

# THE JUSTICE FOR ALL REAUTHORIZATION ACT OF 2016

## SECTION BY SECTION ANALYSIS

Enacted in 2004, the Justice for All Act enhanced protections for victims of Federal crimes, provided resources to improve the use of DNA and forensic technology to combat crimes, and established safeguards to prevent and reverse wrongful convictions. This legislation reauthorizes and improves many of the programs created by the original law and responsibly reduces overall funding in response to current economic conditions.

### **Section 2 – Extension of Crime Victims’ Rights**

- This section makes payment of restitution a mandatory condition of supervised release for any defendant convicted of a Federal felony or misdemeanor and ordered to pay restitution. The liability to pay restitution shall not terminate upon the death of a person ordered to pay - that person’s estate will be held responsible for any unpaid balance, and a lien shall continue until the estate receives a written release of liability.
- Amends the Federal Rules of Criminal Procedure to give the court authority to appoint an interpreter for any victim present during proceedings.

### **Section 3 – Reauthorization of Appropriations for Grants for Crime Victims**

- This section supports programs that inform crime victims of their rights and help ensure those rights are enforced by reauthorizing the Crime Victims Legal Assistance Grants and Crime Victims Notification Grants at current levels.

### **Section 4 – Reducing the Rape Kit Backlog**

- Requires that at least 75 percent of amounts made available to the Attorney General for local, state, and Federal forensic activities must be used for direct testing activities described in the Debbie Smith DNA Backlog Grant Program.
- Requires that at least five percent of amounts made available to the Attorney General for forensic activities be provided for law enforcement agencies to conduct audits of their backlogged rape kits, create tracking mechanisms, and prioritize testing in cases in which the statute of limitations will soon expire.

### **Section 5 – Sexual Assault Nurse Examiners**

- Amends the Sexual Assault Forensic Exam Program Grants to give preference to entities which will: operate or expand forensic nurse examiner programs in rural areas or for underserved populations, hire full-time forensic nurse examiners, or support training programs for forensic nurse examiners.
- Directs the Attorney General to coordinate with the Secretary of Health and Human Services to inform community health centers, colleges and hospitals about resources available to address domestic violence, sexual assault, and elder abuse.

### **Section 6 - Protecting the Violence Against Women Act**

- Protects funds under the Violence Against Women Act STOP Formula Grant from being subject to penalty under the Prison Rape Elimination Act. These grants

currently fund direct services for victims of domestic and sexual violence, and help communities strengthen law enforcement responses to domestic violence.

### **Section 7 – Clarification of Violence Against Women Act Housing Protections**

- Extends protection against automatic eviction to any “resident” in a public housing unit – who is not a tenant listed on the lease – in situations where the named tenant is evicted.
  - Ex: if a man gets evicted for abusing his live-in girlfriend, the girlfriend, who is not a named tenant on the lease but is a resident, would not automatically be evicted. She would be permitted to stay for a reasonable time to establish her own eligibility to remain in the public housing unit.

### **Section 8 – Strengthening the Prison Rape Elimination Act (PREA)**

*Background: PREA currently requires all states to comply with its requirements or suffer a 5% reduction in DOJ funds they would receive for “prison purposes.” DOJ has interpreted this to impact three funds: Edward Byrne Memorial Justice Assistance Grants (Byrne/JAG), the Office of Violence Against Women STOP Formula Grants (these funds will be exempt under Section 6), and OJJDP Title II Part B Formula Grants. States can still receive the funds even if they are not in compliance if the Governor submits an “assurance” that the state will reallocate 5% of those funds to PREA implementation. States are required to have all of their prisons audited for compliance at least once every three years. There is currently no limit to how many times a state may submit an assurance and continue to receive the funds.*

- This section increases accountability by sun-setting the assurance option six years after the date of enactment. For two years following sunset, Governors who have audited at least 90 percent of applicable facilities may request an emergency assurance from the Attorney General.
- Allows states submitting an assurance of ongoing implementation to either: (1) reallocate the grant funds for PREA purposes, or (2) request the Attorney General hold those funds in abeyance.
  - States able to certify compliance within three years may reclaim the funds held in abeyance to use for the original purpose of the grant(s).
  - States unable to certify compliance within three years but which have audited at least two-thirds of their prisons may reclaim the funds held in abeyance to use toward PREA implementation.
  - States unable to certify and unable to audit at least two-thirds of facilities after three years must relinquish the funds held in abeyance for redistribution to other states for the original purposes of the grants.
- Requires Governors to submit with their annual certification or assurance information about the state’s PREA implementation efforts, including which correctional facilities were audited in the most recent audit year, a proposed schedule for completing an audit of all prison during the next three audit years, and all final audit reports.
- Requires the Attorney General to post all final audit reports on its website and to update the site at least annually.

