

112TH CONGRESS
1ST SESSION

H. R. 1523

To amend the DNA Analysis Backlog Elimination Act of 2000 to provide for Debbie Smith grants for auditing sexual assault evidence backlogs and to establish a Sexual Assault Forensic Evidence Registry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2011

Mrs. MALONEY (for herself, Mr. POE of Texas, Mr. MORAN, Mr. COSTA, Mr. GRIJALVA, Ms. RICHARDSON, Ms. MOORE, Mr. BARTLETT, Mr. DEUTCH, Mr. ADERHOLT, Mr. ROONEY, Ms. WASSERMAN SCHULTZ, Mr. FITZPATRICK, Mrs. CAPPS, Mr. LATHAM, and Mrs. EMERSON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the DNA Analysis Backlog Elimination Act of 2000 to provide for Debbie Smith grants for auditing sexual assault evidence backlogs and to establish a Sexual Assault Forensic Evidence Registry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sexual Assault Foren-
5 sic Evidence Registry Act of 2011” or the “SAFER Act
6 of 2011”.

1 **SEC. 2. DEBBIE SMITH GRANTS FOR AUDITING SEXUAL AS-**
2 **SAULT EVIDENCE BACKLOGS.**

3 Section 2 of the DNA Analysis Backlog Elimination
4 Act of 2000 (42 U.S.C. 14135) is amended—

5 (1) in subsection (a), by adding at the end the
6 following new paragraph:

7 “(6) To conduct an audit consistent with sub-
8 section (n) of the samples of sexual assault evidence
9 that are in the possession of the State or unit of
10 local government and are awaiting testing.”;

11 (2) in subsection (c), by adding at the end the
12 following new paragraph:

13 “(4) ALLOCATION OF GRANT AWARDS FOR AU-
14 DITS.—For each of fiscal years 2012 through 2016,
15 not less than 7 percent of the grant amounts distrib-
16 uted under paragraph (1) shall be awarded for pur-
17 poses described in subsection (a)(6).”; and

18 (3) by adding at the end the following new sub-
19 section:

20 “(n) USE OF FUNDS FOR AUDITING SEXUAL AS-
21 SAULT EVIDENCE BACKLOGS.—

22 “(1) ELIGIBILITY.—The Attorney General may
23 award a grant under this section to a State or unit
24 of local government for the purpose described in
25 subsection (a)(6) only if the State or unit of local
26 government—

1 “(A) submits a plan for performing the
2 audit of samples described in such subsection;
3 and

4 “(B) includes in such plan a good-faith es-
5 timate of the number of such samples.

6 “(2) GRANT CONDITIONS.—A State or unit of
7 local government receiving a grant for the purpose
8 described in subsection (a)(6) shall—

9 “(A) not later than 1 year after receiving
10 such grant—

11 “(i) complete the audit referred to in
12 paragraph (1)(A) in accordance with the
13 plan submitted under such paragraph; and

14 “(ii) for each sample of sexual assault
15 evidence identified in such audit, subject to
16 paragraph (4), enter into the Sexual As-
17 sault Forensic Evidence Registry estab-
18 lished under section 3 of the SAFER Act
19 of 2011 the information listed in sub-
20 section (b)(1) of such section;

21 “(B) not later than 14 days after receiving
22 possession of a sample of sexual assault evi-
23 dence that was not in the possession of the
24 State or unit of local government at the time of
25 such audit, subject to paragraph (4), enter into

1 such Registry the information listed in such
2 subsection with respect to the sample; and

3 “(C) not later than 30 days after a change
4 in the status referred to in subparagraph (E) of
5 such subsection of a sample with respect to
6 which the State or unit of local government has
7 entered information into such Registry, update
8 such status.

9 “(3) EXTENSION OF INITIAL DEADLINE.—The
10 Attorney General may grant an extension of the
11 deadline in paragraph (2)(A) to a State or unit of
12 local government that demonstrates that more time
13 is required for compliance with such paragraph.

14 “(4) SAMPLES EXEMPT FROM REGISTRY RE-
15 QUIREMENT.—A State or unit of local government is
16 not required under paragraph (2) to enter into the
17 Registry described in such paragraph information
18 with respect to a sample of sexual assault evidence
19 if—

20 “(A) the sample is not considered criminal
21 evidence (such as a sample collected anony-
22 mously from a victim who is unwilling to make
23 a criminal complaint); or

1 “(B) the sample relates to a sexual assault
2 for which the prosecution of each perpetrator is
3 barred by a statute of limitations.

