AMENDMENT NO._________ Calendar No.______

Purpose: In the nature of a substitute.


S. 250

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

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

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

Viz:

1 Strike all after the enacting clause and insert the following:

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Justice for All Reauthori-

5 thorization Act of 2012”.


SEC. 2. CRIME VICTIMS' RIGHTS.

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

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

“(9) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims’ Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims’ Rights Ombudsman of the Department of Justice.”;

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

(3) in subsection (e)—

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

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

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

“(B) for a prosecution in the Superior Court of the District of Columbia, the District of Columbia Court of Appeals.
“(2) Crime victim.—

“(A) In general.—The term;

(B) by striking “In the case” and inserting

the following:

“(B) Minors and certain other vic-
tims.—In the case”; and

(C) by adding at the end the following:

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

(b) Crime Victims Fund.—Section 1402(d)(3) of
the Victims of Crime Act of 1984 (42 U.S.C.10601(d)(3))
is amended by—

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

(2) by adding at the end the following:

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

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS

FOR CRIME VICTIMS.

(a) Crime Victims Legal Assistance Grants.—

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

(1) in paragraph (1), by striking “$2,000,000”

and all that follows through “2009” and inserting
“$5,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017”;

(2) in paragraph (2), by striking “$2,000,000” and all that follows through “2009,” and inserting “$5,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017”; 

(3) in paragraph (3), by striking “$300,000” and all that follows through “2009,” and inserting “$500,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017”; 

(4) in paragraph (4), by striking “$7,000,000” and all that follows through “2009,” and inserting “$11,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017”; and 

(5) in paragraph (5), by striking “$5,000,000” and all that follows through “2009,” and inserting “$7,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017”.

(b) Crime Victims Notification Grants.—Section 1404E(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603e(c)) is amended by striking “this section—” and all that follows and inserting “this section $5,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017.”.
SEC. 4. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

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

“SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) AWAITING TESTING.—The term ‘awaiting testing’, with respect to DNA case work, has the meaning given that term by the Director, in accordance with subsection (b)(3).

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

“(3) COMBINED DNA INDEX SYSTEM.—The term ‘Combined DNA Index System’ means the Combined DNA Index System of the Federal Bureau of Investigation.

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

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

“(7) STATE.—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.

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

“(1) PROTOCOLS AND PRACTICES.—Not later than 18 months after the date of enactment of the Justice for All Reauthorization Act of 2012, the Director, in consultation with Federal, State, and local law enforcement agencies and government laboratories, shall develop and publish a description of protocols and practices the Director considers appropriate for the accurate, timely, and effective collection and processing of DNA evidence, including protocols and practices specific to sexual assault cases, which shall address appropriate steps in the investigation of cases that might involve DNA evidence, including—
“(A) how to determine—

“(i) which evidence is to be collected by law enforcement personnel and forwarded for testing;

“(ii) the preferred order in which evidence from the same case is to be tested; and

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

“(B) the establishment of a reasonable period of time in which evidence is to be forwarded by emergency response providers, law enforcement personnel, and prosecutors to a laboratory for testing;

“(C) the establishment of reasonable periods of time in which each stage of analytical laboratory testing is to be completed;

“(D) systems to encourage communication within a State or unit of local government among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and
crime victims regarding the status of crime scene evidence to be tested; and

“(E) standards for conducting the audit of the backlog for DNA case work in sexual assault cases required under subsection (c)(5).

“(2) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall make available technical assistance and training to support States and units of local government in adopting and implementing the protocols and practices developed under paragraph (1) on and after the date on which the protocols and practices are published.

“(3) DEFINITIONS.—The Director, in consultation with Federal, State, and local law enforcement agencies and government laboratories, shall develop and publish, for purposes of this section, definitions of—

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

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

“(i) shall take into consideration the different stages at which a backlog may develop, including the investigation and
prosecution of a crime by law enforcement personnel, prosecutors, and others, and the laboratory analysis of crime scene samples; and

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

“(C) the term ‘possession’.

