

112TH CONGRESS
2D SESSION

S. 3250

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 SENATE OF THE UNITED STATES

MAY 24, 2012

Mr. CORNYN (for himself, Mr. BENNET, Mr. KIRK, Ms. KLOBUCHAR, Mr. FRANKEN, and Ms. COLLINS) introduced the following bill; which was read twice and 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 2012” or the “SAFER Act
6 of 2012”.

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 2013 through 2017,
15 not less than 7 percent of the grant amounts distrib-
16 uted under paragraph (1) shall, if sufficient applica-
17 tions are received by the Department of Justice, be
18 awarded for the purpose described in subsection
19 (a)(6), provided that none of the funds required to
20 be distributed under this paragraph shall decrease or
21 otherwise limit the availability of funds required to
22 be awarded to States or units of local government
23 under paragraph (3).”; and

24 (3) by adding at the end the following new sub-
25 section:

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

3 “(1) ELIGIBILITY.—The Attorney General may
4 award a grant under this section to a State or unit
5 of local government for the purpose described in
6 subsection (a)(6) only if the State or unit of local
7 government—

8 “(A) submits a plan for performing the
9 audit of samples described in such subsection;
10 and

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

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

16 “(A) may not enter into any contract or
17 agreement with any non-governmental vendor
18 laboratory to conduct an audit described in sub-
19 section (a)(6); and

20 “(B) shall—

21 “(i) not later than 1 year after receiv-
22 ing such grant—

23 “(I) complete the audit referred
24 to in paragraph (1)(A) in accordance

1 with the plan submitted under such
2 paragraph; and

3 “(II) for each sample of sexual
4 assault evidence identified in such
5 audit, subject to paragraph (4), enter
6 into the Sexual Assault Forensic Evi-
7 dence Registry established under sub-
8 section (o) the information listed in
9 subsection (o)(2);

10 “(ii) not later than 21 days after re-
11 ceiving possession of a sample of sexual as-
12 sult evidence that was not in the posses-
13 sion of the State or unit of local govern-
14 ment at the time of such audit, subject to
15 paragraph (4), enter into the Sexual As-
16 sult Forensic Evidence Registry the infor-
17 mation listed in subsection (o)(2) with re-
18 spect to the sample; and

19 “(iii) not later than 30 days after a
20 change in the status referred to in sub-
21 section (o)(2)(A)(v) of a sample with re-
22 spect to which the State or unit of local
23 government has entered information into
24 such Registry, update such status.

1 “(3) EXTENSION OF INITIAL DEADLINE.—The
2 Attorney General may grant an extension of the
3 deadline under paragraph (2)(B)(i) to a State or
4 unit of local government that demonstrates that
5 more time is required for compliance with such para-
6 graph.

7 “(4) SAMPLES EXEMPT FROM REGISTRY RE-
8 QUIREMENT.—A State or unit of local government is
9 not required under paragraph (2) to enter into the
10 Registry described in such paragraph information
11 with respect to a sample of sexual assault evidence
12 if—

13 “(A) the sample is not considered criminal
14 evidence (such as a sample collected anony-
15 mously from a victim who is unwilling to make
16 a criminal complaint); or

17 “(B) the sample relates to a sexual assault
18 for which the prosecution of each perpetrator is
19 barred by a statute of limitations.

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

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

1 “(i) the sample has been collected and
2 is in the possession of a State or unit of
3 local government;

4 “(ii) DNA and other appropriate fo-
5 rensic analyses have not been performed on
6 such sample; and

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

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

14 “(i) the conviction or acquittal of all
15 suspected perpetrators of the crime in-
16 volved;

17 “(ii) a determination by the State or
18 unit of local government in possession of
19 the sample that the case is unfounded; or

20 “(iii) a declaration by the victim of
21 the crime involved that the act constituting
22 the basis of the crime was not committed.

23 “(C) POSSESSION.—

24 “(i) IN GENERAL.—The term ‘posses-
25 sion’, used with respect to possession of a

1 sample of sexual assault evidence by a
2 State or unit of local government, includes
3 possession by an individual who is acting
4 as an agent of the State or unit of local
5 government for the collection of the sam-
6 ple.

7 “(ii) RULE OF CONSTRUCTION.—
8 Nothing in clause (i) shall be construed to
9 create or amend any Federal rights or
10 privileges for non-governmental vendor lab-
11 oratories described in regulations promul-
12 gated under section 210303 of the DNA
13 Identification Act of 1994 (42 U.S.C.
14 14131).”.