- Requires DOJ-certified PREA auditors to submit their fingerprints to the FBI for background checks.

### **Section 9 – Additional Reauthorizations**

- This section reauthorizes DNA Research and Development Grants and the FBI DNA programs at reduced annual levels (from \$15 million to \$5 million and \$42 million to \$10 million, respectively).
- Reauthorizes the DNA Identification of Missing Persons Grants at level funding.

### **Section 10 – Paul Coverdell Forensic Sciences Improvement Grants**

- This section reauthorizes the Paul Coverdell Forensic Sciences Improvement Grants and increases the annual authorization from \$20 million to \$25 million.
- Requires forensic labs who receive these grants to be accredited or use grant money to become accredited.
- Increases the minimum amount each state receives (from 0.6% to 1%) to ensure rural and underserved areas get the resources they need.
- Increases the percentage of total amount made available that will be allocated based on a state’s population (from 75% to 85%) and decreases the percentage that will be used for discretionary awards (from 25% to 15%).
- Broadens the allowable uses of these grants to include eliminating backlogs in additional types of forensic analysis including impression evidence, digital evidence, and fire evidence. Allows labs to use funding to train more forensic experts and to address emerging forensic science issues and technology.

### **Section 11 – Improving the Quality of Representation in State Capital Cases**

- This section reauthorizes the Capital Representation Improvement Grants and the Capital Prosecution Improvement Grants and reduces the authorization from \$75 million to \$30 million per year.
- Allows the Attorney General, upon a showing of good cause, to determine a fair allocation of the funding across the two grant programs.

### **Section 12 – Post-Conviction DNA Testing**

- This section broadens the authority of Federal courts to order post-conviction DNA testing where claims of actual innocence are made by the applicant, and imposes new requirements on the Government to ensure the relevant tests are properly tracked.
- There have been 337 post-conviction DNA exonerations in the United States. Eighty-eight of those exonerees pled guilty to or confessed to a crime they did not commit. This section eliminates the prohibition on a court granting an individual’s petition for post-conviction DNA testing if that individual had waived his or her right to post-conviction DNA testing as part of a plea agreement.
- Permits defendants to apply for post-conviction testing even if they have already completed their sentence.
- Requires the Government to prepare an inventory of evidence related to the case and share the results of DNA testing with the applicant and the court.
- If the results exclude the applicant, then the DNA profile must be uploaded to the National DNA Index System (NDIS) to see if a match is generated.

### **Section 13 – Kirk Bloodsworth Post-Conviction DNA Testing Program**

- This section reauthorizes the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program which provides grants to states to help with the costs of such testing and increases the annual authorization by \$5 million to \$10 million per year.
- The section also relaxes the requirement that states must preserve all biological evidence to obtain grants through the Kirk Bloodsworth Post Conviction DNA Testing Grant Program. Instead, states and local governments receiving funding must preserve all biological evidence in cases involving certain crimes of violence.

### **Section 14 – Establishment of Best Practices for Evidence Retention**

- The section directs NIJ to promulgate best practices for evidence retention within eighteen months of the bill's enactment. It also requires NIJ to assist state, local, and tribal governments wishing to adopt the best practices.

### **Section 15 – Effective Administration of Criminal Justice**

- This section reinstates a previous requirement of the Edward Byrne Memorial Justice Assistance Grant (Byrne/JAG) Program that states develop, and update annually, a strategic plan detailing how grants received under the program will be used to improve the administration of the criminal justice system.
- Requires the Attorney General to provide technical assistance to states and local governments requesting support to meet their Sixth Amendment obligations.
- Authorizes \$5,000,000 for the Attorney General to carry out the technical assistance required under this section.

### **Section 16 – Oversight and Accountability**

- This section includes several measures to ensure that funds authorized under the Justice for All Act are used as efficiently and effectively as possible.

### **Section 17 – Needs Assessment of Forensic Laboratories**

- Directs the Attorney General to conduct a comprehensive review of the workloads, backlogs, personnel, and equipment needs of public crime labs, and to submit a report to Congress.

### **Section 18 – Sense of Congress**

- Clarifies that grants authorized for victim assistance may be used to support nonprofit entities which assist victims of crime on a nationwide basis or Americans abroad who are victims of crimes committed outside of the United States. It also states that the victim assistance rule issued by the Department of Justice is consistent with acceptable expenditures.
- This section is intended only to clarify the Congressional intent of current law, and does not authorize any new funding.