“(e) AUTHORIZATION OF GRANTS.—

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

“(A) carry out, for inclusion in the Combined DNA Index System, DNA analyses of samples collected under applicable legal authority;

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

“(C) increase the capacity of laboratories owned by the State or unit of local government to carry out DNA analyses of samples specified in subparagraph (A) or (B);
“(D) ensure that DNA testing and analysis of samples from crimes, including sexual assault and other violent crimes against persons, are carried out in a timely manner;

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

“(F) ensure effective communication regarding the status of crime scene evidence to be tested among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, victim service professionals who work for law enforcement agencies or prosecutors’ offices, and crime victims, which may include the development and implementation of an evidence tracking system in accordance with the protocols and practices developed under subsection (b)(1); and

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

“(A) assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of the award of the grant, a comprehensive plan—

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

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

“(I) adopt the appropriate protocols and practices developed under subsection (b)(1); and

“(II) provide training with respect to the protocols and procedures for appropriate personnel within a reasonable time after the promulgation of the protocols and practices;
“(B) a certification that each DNA analysis carried out under the plan shall be maintained in accordance with the privacy requirements described in section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

“(C) if submitted by a unit of local government, a certification that the unit of local government has taken, or is taking, all appropriate steps to ensure that the unit of local government is eligible to include in the Combined DNA Index System, directly or through a State law enforcement agency that is responsible for Combined DNA Index System database operation and administration, all analyses of samples for which the unit of local government has requested funding; and

“(D) an estimation of the percentage of the amounts received under the grant that the State or unit of local government shall use for each purpose described in paragraph (1) for which the State or unit of local government received the grant.

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

“(i) satisfies quality assurance standards as specified in subparagraph (B); and

“(ii) is—

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

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

“(B) QUALITY ASSURANCE STANDARDS.—

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

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

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

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

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

“(C) PAYMENTS.—The Attorney General may use amounts appropriated to carry out this section to make payments to a laboratory described under subparagraph (B).

“(5) AUDITS AND PUBLICATION OF DNA BACK-LOGS IN SEXUAL ASSAULT CASES.—
“(A) IN GENERAL.—A plan described in paragraph (2)(A) shall require the State or unit of local government to submit to the Attorney General an audit every 2 years reflecting the backlog for DNA case work in sexual assault cases within the jurisdiction in which the funds will be used, including a specific breakdown of cases, as determined by the Director (in consultation with Federal, State, and local law enforcement agencies and government laboratories under subsection (b)(1)), and the percentage of the amounts received under the grant allocated to reducing the backlog of DNA case work in sexual assault cases.

“(B) COMPILATION.—The Attorney General shall annually compile and publish the audits submitted under subparagraph (A) on the website of the Department of Justice.

“(d) FORMULA FOR DISTRIBUTION OF GRANTS.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), 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 States and units of local gov-
ernment applying for grants under this section that—

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

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

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

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

“(iii) the number of part 1 violent crimes in the State or unit of local government; and

“(iv) the availability of resources to train emergency response providers, law enforcement personnel, prosecutors, and crime laboratory personnel on the effectiveness of appropriate and timely DNA collection, processing, and analysis.
“(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 amount appropriated in a fiscal year for grants under this section.

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

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

“(e) RESTRICTIONS ON USE OF FUNDS.—

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

“(2) **Administrative costs.**—A State or unit of local government may not use more than 3 percent of the amounts made available under a grant under this section for administrative expenses relating to the grant.

“(f) Reports to the Attorney General.—Each State or unit of local government that receives a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section are expended, a report at such time and in such manner as the Attorney General may reasonably require, that contains—

“(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application; and

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

“(g) Reports to Congress.—Not later than 90 days after the end of each fiscal year for which grants are made under this section, the Attorney General shall submit to Congress a report that includes—
“(1) the aggregate amount of grants made under this section to each State or unit of local government for the fiscal year;

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

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

“(h) EXPENDITURE RECORDS.—

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

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

“(i) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more
than 1 percent of the amounts made available for grants under this section for a fiscal year—

“(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 to—

“(A) defray the costs of external audits of laboratories operated by the 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) assess compliance with any plans submitted to the Director that detail the use of funds received by States or units of local government under this section; and

“(C) support 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.

