striking ''and (g)'' and inserting ''through (n)''; and

(3) by striking subparagraphs (D) and (E) and inserting the following:

''(D) section 924(a)(1) of such title is amended by striking 'this subsection, subsection (b), (c), or (f) of this section, or in section 929' and inserting 'this chapter'; and

''(E) section 925(a) of such title is amended—

''(i) in paragraph (1), by striking 'and provisions relating to firearms subject to the prohibitions of section 922(p)'; and

''(ii) in paragraph (2), by striking ', except for provisions relating to firearms subject to the prohibitions of section 922(p),'; and

''(iii) in each of paragraphs (3) and (4), by striking 'except for provisions relating to firearms subject to the prohibitions of section 922(p),'.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3348, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the last few years, we have had to make a lot of adjustments in security for our Nation's airports, government buildings, and ports. We have recognized that this heightened security is necessary to protect the United States from terrorist threats. However, even before the events of September 11, 2001, Members of Congress