

S 486

Innocence Protection Act of 2002

Congress: 107 (2001–2003, Ended)

Chamber: Senate

Policy Area: Crime and Law Enforcement

Introduced: Mar 7, 2001

Current Status: Sponsor introductory remarks on measure. (CR S11247-11248)

Latest Action: Sponsor introductory remarks on measure. (CR S11247-11248) (Nov 18, 2002)

Official Text: <https://www.congress.gov/bill/107th-congress/senate-bill/486>

Sponsor

Name: Sen. Leahy, Patrick J. [D-VT]

Party: Democratic • **State:** VT • **Chamber:** Senate

Cosponsors (31 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Akaka, Daniel K. [D-HI]	D · HI		Mar 7, 2001
Sen. Boxer, Barbara [D-CA]	D · CA		Mar 7, 2001
Sen. Chafee, Lincoln [R-RI]	R · RI		Mar 7, 2001
Sen. Collins, Susan M. [R-ME]	R · ME		Mar 7, 2001
Sen. Corzine, Jon S. [D-NJ]	D · NJ		Mar 7, 2001
Sen. Dodd, Christopher J. [D-CT]	D · CT		Mar 7, 2001
Sen. Feingold, Russell D. [D-WI]	D · WI		Mar 7, 2001
Sen. Jeffords, James M. [R-VT]	R · VT		Mar 7, 2001
Sen. Kennedy, Edward M. [D-MA]	D · MA		Mar 7, 2001
Sen. Levin, Carl [D-MI]	D · MI		Mar 7, 2001
Sen. Lieberman, Joseph I. [D-CT]	D · CT		Mar 7, 2001
Sen. Mikulski, Barbara A. [D-MD]	D · MD		Mar 7, 2001
Sen. Smith, Gordon H. [R-OR]	R · OR		Mar 7, 2001
Sen. Torricelli, Robert G. [D-NJ]	D · NJ		Mar 7, 2001
Sen. Wellstone, Paul D. [D-MN]	D · MN		Mar 7, 2001
Sen. Clinton, Hillary Rodham [D-NY]	D · NY		Mar 28, 2001
Sen. Bingaman, Jeff [D-NM]	D · NM		Apr 25, 2001
Sen. Cantwell, Maria [D-WA]	D · WA		May 15, 2001
Sen. Reed, Jack [D-RI]	D · RI		Jun 29, 2001
Sen. Durbin, Richard J. [D-IL]	D · IL		Jul 16, 2001
Sen. Sarbanes, Paul S. [D-MD]	D · MD		Jul 17, 2001
Sen. Kerry, John F. [D-MA]	D · MA		Jul 25, 2001
Sen. Warner, John [R-VA]	R · VA		Aug 3, 2001
Sen. Inouye, Daniel K. [D-HI]	D · HI		Sep 10, 2001
Sen. Edwards, John [D-NC]	D · NC		May 16, 2002
Sen. Murray, Patty [D-WA]	D · WA		Jul 19, 2002
Sen. Biden, Joseph R., Jr. [D-DE]	D · DE		Jul 22, 2002
Sen. Specter, Arlen [R-PA]	R · PA		Jul 22, 2002
Sen. Feinstein, Dianne [D-CA]	D · CA		Jul 29, 2002
Sen. Schumer, Charles E. [D-NY]	D · NY		Sep 5, 2002
Sen. Smith, Bob [R-NH]	R · NH		Nov 14, 2002

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Oct 16, 2002

Subjects & Policy Tags

Policy Area:

Crime and Law Enforcement

Related Bills

Bill	Relationship	Last Action
107 HR 912	Identical bill	Jun 18, 2002: Subcommittee Hearings Held.

Innocence Protection Act of 2002 - **Title I: Exonerating the Innocent Through DNA Testing** - (Sec. 101) Amends the Federal judicial code to authorize a person convicted of a Federal crime to apply to the appropriate Federal court for deoxyribonucleic acid (DNA) testing to support a claim that the person did not commit the crime or any other offense relied upon when the person was sentenced to death or an enhanced term of imprisonment as a career offender or armed career criminal.