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

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

“(A) all of the purposes set forth in subsection (c) have been met;

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

“(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely processing of DNA case work or offender samples; and

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

“(k) **EXTERNAL AUDITS AND REMEDIAL EFFORTS.**—If a laboratory operated by a State or unit of local government which has received funds under this section 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 the audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with the standards, the State or unit of local government shall implement any such remediation as soon as practicable.

“(l) **PENALTY FOR NONCOMPLIANCE.**—

“(1) **IN GENERAL.**—The Attorney General shall annually compile a list of the States and units of local government receiving a grant under this section that have failed to provide the information required under subsection (c)(5)(A) or (f). The Attorney General shall publish each list compiled under this paragraph on the website of the Department of Justice.

“(2) **REDUCTION IN GRANT FUNDS.**—For any State or local government that the Attorney General determines has failed to provide the information required under subsection (c)(5)(A) or (f), the Attor-
ney General may not award a grant under this section for the fiscal year after the fiscal year to which the determination relates in an amount that is more than 50 percent of the amount the State or local government would have otherwise received.

“(m) Authorization of Appropriations.—There are authorized to be appropriated to the Attorney General for grants under this section $151,000,000 for each of fiscal years 2013 through 2017.”.

(b) Report.—

(1) Evaluation.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall evaluate the performance, technical proficiency, adherence to quality assurance standards, and other policies, standards, and protocols relating to the use of private laboratories in the analysis of DNA evidence.

(B) Conduct of evaluation.—The evaluation under this paragraph shall—

(i) include the mandatory technical review of the analysis of DNA evidence by a private laboratory on behalf of a public laboratory before uploading the DNA pro-
files into the Combined DNA Index System of the Federal Bureau of Investigation; and 

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

(2) COMMENTS.—The Director shall provide an opportunity for interested parties, including public and private laboratories and State and local law enforcement agencies, to comment on the findings of the evaluation under paragraph (1) before the report is submitted to Congress in accordance with paragraph (3).

(3) REPORT TO CONGRESS.—Not later than 60 days after the date on which the Director of the Federal Bureau of Investigation completes the evaluation under paragraph (1), the Director shall submit to Congress a report of the findings of the evaluation and any proposed policy changes.

(c) TRANSITION PROVISION.—

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

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

(B) the date on which the Director of the National Institute of Justice publishes a description of protocols and practices in accordance with section 2(b)(1) of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a).

(2) TRANSITION.—Notwithstanding the amendments made by subsection (a)—

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

(B) the Attorney General may not make a grant under section 2 of the DNA Analysis Backlog Elimination Act of 2000, as amended by subsection (a), until the start of the first full fiscal year after the transition date.
SEC. 5. RAPE EXAM PAYMENTS.


(1) in subsection (a)(1)—

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

“(A) incurs the full”;

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

(C) by adding at the end the following:

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

(2) in subsection (b)—

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

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

(C) by striking paragraph (3); and

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

“(d) NONCOOPERATION.—
“(1) In general.—To be in compliance with this section, a State, Indian tribal government, or unit of local government shall comply with subsection (b) without regard to whether the victim participates in the criminal justice system or cooperates with law enforcement.”.

7 SEC. 6. ADDITIONAL REAUTHORIZATIONS.

(a) DNA Training and Education for Law Enforcement.—Section 303(b) of the Justice for All Act of 2004 (42 U.S.C. 14136(b)) is amended by striking “$12,500,000 for each of fiscal years 2009 through 2014” and inserting “$5,000,000 for each of fiscal years 2013 through 2017”.

(b) Sexual Assault Forensic Exam Program Grants.—Section 304(c) of the Justice for All Act of 2004 (42 U.S.C. 14136a(c)) is amended by striking “$30,000,000 for each of fiscal years 2009 through 2014” and inserting “$15,000,000 for each of fiscal years 2013 through 2017”.

