

1 (1) in clause (vi), by striking “or” at the end;

2 (2) in clause (vii), by striking the period at the end and inserting “; or”; and

3 (3) by inserting at the end the following:

4 “(viii) a witness or a person to whom a subpoena is directed, if there is
5 reason to believe that otherwise there may result a danger to the national
6 security or to the life or physical safety of an individual, flight from
7 prosecution, destruction of or tampering with evidence, intimidation of a
8 potential witness, or other serious jeopardy to an investigation and if the
9 witness or person is notified of the prohibition of disclosure. Such a witness
10 or person may consult with counsel prior to testifying before the grand jury or
11 responding to the subpoena and shall notify such counsel of the prohibition of
12 disclosure, and such counsel shall be subject to the same prohibition of
13 disclosure.”

14 **Title III: Enhancing Investigations of Terrorist Plots**

15 **Subtitle A: Terrorism Identification Database**

16 **Sec. 301: Short Title.**

17 This Subtitle may be cited as the “Terrorist Identification Database Act of 2003.”

18 **Sec. 302: Collection and Use of Identification Information from Suspected Terrorists**
19 **and Other Sources.**

20 (a) COLLECTION AND RECEIPT OF DNA SAMPLES, FINGERPRINTS, AND
21 OTHER INFORMATION. –

1 (1) COLLECTION FROM SUSPECTED TERRORISTS IN CUSTODY OR
2 UNDER SUPERVISION OR ON CONDITIONAL RELEASE. –

3 (A) DEPARTMENT OF JUSTICE. – The Attorney General, and any other
4 official or agency designated by the Attorney General, shall have the authority to
5 collect DNA samples, fingerprints, and other identification information from any
6 suspected terrorist who is in the custody of the Attorney General, the United States
7 Marshal Service, the Bureau of Prisons, or the Immigration and Naturalization
8 Service. A Federal official or agency so designated by the Attorney General shall
9 collect DNA samples, fingerprints, and other identification information from any such
10 person as directed by the Attorney General.

11 (B) PROBATION OFFICERS. – Upon the request of the Attorney General, the
12 probation office responsible for the supervision under Federal law of an individual on
13 probation, parole, or supervised release shall collect DNA samples, fingerprints, and
14 other identification information from any suspected terrorist.

15 (C) DEPARTMENT OF DEFENSE. – The Secretary of Defense, and any other
16 official or agency within the Department of Defense designated by the Secretary, shall
17 have the authority to collect DNA samples, fingerprints, and other identification
18 information from any suspected terrorist who is in the custody of, or being detained
19 by, the Department of Defense. A Federal official or agency so designated by the
20 Secretary shall collect DNA samples, fingerprints, and other identification information
21 from any such person as directed by the Secretary.

22 (D) COLLECTION PROCEDURES. – Any official authorized under paragraph
23 (A), (B), or (C) to collect a DNA sample from a suspected terrorist may use or
24 authorize the use of such means as are reasonably necessary to collect a DNA sample

1 from any such suspected terrorist who refuses to cooperate in the collection of the
2 sample.

3 (E) CRIMINAL PENALTY. – An individual from whom the collection of a
4 DNA sample is authorized under subsection (a)(1) who fails to cooperate in the
5 collection of that sample shall be –

6 (i) guilty of a class A misdemeanor; and

7 (ii) punished in accordance with title 18, United States Code.

8 (2) COLLECTION OR RECEIPT OF OTHER IDENTIFICATION
9 INFORMATION. – The Attorney General, the Secretary of Defense, or other
10 designated official or agency, may also collect and receive, either directly or from another
11 Federal, State, local, or foreign government agency, or other appropriate source –

12 (A) DNA samples, fingerprints, and other identification information of any
13 suspected terrorist, regardless of whether he or she is in custody or under supervision,
14 where such samples or information are voluntarily provided by the suspected terrorist
15 or otherwise lawfully acquired from any source;

16 (B) DNA samples, fingerprints, and other identification information that have
17 been recovered from the scenes of terrorist activities, including unidentified human
18 remains, or that have been recovered from any item that may have been handled by a
19 suspected terrorist; and

20 (C) DNA samples, fingerprints, and other identification information of any
21 person, where such samples or information are voluntarily provided by the person and
22 may assist in the investigation and identification of terrorists and the prevention of
23 terrorism.