Directs the court to: (1) notify the Government of such an application and to afford the Government an opportunity to respond; and (2) order that all evidence in the case that could be subjected to DNA testing be preserved during the pendency of the proceeding. Authorizes the court to impose appropriate sanctions, including criminal contempt, for the intentional destruction of evidence after such an order.

Requires the court to order DNA testing upon a determination that: (1) the evidence is still in existence and in such a condition that DNA testing may be conducted; (2) the evidence was never previously subjected to DNA testing or to the type of DNA testing requested that may resolve an issue not previously resolved; (3) the proposed testing uses a scientifically valid technique; (4) the proposed testing has the scientific potential to produce new, non-cumulative evidence which is material to the applicant's claim that he or she did not commit the crime and which raises a reasonable probability that the applicant would not have been convicted; and (5) the identity of the perpetrator was or should have been a significant issue in the case. Directs the court to impose conditions to protect the integrity of the evidence, the testing process, and the reliability of the results and to require the results to be disclosed simultaneously to the defense, the prosecution, and the court.

Prohibits the court from ordering DNA testing if the Government proves by a preponderance of the evidence that the application was made to interfere with the administration of justice rather than to support a claim with respect to production of such new evidence.

Authorizes the court to order further testing or dismiss the application if the results are inconclusive. Directs the court, if the results inculcate the applicant, to: (1) dismiss the application; (2) assess the applicant for the cost of the testing; (3) submit the applicant's DNA testing results to the Department of Justice for inclusion in the Combined DNA Index System; and (4) make such further orders as may be appropriate, including an order of contempt. Requires the court, if the results are favorable to the applicant, to order a hearing and make such further orders as appropriate.

Requires the Government to preserve Federal crime evidence that could be subjected to DNA testing for the period that any person remains subject to incarceration for that crime, unless: (1) the Government notifies that person and his or her counsel of its intention to dispose of such evidence and affords that person 180 days to apply for DNA testing; or (2) the evidence is returned to its rightful owner and the Government preserves sufficient portions to permit future testing. Prescribes civil penalties for violations.

Sets criminal penalties for willfully or maliciously destroying, altering, concealing, or tampering with DNA evidence.

Authorizes the Attorney General to: (1) review Federal cases in which a defendant was sentenced to death to identify cases in which DNA evidence is readily accessible and DNA testing is appropriate; and (2) conduct DNA testing in such cases within 12 months of this Act's enactment.

(Sec. 102) Requires States, in order to receive DNA Analysis Backlog Elimination grants, Paul Coverdell National Forensic Sciences Improvement grants, DNA Identification grants, Drug Control and System Improvement grants, and

Public Safety and Community Policing grants, to certify that they will: (1) make post-conviction DNA testing available to any person convicted of a State crime and allow that person to apply for post-conviction relief; (2) preserve State crime evidence that could be subjected to DNA testing; (3) investigate the causes of convictions in cases where DNA evidence exonerates an inmate, publish the results, and take steps to prevent such errors in future cases; and (4) establish a program under which State and local prosecutors shall review cases in which a defendant was sentenced to death, identify cases in which DNA evidence is readily accessible and DNA testing is appropriate, and conduct DNA testing in such cases within 18 months after this Act's enactment.

(Sec. 103) Prohibits a State from denying an application for DNA testing made by a prisoner under sentence of death if the proposed DNA testing has the scientific potential to produce new, non-cumulative material evidence that raises a reasonable probability that the prisoner would not have been convicted of the crime or any other offense relied upon when such person was sentenced to death. Authorizes enforcement through a civil action for declaratory or injunctive relief filed in State court or U.S. district court.

(Sec. 104) Amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Director of the Bureau of Justice Assistance to make grants for prosecutor-initiated programs to review convictions to identify cases in which DNA testing is appropriate and to offer DNA testing to inmates in such cases.

Title II: Improving State Systems for Providing Competent Legal Services in Capital Cases - (Sec. 201) Directs the Attorney General to make available grants to States for improving the quality of legal representation provided to indigent defendants in State capital cases. Sets forth provisions describing: (1) what constitutes an effective system for providing competent legal representation (including establishment of qualifications for attorneys who may be appointed to represent indigents in capital cases, maintenance of a roster of qualified attorneys, provision of periodic training programs, and monitoring of attorney performance); and (2) factors in determining whether to include or maintain an attorney on the roster (such as whether the attorney has been sanctioned for ethical misconduct in a Federal or State court felony case).