(c) DNA Research and Development.—Section 305(c) of the Justice for All Act of 2004 (42 U.S.C. 14136b(c)) is amended by striking “$15,000,000 for each of fiscal years 2005 through 2009” and inserting “$5,000,000 for each of fiscal years 2013 through 2017”.
(d) FBI DNA Programs.—Section 307(a) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2275) is amended by striking “$42,100,000 for each of fiscal years 2005 through 2009” and inserting “$10,000,000 for each of fiscal years 2013 through 2017.”

(e) DNA Identification of Missing Persons.—Section 308(c) of the Justice for All Act of 2004 (42 U.S.C. 14136d(c)) is amended by striking “fiscal years 2005 through 2009” and inserting “fiscal years 2013 through 2017”.

SEC. 7. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.


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

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

(3) by adding at the end the following:

“(J) $25,000,000 for each of fiscal years 2013 through 2017.”.
SEC. 8. IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES.

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

(1) in subsection (a), by striking “$75,000,000 for each of fiscal years 2005 through 2009” and inserting “$30,000,000 for each of fiscal years 2013 through 2017”; and

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

SEC. 9. POST-CONVICTIO DNA TESTING.

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

(1) in subsection (a)—

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

(B) in paragraph (3)(A), by striking “and the applicant did not—” and all that follows through “knowingly fail to request” and inserting “and the applicant did not knowingly fail to request”; and
(2) in subsection (g)(2)(B), by striking “death”.

(b) Preservation of Biological Evidence.—Section 3600A(c) of title 18, United States Code, is amended—

(1) by striking paragraph (2); and

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

SEC. 10. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

(a) In General.—Section 413 of the Justice for All Act of 2004 (42 U.S.C. 14136 note) is amended—

(1) in the matter preceding paragraph (1), by striking “fiscal years 2005 through 2009” and inserting “fiscal years 2013 through 2017”; and

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

“(2) for eligible entities that are a State or unit of local government, provide a certification by the chief legal officer of the State in which the eligible entity operates or the chief legal officer of the jurisdiction in which the funds will be used for the purposes of the grants, that the State or jurisdiction—
“(A) provides DNA testing of specified evidence under a State statute or a State or local rule or regulation to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner intended to ensure a reasonable process for resolving claims of actual innocence that ensures post-conviction DNA testing in at least those cases that would be covered by section 3600(a) of title 18, United States Code, had they been Federal cases, and, if the results of the testing exclude the applicant as the perpetrator of the offense, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar the application as untimely; and

“(B) preserves biological evidence, as defined in section 3600A of title 18, United States Code, under a State statute or a State or local rule, regulation, or practice in a manner intended to ensure that reasonable measures are taken by the State or jurisdiction to preserve biological evidence secured in relation to the investigation or prosecution of, at a min-
imum, murder, non-negligent manslaughter, and sexual offenses.”.

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

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

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

SEC. 11. ESTABLISHMENT OF BEST PRACTICES FOR EVIDENCE RETENTION.

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

“SEC. 414. ESTABLISHMENT OF BEST PRACTICES FOR EVIDENCE RETENTION.

“(a) IN GENERAL.—The Director of the National Institute of Justice, in consultation with Federal, State, and local law enforcement agencies and government laboratories, shall—

“(1) establish best practices for evidence retention to focus on the preservation of biological evidence; and
“(2) assist State, local, and tribal governments in adopting and implementing the best practices established under paragraph (1).

“(b) DEADLINE.—Not later than 1 year after the date of enactment of this section, the Director of the National Institute of Justice shall publish the best practices established under subsection (a)(1).

“(c) LIMITATION.—Nothing in this section shall be construed to require or obligate compliance with the best practices established under subsection (a)(1).”.

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

“Sec. 414. Establishment of best practices for evidence retention.”.

SEC. 12. EFFECTIVE ADMINISTRATION OF CRIMINAL JUSTICE.

(a) SHORT TITLE.—This section may be cited as the “Effective Administration of Criminal Justice Act of 2012”.