1 (b) COLLECTION, ANALYSIS, STORAGE, AND MAINTENANCE OF DNA
2 SAMPLES, FINGERPRINTS, AND OTHER INFORMATION. –

3 (1) ANALYSIS AND USE OF SAMPLES. – The Attorney General shall have the
4 authority to analyze DNA samples, fingerprints, and other information collected or
5 received under subsection (a) or that has been lawfully acquired under any other source
6 of law. Any such analysis of DNA samples shall be conducted in conformity with the
7 quality assurance standards issued by the Director of the Federal Bureau of Investigation
8 under section 210303 of the Violent Crime Control and Law Enforcement Act of 1994
9 (42 U.S.C. 14131).

10 (2) AGREEMENTS WITH OTHER ENTITIES CONCERNING DNA SAMPLES.
11 – The Attorney General may enter into agreements with Federal agencies, with units of
12 State or local government, or with private entities, to assist in the collection, analysis,
13 storage, or maintenance of the DNA samples described in paragraph (1).

14 **Sec. 303: Establishment of Database to Facilitate Investigation and Prevention of**
15 **Terrorist Activities.**

16 (a) DATABASES. –

17 (1) The Attorney General may establish one or more databases of DNA records,
18 fingerprints, and other identification information—

19 (A) that was collected or received under section 2(a);

20 (B) that was obtained as a result of any analysis conducted under section 2(b);

21 and

22 (C) that is information of the kind described in section 2(a) or 2(b), but which
23 may have been collected or received before the effective date of this Act.

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1 (2) Any federal agency, including the Department of Defense and any probation
2 office, shall provide to the Attorney General, for inclusion in such databases as may be
3 established, any DNA records, fingerprints, and other identification information described
4 in paragraph (1). As directed by the Attorney General, any DNA records, fingerprints,
5 and other identification information described in paragraph (1) shall be included in the
6 databases authorized by this section.

7 (b) USES. –

8 (1) **GENERALLY.** – The Attorney General may use DNA records, fingerprints, and
9 other identification information contained in the databases described in subsection (a) for
10 the purposes of detecting, investigating, prosecuting, preventing, or responding to
11 terrorist activities, or other criminal or unlawful activities by suspected terrorists, and may
12 share the information with other Federal, State, local, or foreign agencies only for these
13 purposes. In addition, the Attorney General may use and disclose the information for
14 other purposes and to other entities and persons to the extent permitted by law.

15 (2) **DATABASE SEARCHES.** – The Attorney General may search information in
16 the databases described in subsection (a) against the national DNA index established by
17 section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42
18 U.S.C. 14132), the Integrated Automated Fingerprint Identification System of the Federal
19 Bureau of Investigation, other databases maintained by Federal, State, or local law
20 enforcement agencies, and other appropriate databases as determined by the Attorney
21 General. Authorized searches of any such DNA, fingerprint, law enforcement, or other
22 appropriate database as determined by the Attorney General may also be made against the
23 databases described in subsection (a).

1 (3) POPULATION STATISTICS DATABASE. – If personally identifiable
2 information is removed, the DNA records maintained in the databases described in
3 subsection (a) may be used and disclosed for quality control and protocol development
4 purposes and for a population statistics database.