Sets forth requirements regarding grant applications, a diminishing Federal share of program expenditures, monitoring by the Attorney General of whether a State receiving funds maintains an effective system, and reports to Congress. Authorizes appropriations.

(Sec. 202) Authorizes civil actions in U.S. district court against grantees alleging that a State's executive officer fails to maintain an effective system for providing competent legal representation in capital cases, subject to specified limitations.

(Sec. 203) Directs the Attorney General, if a State that authorizes capital punishment does not seek or qualify for a grant, to award a grant to one or more qualified capital defender organizations in that State to: (1) strengthen systems for providing competent legal representation to specified categories of indigents; (2) recruit and train attorneys to provide competent legal representation in capital cases; and (3) augment the organization's resources for providing such representation. Establishes a formula for grant amounts. Prohibits the use of grants to sponsor political activities, except that: (1) a grantee may use grant funds to respond to requests from a legislative entity regarding activities under the grant; and (2) nothing herein shall interfere with an attorney's duty to represent a client consistent with applicable ethical rules. Sets forth considerations by which the Attorney General shall determine whether an organization qualifies to provide services in a State.

(Sec. 204) Amends the State Justice Institute Act of 1984 to authorize the State Justice Institute to make grants to States and local governments to conduct: (1) training programs to improve the performance and competency of defense counsel representing defendants charged with capital offenses in State and local courts; and (2) programs to train trial judges in

handling capital cases. Authorizes the Attorney General to make grants to States and local governments to conduct programs to train prosecutors in handling capital cases. Authorizes appropriations.

Title III: Right to Review of the Death Penalty Upon the Grant of Certiorari - (Sec. 301) Amends the Federal judicial code to require the Director of the Bureau of Prisons, the Secretary of a military branch, or any other Federal official with authority to carry out a death sentence, upon notice that the requisite number of Supreme Court justices have voted to grant certiorari, to suspend the execution of the death sentence until the Supreme Court enters a stay of execution or until certiorari is acted upon and the case is disposed of by the Supreme Court. Provides that in an appeal from or petition for certiorari in a case in which the sentence is death, a stay of execution shall immediately issue if the requisite number of justices vote to grant certiorari.

Title IV: Compensation for the Wrongfully Convicted - (Sec. 401) Amends the judicial code to increase the amount of compensation for unjust conviction and imprisonment of persons in Federal cases.

(Sec. 402) Urges States to provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

Title V: Student Loan Repayment for Public Attorneys - (Sec. 501) Amends the Higher Education Act of 1965 to authorize the Secretary of Education carry out a student loan repayment program for borrowers who: (1) are employed as full-time prosecutors or public defenders and who agree to remain employed in that position for at least three years; and (2) are not in default on a loan for which the borrower seeks forgiveness. Limits loan repayments by the Secretary to \$6,000 in a calendar year, or \$40,000 total, for any borrower. Sets priorities in providing repayment benefits. Authorizes appropriations.

Authorizes loan cancellation for public defenders under the Federal Perkins loan program.

Actions Timeline

- **Nov 18, 2002:** Sponsor introductory remarks on measure. (CR S11247-11248)
- **Oct 16, 2002:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. With written report No. 107-315. Minority views filed.
- **Oct 16, 2002:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. With written report No. 107-315. Minority views filed.
- **Oct 16, 2002:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 731.
- **Jul 18, 2002:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jul 11, 2002:** Committee on the Judiciary. Committee consideration and Mark Up Session held.
- **Jun 27, 2001:** Committee on the Judiciary. Hearings held.
- **Mar 7, 2001:** Introduced in Senate
- **Mar 7, 2001:** Sponsor introductory remarks on measure. (CR S1999-2000)
- **Mar 7, 2001:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S2000-2006)
- **Feb 14, 2001:** Sponsor introductory remarks on measure. (CR S1374-1376)