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

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

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

22 “(1) IN GENERAL.—Subject to subsection (j),
23 not later than 1 year after the date of enactment of
24 the SAFER Act of 2012, the Attorney General shall
25 establish a Sexual Assault Forensic Evidence Reg-

1 istry (in this subsection referred to as the ‘Registry’)
2 that—

3 “(A) is administered by the Department of
4 Justice;

5 “(B) allows States and units of local gov-
6 ernment to enter information into the Registry
7 about samples of sexual assault evidence that
8 are in the possession of such States or units of
9 local government and are awaiting testing; and

10 “(C) tracks the testing and processing of
11 such samples.

12 “(2) INFORMATION IN REGISTRY.—

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

18 “(i) The date of the sexual assault to
19 which the sample relates.

20 “(ii) The city, county, or other appro-
21 priate locality in which the sexual assault
22 occurred.

23 “(iii) The date on which the sample
24 was collected.

1 “(iv) The date on which information
2 relating to the sample was entered into the
3 Registry.

4 “(v) The status of the progression of
5 the sample through testing and other
6 stages of the evidentiary handling process,
7 limited to the following information:

8 “(I) The identity of the entity in
9 possession of the sample of untested
10 sexual assault evidence.

11 “(II) The identification of the
12 sample of untested sexual assault evi-
13 dence by the State or unit of local
14 government.

15 “(III) The submission of the
16 sample of untested sexual assault evi-
17 dence to a laboratory for analysis, or
18 the decision of the State or unit of
19 local government to indefinitely re-
20 frain from submitting the sample.

21 “(IV) The completion of the
22 analysis of the sample of untested sex-
23 ual assault evidence, or the decision of
24 the State or unit of local government
25 to indefinitely refrain from analyzing

1 the sample of untested sexual assault
2 evidence.

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

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

16 “(3) SAMPLE IDENTIFICATION NUMBER.—

17 “(A) IN GENERAL.—A State or unit of
18 local government that chooses to enter informa-
19 tion about a sample of sexual assault evidence
20 into the Registry shall assign to the sample a
21 unique numeric or alphanumeric identifier.

22 “(B) UNIQUE IDENTIFIER REQUIRED.—In
23 assigning the identifier under subparagraph
24 (A), a State or unit of local government may
25 use a case-numbering system used for other

1 purposes, but the Attorney General shall ensure
2 that the identifier assigned to each sample is
3 unique with respect to all samples entered by
4 all 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 publicly available, on an appropriate
13 Internet website, aggregate non-individualized and
14 non-personally identifying data compiled from infor-
15 mation required to be entered into the Registry
16 under paragraph (2)(A), to allow for comparison of
17 backlog data by State and unit of local government.

18 “(6) TECHNICAL ASSISTANCE.—The Attorney
19 General shall—

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

23 “(B) provide the technical assistance nec-
24 essary to allow States and units of local govern-
25 ment to participate in the Registry.

1 “(7) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to require that
3 any State or unit of local government participate in
4 the Sexual Assault Forensic Evidence Registry es-
5 tablished under this subsection unless the State or
6 unit of local government—

7 “(A) accepts a grant awarded under sub-
8 section (n); or

9 “(B) the State or unit of local government
10 expressly agrees to participate in the registry in
11 accordance with this conditions enumerated in
12 this subsection.”.

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

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

19 (2) by adding at the end the following new sen-
20 tence: “For each of fiscal years 2013 through 2017,
21 not less than 1 percent of the amount authorized to
22 be appropriated under the previous sentence for such
23 fiscal year shall be for carrying out subsection (o).”

1 **SEC. 4. 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 by section 2, the Attorney General
6 shall submit to Congress a report that—

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

11 (2) states the number of extensions granted by
12 the Attorney General under section 2(n)(3) of the
13 DNA Analysis Backlog Elimination Act of 2000, as
14 added by section 2; and

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

22 **SEC. 5. REDUCING THE RAPE KIT BACKLOG.**

23 Section 2(c)(3) of the DNA Analysis Backlog Elimi-
24 nation Act of 2000 (42 U.S.C. 14135(c)(3)) is amended—

25 (1) in subparagraph (B), by striking “2014”
26 and inserting “2017”; and

1 (2) by adding at the end the following:

2 “(C) For each of fiscal years 2013 through
3 2017, not less than 75 percent of the total
4 grant amounts shall be awarded for a combina-
5 tion of purposes under paragraphs (2) and (3)
6 of subsection (a).”.

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