5 (c) RELATION TO OTHER LAWS. –

6 (1) IN GENERAL. – Except as provided in paragraph (2), DNA samples and records
7 and other information described in this section may be used and disclosed in conformity
8 with this section, notwithstanding any limitation on the use or disclosure of such samples,
9 records, or information under the DNA Identification Act of 1994 (42 U.S.C. 14131-
10 14134), the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135-14135e),
11 or any other law.

12 (2) RELATION TO THE PRIVACY ACT. –

13 (A) The databases established under this section shall be deemed to be systems of
14 records within the full scope of the exemption in subsection (j)(2) of section 552a of
15 title 5, United States Code (the Privacy Act), and therefore exempt from any
16 provisions of such section other than those specifically enumerated in such subsection
17 (j)(2).

18 (B) Section 552a of title 5, United States Code, is amended –

19 (i) in subsection (a)(8)(B) –

20 (I) by striking “or” at the end of subparagraph (vii);

21 (II) by adding “or” at the end of subparagraph (viii); and

22 (III) by adding at the end the following new subparagraph:

1 “(ix) matches performed pursuant to section 3 of the Terrorist
2 Identification Database Act of 2002;” and

3 (ii) in subsection (b)(7)–

4 (I) by striking “to another” and inserting “(A) to another”;

5 (II) by striking “sought;” and inserting “sought; or”; and

6 (III) by adding at the end the following new paragraph:

7 “(B) pursuant to section 3 of the Terrorist Identification Database
8 Act of 2002;”.

9 **Sec. 304: Definitions.**

10 As used in this Act:

11 (1) The term “DNA sample” means a tissue, fluid, or other bodily sample of an individual
12 on which a DNA analysis can be carried out.

13 (2) The term “DNA analysis” means analysis of the deoxyribonucleic acid (DNA)
14 identification information in a bodily sample.

15 (3) The term “suspected terrorist” means any person as to whom the Attorney General or
16 the Secretary of Defense, as appropriate, has determined that there is reason to believe –

17 (A) has engaged in terrorism as defined in section 2331(1) or 2331(5) of title 18,
18 United States Code, or has committed an offense described in section 2332b(g)(5)(B) of
19 such title, or who has conspired or attempted to do so;

20 (B) is an enemy combatant, a prisoner of war, or other battlefield detainee;

21 (C) is a member of a terrorist organization designated as such pursuant to section 219
22 of the Immigration and Nationality Act;

1 (D) is an alien who is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
2 212(a)(3)(B), 212(a)(3)(F), 237(A)(4)(a)(i), 237(a)(4)(iii), or 237(a)(4)(B) of the
3 Immigration and Nationality Act, or who is engaged in any other activity that endangers
4 the national security of the United States.

5 **Sec. 305: Existing Authorities.**

6 The authorities granted under this Act are in addition to any authorities that may exist
7 under any other source of law. Nothing in this Act shall be construed to preclude the receipt,
8 collection, analysis, maintenance, or dissemination of evidence or information pursuant to any
9 other source of law.

10 **Sec. 306: Conditions of Release.**

11 (a) **CONDITIONS OF PROBATION.** – Section 3563(a)(9) of title 18, United States
12 Code, is amended by striking the period at the end and inserting “or section 3 of the Terrorist
13 Identification Database Act of 2002.”.

14 (b) **CONDITIONS OF SUPERVISED RELEASE.** – Section 3583(d) of title 18, United
15 States Code, is amended by striking the period after “the DNA Analysis Backlog Elimination
16 Act of 2000” and inserting “or section 3 of the Terrorist Identification Database Act of
17 2002.”.

18 (c) **CONDITIONS OF PAROLE.** – Section 4209 of title 18, United States Code, insofar
19 as such section remains in effect with respect to certain individuals, is amended by inserting
20 before “or section 1565 of title 10.” the following: “, section 3 of the Terrorist Identification
21 Database Act of 2002.”.

22 (d) **CONDITIONS OF RELEASE GENERALLY.** – If the collection of a DNA sample
23 from an individual under any form of supervision or conditional release is authorized pursuant