4 “(5) DEFINITIONS.—In this subsection:

5 “(A) AWAITING TESTING.—The term
6 ‘awaiting testing’ means, with respect to a sam-
7 ple of sexual assault evidence, that—

8 “(i) the sample has been collected and
9 is in the possession of a State or unit of
10 local government;

11 “(ii) DNA and other appropriate fo-
12 rensic analyses have not been performed on
13 such sample; and

14 “(iii) the sample is related to a crimi-
15 nal case or investigation in which final dis-
16 position has not yet been reached.

17 “(B) FINAL DISPOSITION.—The term ‘final
18 disposition’ means, with respect to a criminal
19 case or investigation to which a sample of sex-
20 ual assault evidence relates—

21 “(i) the conviction or acquittal of all
22 suspected perpetrators of the crime in-
23 volved;

1 “(ii) a determination by the State or
2 unit of local government in possession of
3 the sample that the case is unfounded; or

4 “(iii) a declaration by the victim of
5 the crime involved that the act constituting
6 the basis of the crime was not committed.

7 “(C) POSSESSION.—The term ‘possession’,
8 used with respect to possession of a sample of
9 sexual assault evidence by a State or unit of
10 local government, includes possession by an in-
11 dividual who is acting as an agent of the State
12 or unit of local government for the collection of
13 the sample.”.

14 **SEC. 3. SEXUAL ASSAULT FORENSIC EVIDENCE REGISTRY.**

15 (a) IN GENERAL.—Section 2 of the DNA Analysis
16 Backlog Elimination Act of 2000 (42 U.S.C. 14135), as
17 amended by section 2 of this Act, is further amended by
18 adding at the end the following new subsection:

19 “(o) SEXUAL ASSAULT FORENSIC EVIDENCE REG-
20 ISTRY.—

21 “(1) IN GENERAL.—Subject to subsection (j),
22 not later than 1 year after the date of the enactment
23 of this Act, the Attorney General shall establish a
24 Sexual Assault Forensic Evidence Registry (in this
25 section referred to as the ‘Registry’) that—

1 “(A) allows States and units of local gov-
2 ernment to enter information into the Registry
3 about samples of sexual assault evidence that
4 are in the possession of such States or units of
5 local government and are awaiting testing; and

6 “(B) tracks the testing and processing of
7 such samples.

8 “(2) INFORMATION IN REGISTRY.—

9 “(A) IN GENERAL.—A State or unit of
10 local government that chooses to enter informa-
11 tion into the Registry about a sample of sexual
12 assault evidence shall include the following in-
13 formation:

14 “(i) The date of the sexual assault to
15 which the sample relates.

16 “(ii) The city, county, or other appro-
17 priate locality where the sexual assault oc-
18 curred.

19 “(iii) The date on which the sample
20 was collected.

21 “(iv) The date on which information
22 about the sample was entered into the
23 Registry.

24 “(v) The status of the progression of
25 the sample through testing and other

1 stages of the evidentiary handling process,
2 including the identity of the entity in pos-
3 session of the sample.

4 “(vi) The date or dates after which
5 the State or unit of local government
6 would be barred by any applicable statutes
7 of limitations from prosecuting a perpe-
8 trator of the sexual assault for the sexual
9 assault.

10 “(vii) Such other information as the
11 Attorney General considers appropriate.

12 “(B) PERSONALLY IDENTIFIABLE INFOR-
13 MATION.—The Attorney General shall ensure
14 that the Registry does not include personally
15 identifiable information or details about a sex-
16 ual assault that might lead to the identification
17 of the individuals involved, except the informa-
18 tion listed in subparagraph (A).

19 “(3) SAMPLE IDENTIFICATION NUMBER.—A
20 State or unit of local government that chooses to
21 enter information about a sample of sexual assault
22 evidence into the Registry shall assign to the sample
23 a unique numeric or alphanumeric identifier. In as-
24 signing the identifier, a State or unit of local govern-
25 ment may use a case-numbering system used for

1 other purposes, but the Attorney General shall en-
2 sure that the identifier assigned to each sample is
3 unique with respect to all samples entered by all
4 States and units of local government.

5 “(4) UPDATE OF INFORMATION.—A State or
6 unit of local government that chooses to enter infor-
7 mation about a sample of sexual assault evidence
8 into the Registry shall, not later than 30 days after
9 a change in the status of the sample referred to in
10 paragraph (2)(A)(v), update such status.

11 “(5) INTERNET ACCESS.—The Attorney Gen-
12 eral shall make the Registry accessible to the public
13 on an appropriate Internet website.

