# NATIONAL INSTITUTE OF FORENSIC SCIENCE

## LEGISLATIVE OUTLINE

**National Institute of Forensic Sciences (NIFS)**
*The NIFS will be responsible for the coordination, administration, and oversight of all of the provisions of this Act. The recent NAS report on this topic recommends the establishment of NIFS as a new independent agency. If a new stand-alone entity is not feasible, NIFS must be housed within an agency with a primary capacity for scientific review and research, standard-setting, accreditation, and compliance enforcement; and it must be able to function independently of any non-scientific influence.*

### Title I: Organization

***Director***
Appointed by the President without Senate Confirmation

***Forensic Science Commission***
The Director, in consultation with the National Institute of Standards and Technology (NIST) and the National Academy of Sciences (NAS), will appoint members to the Commission

Commission members will include the following:

- Persons who together possess relevant and diverse expertise including, but not limited to, statistics, research design, judgment and decision-making, organizational effectiveness, physics, chemistry, biology, criminology, genetics, and forensic science and examination, including those who conduct basic and applied research

The Commission's roles will be to set broad agency research priorities and to promulgate forensic scientific standards

***Advisory Committee***
The Director, in consultation with NIST, NAS, and the Department of Justice (DOJ), will appoint members to an Advisory Committee

Committee members will include the following:

- Judges, prosecutors, defense attorneys, representatives from Federal, State, and local law enforcement, and scientists and other scholars whose work has addressed forensic science issues, in consultation with affected stakeholders

The Advisory Committee's role will be to assist and provide input to the Commission with respect to their mission and responsibilities

## Title II: Research and Standard-Setting

***Basic and Applied Research***

Define a multi-year research agenda to identify and answer basic and applied scientific questions in the forensic science arena

Compile the existing body of forensic science information and research and statistics and probabilities, including existing State and local forensic science standards

Evaluate the strengths and weaknesses of the existing body of forensic science, including the validity and reliability of existing assays and devices, and protocols and procedures; and develop the necessary tools to evaluate assays and devices lacking scientific rigor

Evaluate strengths and weaknesses of FSPs, including their practices and methodologies

Identify, conduct, and promote proactive research into new and emerging technologies and devices

***Establish Standards***

*Standards will be phased in over time, in priority order, and will be periodically reviewed and updated; differences among the operation of public and private FSPs, as well as large and small FSPs, will be addressed by NIFS as appropriate*

Devise standards for individual assays, including standards for validation and reliability

Devise standards for devices and technology, including standards for validation and reliability

Devise standards for the accreditation of FSPs, including the following:

- The reliability of an individual FSP's use of a device/assay
- Quality controls to ensure that assays are conducted reliably, are free of examiner bias, and confirmation that devices are used properly
- Data reporting, evidence preservation, record keeping, and report writing requirements
- Criteria for ensuring that the conduct of forensic service practitioners and the results of forensic testing are free from undue pressure or influence from within or outside of the FSP
- Criteria for periodic audit, reviews, and remedial action

Devise standards for the certification of practitioners, including the following:

- Training requirements
- Proficiency standards

- Testing standards to ensure proficiency
- Requirements for written reports
- Testimony parameters

***Technology Grant Program***
A competitive, merit-reviewed grant program will be established to support and promote the research, development, testing, and evaluation of assays, devices, technologies, and behavior and decision-making procedures and protocols; among public and private entities, the grant program will also encourage partnerships between businesses and institutions of higher learning

## Title III: Accreditation and Certification

***Assay/Device/Technology Approval***
A process will be created to certify and decertify existing assays, devices, technologies, and techniques, as well as new assays, devices, technologies, and techniques as they come on-line

***Accreditation of Institutional Forensic Service Providers***
A program will be created for the initial and ongoing accreditation of Federal, State, and local FSPs, including both public and private entities

To be accredited, an FSP must use certified assays, devices, and technologies, and employ certified practitioners

Accreditation will be conducted by appropriate Federal and State agencies, or by an independent, non-profit and non-partisan professional organizations approved by the National Institute of Forensic Sciences

Grants will be awarded to States and small independent FSPs to assist with bringing laboratories to compliance

***Certification of Individual Practitioners***
A program will be created for the certification and recertification of Federal, State, and local practitioners, including both public and private practitioners

To be certified a practitioner, one must use certified assays, devices, and technologies, and meet the NIFS standards for report writing and testimony

Certification will be conducted by appropriate Federal and State agencies, or by an independent, non-profit and non-partisan organization, approved by the National Institute of Forensic Sciences

Proficiency testing will be required for certification

Continuing education will be required to maintain certification

Grants will be awarded to States and small independent FSPs to assist with bringing certification of employees to compliance

***Database***
A database will be created and constantly updated to list certified and decertified assays, devices, and technologies; accredited FSPs and those who have lost their accreditation; and certified and decertified practitioners

**Title IV: Compliance and Enforcement**

***Compliance***
Federal law enforcement will be required to use the NIFS standards, including the use of accredited FSPs and of certified practitioners, assays, devices, and technologies

States that receive certain federal grants will require that State and local law enforcement use of the NIFS standards, including the use of accredited FSPs and of certified practitioners, assays, devices, and technologies

A program will be established to ensure State compliance with the use of NIFS standards, including the mandated use of accredited FSPs and of certified practitioners, assays, devices, and technologies

On an ongoing basis, the implementation of the new forensic scientific standards will be identified, tracked, and evaluated

***Training***
A grant program will be established to assist State and local FSPs with in-service training as part of a mandatory quality assurance program; other grants will be awarded to provide training for law enforcement, the courts, and prosecutorial and defense services

Funding will be provided to assist Federal FSPs with in-service training as part of a mandatory quality assurance program; other funding will be awarded to provide training for Federal law enforcement, Federal courts, and Federal prosecutorial and defense services

**Title V: Oversight**
Inspectors General will provide oversight over the NIFS and over compliance programs

Inspectors General powers will be limited to investigate allegations of fraud, conflicts of interest, undue pressure, et al.; not to the scientific product that NIFS develops

**Title VI: Authorization of Appropriations**
Such funds as may be necessary will be authorized to enact this legislation