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

(1) by inserting “(a) IN GENERAL.—” before “To request a grant”; and
(2) by adding at the end the following:

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

“(A) be designed in consultation with local governments, and all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, corrections personnel, and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services;

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

“(C) describe the process used by the State for gathering evidence-based data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions; and

“(D) be updated every 5 years, with annual progress reports that—
“(i) address changing circumstances in the State, if any;

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

“(iii) provide an ongoing assessment of need;

“(iv) discuss the accomplishment of goals identified in any plan previously prepared under this paragraph; and

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

“(b) TECHNICAL ASSISTANCE.—

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

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

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

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

“(3) Authorization of Appropriations.—
There is authorized to be appropriated $5,000,000
for each of fiscal years 2013 through 2017 to carry
out this subsection.”.

(c) Applicability.—The requirement to submit a
strategic plan under section 501(a)(6) of title I of the Om-
nibus Crime Control and Safe Streets Act of 1968, as
added by subsection (b), shall apply to any application
submitted under such section 501 for a grant for any fis-
cal year beginning after the date that is 1 year after the
date of enactment of this Act.
SEC. 13. OVERSIGHT AND ACCOUNTABILITY.

All grants awarded by the Department of Justice that are authorized under this Act shall be subject to the following:

(1) **Audit Requirement.**—Beginning in fiscal year 2013, and each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct audits of recipients of grants under this Act to prevent waste, fraud, and abuse of funds by grantees. The Inspector General shall determine the appropriate number of grantees to be audited each year.

(2) **Mandatory Exclusion.**—A recipient of grant funds under this Act that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this Act during the 2 fiscal years beginning after the 12-month period described in paragraph (5).

(3) **Priority.**—In awarding grants under this Act, the Attorney General shall give priority to eligible entities that, during the 3 fiscal years before submitting an application for a grant under this Act, did not have an unresolved audit finding showing a violation in the terms or conditions of a Department of Justice grant program.
(4) REIMBURSEMENT.—If an entity is awarded grant funds under this Act during the 2-fiscal-year period in which the entity is barred from receiving grants under paragraph (2), the Attorney General shall—

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

(B) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

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

(6) NONPROFIT ORGANIZATION REQUIREMENTS.—

(A) DEFINITION.—For purposes of this section and the grant programs described in
this Act, the term “‘nonprofit organization’”
means an organization that is described in sec-
tion 501(c)(3) of the Internal Revenue Code of
1986 and is exempt from taxation under section
501(a) of such Code.

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

(C) DISCLOSURE.—Each nonprofit organi-
zation that is awarded a grant under a grant
program described in this Act and uses the pro-
cedures prescribed in regulations to create a re-
buttable presumption of reasonableness for the
compensation of its officers, directors, trustees
and key employees, shall disclose to the Attor-
ney General, in the application for the grant,
the process for determining such compensation,
including the independent persons involved in
reviewing and approving such compensation, the
comparability data used, and contemporaneous
substantiation of the deliberation and decision.
Upon request, the Attorney General shall make the information disclosed under this subsection available for public inspection.

(7) Administrative expenses.—Unless otherwise explicitly provided in authorizing legislation, not more than 7.5 percent of the amounts authorized to be appropriated under this Act may be used by the Attorney General for salaries and administrative expenses of the Department of Justice.

(8) Conference expenditures.—

(A) Limitation.—No amounts authorized to be appropriated to the Department of Justice under this Act may be used by the Attorney General or by any individual or organization awarded discretionary funds through a cooperative agreement under this Act, to host or support any expenditure for conferences that uses more than $20,000 in Department funds, unless the Deputy Attorney General or the appropriate Assistant Attorney General, Director, or principal deputy as the Deputy Attorney General may designate, provides prior written authorization that the funds may be expended to host a conference.
(B) **Written Approval.**—Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food and beverages, audio/visual equipment, honoraria for speakers, and any entertainment.

(C) **Report.**—The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all conference expenditures approved by operation of this paragraph.

(9) **Prohibition on Lobbying Activity.**—

(A) **In General.**—Amounts authorized to be appropriated under this Act may not be utilized by any grant recipient to—

(i) lobby any representative of the Department of Justice regarding the award of grant funding; or

(ii) lobby any representative of a Federal, state, local, or tribal government regarding the award of grant funding.

(B) **Penalty.**—If the Attorney General determines that any recipient of a grant under
this Act has violated subparagraph (A), the Attorney General shall—

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

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