14 “(6) TECHNICAL ASSISTANCE.—The Attorney
15 General shall—

16 “(A) provide a means by which an entity
17 that does not have access to the Internet may
18 enter information into the Registry; and

19 “(B) provide the technical assistance nec-
20 essary to allow States and units of local govern-
21 ment to participate in the Registry.”.

22 (b) FUNDING.—Section 2(j) of the DNA Analysis
23 Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is
24 amended—

1 (1) by inserting “and for carrying out sub-
2 section (o)” after “for grants under subsection (a)”;
3 and

4 (2) by adding at the end the following new sen-
5 tence: “For each of the fiscal years 2012 through
6 2016, not less than 1 percent of the amount author-
7 ized to be appropriated under the previous sentence
8 for such fiscal year shall be for carrying out sub-
9 section (o).”

10 **SEC. 4. REPORT ON BEST PRACTICES FOR TESTING AND**
11 **USE OF DNA EVIDENCE.**

12 (a) IN GENERAL.—Not later than 2 years after the
13 date of the enactment of this Act, the Attorney General
14 shall develop and disseminate to law enforcement agencies
15 and other appropriate entities a report on best practices
16 for the testing and use of DNA evidence collected as part
17 of the criminal investigation of sexual assault cases. In
18 developing the best practices, the Attorney General shall
19 take into account that sexual assault perpetrators are
20 often habitual offenders, may commit many acts of sexual
21 violence against both strangers and victims known to
22 them, and may commit other violent crimes and crimes
23 against property.

24 (b) CONTENT.—The best practices developed under
25 subsection (a) shall—

1 (1) establish the appropriate prioritization of
2 testing of samples of sexual assault evidence, includ-
3 ing samples related to—

4 (A) cases in which a suspect has been
5 identified and cases in which a suspect has not
6 been identified; and

7 (B) cases in which the assault was com-
8 mitted by a stranger and cases in which the as-
9 sault was committed by someone known to the
10 victim;

11 (2) describe the protocols for appropriately han-
12 dling and storing samples of sexual assault evidence;

13 (3) describe the evidentiary value of and make
14 recommendations pertaining to testing all samples of
15 sexual assault evidence, including samples related
16 to—

17 (A) cases in which a suspect has been
18 identified and cases in which a suspect has not
19 been identified;

20 (B) cases in which the assault was com-
21 mitted by a stranger and cases in which the as-
22 sault was committed by someone known to the
23 victim;

1 (C) cases in which prosecution of a perpe-
2 trator is barred by an applicable statute of limi-
3 tations; and

4 (D) cases in which forensic evidence has
5 been collected from a victim who, pursuant to
6 section 2010(d)(1) of the Omnibus Crime Con-
7 trol and Safe Streets Act of 1968 (42 U.S.C.
8 3796gg-4(d)(1)), chooses not to participate in
9 the criminal justice system or cooperate with
10 law enforcement; and

11 (4) make recommendations with respect to noti-
12 fying a victim that the sample of sexual assault evi-
13 dence of the victim has been tested, including vic-
14 tims in cases—

15 (A) that are actively being investigated (in-
16 cluding cases being actively investigated after a
17 period of dormancy); and

18 (B) in which prosecution of a perpetrator
19 is barred by an applicable statute of limitations.

20 (c) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that law enforcement agencies and other appropriate
22 entities should use the best practices developed and dis-
23 seminated under subsection (a) to develop, evaluate, and
24 improve DNA evidence protocols.

1 **SEC. 5. REPORTS TO CONGRESS.**

2 Not later than 90 days after the end of each fiscal
3 year for which a grant is made for the purpose described
4 in section 2(a)(6) of the DNA Analysis Backlog Elimini-
5 nation Act of 2000, as added by section 2(1) of this Act,
6 the Attorney General shall submit to Congress a report
7 that—

8 (1) lists the States and units of local govern-
9 ment that have been awarded such grants and the
10 amount of the grant received by each such State or
11 unit of local government;

12 (2) states the number of extensions granted by
13 the Attorney General under section 2(n)(3) of such
14 Act, as added by section 2(2) of this Act; and

15 (3) summarizes the processing status of the
16 samples of sexual assault evidence on which informa-
17 tion has been entered into the Sexual Assault Foren-
18 sic Evidence Registry established under section 2(o)
19 of the DNA Analysis Backlog Act of 2000, as added
20 by section 3 of this Act, including the number of
21 samples that have not been tested.

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