

111TH CONGRESS
2D SESSION

H. R. 5640

To establish a National Rape Kit Database.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2010

Mr. WEINER introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To establish a National Rape Kit Database.

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 “National Rape Kit
5 Database Act”.

6 **SEC. 2. NATIONAL RAPE KIT DATABASE.**

7 (a) IN GENERAL.—Not later than one year after the
8 date of the enactment of this Act, the Attorney General
9 shall establish a public database on information on rape
10 kits collected by Federal, State, and local law enforcement
11 agencies.

12 (b) PARTICIPATION AND REQUIRED INFORMATION.—

1 (1) PARTICIPATION.—

2 (A) IN GENERAL.—Each database-partici-
3 pating entity shall, in accordance with the re-
4 quirements described in subsection (c), include
5 in the database under subsection (a) all applica-
6 ble information described in paragraph (2) on
7 rape kits collected or tested by such entity.

8 (B) DATABASE-PARTICIPATING ENTITY DE-
9 FINED.—For purposes of this section, the term
10 “database-participating entity” means—

11 (i) a Federal law enforcement agency;

12 and

13 (ii) for purposes of establishing com-
14 pliance under subsection (d)—

15 (I) a State law enforcement
16 agency;

17 (II) a local law enforcement
18 agency; and

19 (III) a State or local laboratory
20 owned by a State or unit of local gov-
21 ernment.

22 (2) REQUIRED INFORMATION.—Information de-
23 scribed in this paragraph, with respect to a rape kit,
24 includes—

1 (A) in the case of a database-participating
2 entity that is a law enforcement entity—

3 (i) the date of the action constituting
4 the basis for the collection of the rape kit;

5 (ii) the city (or other appropriate geo-
6 graphic location) where such action oc-
7 curred;

8 (iii) the date of the entry into the
9 database;

10 (iv) the date evidence contained in the
11 rape kit was collected;

12 (v) the entity (including a law enforce-
13 ment agency, laboratory, or other entity)
14 that has possession of the rape kit;

15 (vi) the processing status of the rape
16 kit; and

17 (vii) in the case of a backlogged case,
18 whether the statute of limitations has ex-
19 pired; and

20 (B) with respect to a database-partici-
21 pating entity that is a laboratory, updates on
22 the processing status of the rape kit.

23 (c) REQUIRED TERMS FOR INCLUSION OF INFORMA-
24 TION.—The requirements described in this paragraph,
25 with respect to information included in the database under

1 subsection (a) by a database-participating entity, are the
2 following:

3 (1) LIMITATION ON SCOPE OF INFORMATION.—

4 No personally identifiable information (such as the
5 name of the victim involved and the address and
6 other contact information of such victim) shall be in-
7 cluded in the database.

8 (2) UNIQUE ID NUMBER AND TIMING FOR IN-
9 CLUSION OF INFORMATION.—

10 (A) IN GENERAL.—Subject to paragraph

11 (3) and subparagraph (B)—

12 (i) not later than 72 hours after the
13 time at which a rape kit is first processed
14 as evidence—

15 (I) a unique identification num-
16 ber shall be assigned to such rape kit;
17 and

18 (II) the database-participating
19 entity in possession of the rape kit
20 shall include in the database informa-
21 tion on such rape kit described in sub-
22 section (b)(2) in a manner that identi-
23 fies such information by such identi-
24 fication number; and

(ii) not later than 72 hours after testing the rape kit, the database-participating entity conducting such testing shall update within the database the processing status of such rape kit.

Any information related to such rape kit that is included in such database shall be identifiable within such database by such unique identification number.

(B) RAPE KITS COLLECTED BEFORE ESTABLISHMENT OF DATABASE.—Subject to paragraph (3), in the case of a rape kit collected before the date of establishment of the database, a database-participating entity shall not be required to include in such database information on (or have a unique identification number assigned with respect to) such rape kit before such date that is 1 year after the date of the enactment of this Act.

(3) RAPE KITS NOT INCLUDED (OR TO FOLLOW A DELAYED INCLUSION) IN REGISTRY.—With respect to a rape kit collected or tested by a database-participating entity, the following shall apply:

(A) In the case that the rape kit relates to a case that the entity determines to be un-

1 founded, or to a case in which the victim with-
2 draws the victim's report—

3 (i) if such determination or with-
4 drawal occurs—

5 (I) before the 72-hour deadline
6 described in paragraph (2)(A)(i) (or
7 has not otherwise been included in the
8 database), information on such rape
9 kit shall not be included in the data-
10 base; or

11 (II) after information on such
12 rape kit has been entered into the
13 database, such information shall be
14 identified as inactive; and

15 (ii) the entity shall include within the
16 database the total number of such rape
17 kits that were not so included in the data-
18 base and identified as inactive.

19 (B) In the case that the rape kit is col-
20 lected from a victim who has not made to the
21 law enforcement agency involved a police report
22 on the action constituting the basis for the col-
23 lection of the rape kit, the law enforcement
24 agency shall not include information on such
25 rape kit in the database until the date on which

1 the victim makes such a report or, if sooner and
2 allowed under applicable State law, until the
3 date on which the agency commences an inves-
4 tigation related to such rape kit without such a
5 victim report.

6 (4) METHOD OF INCLUSION OF INFORMA-
7 TION.—The database-participating entity shall in-
8 clude information in the database through a secure
9 Internet Web site.

10 (d) COMPLIANCE.—

11 (1) FUNDING UNDER DEBBIE SMITH AND
12 BYRNE GRANT PROGRAMS CONTINGENT ON COMPLI-
13 ANCE.—For any fiscal year beginning after the date
14 of the establishment of the database under sub-
15 section (a), a State or unit of local government shall
16 not be eligible for Federal funding under section 2
17 of the DNA Analysis Backlog Elimination Act of
18 2000 (42 U.S.C. 14135) or under subpart 1 of part
19 E of title I of the Omnibus Crime Control and Safe
20 Streets Act of 1968 unless such State or unit is in
21 compliance with this section with respect to such fis-
22 cal year.

23 (2) DETERMINATION OF COMPLIANCE.—

24 (A) IN GENERAL.—A State or unit of local
25 government is in compliance with this section

1 with respect to a fiscal year if the State or unit
2 provides to the Attorney General a certification
3 described in subparagraph (B) for such fiscal
4 year.

5 (B) CERTIFICATION.—A certification de-
6 scribed in this subparagraph for a fiscal year
7 is—

8 (i) in the case of a State, a certifi-
9 cation that for such fiscal year—

10 (I) at least 75 percent of the
11 State law enforcement agencies;

12 (II) at least 75 percent of the
13 local law enforcement agencies within
14 the State;

15 (III) 100 percent of the State
16 laboratories owned by the State; and

17 (IV) 100 percent of the local lab-
18 oratories owned by units of local gov-
19 ernment within the State,

20 included information, in accordance with
21 this section, in the database under sub-
22 section (a) for substantially all rape kits
23 collected or tested by such agency or lab-
24 oratory; and

1 (ii) in the case of a unit of local gov-
2 ernment, a certification that for such fiscal
3 year the local law enforcement agency of
4 the unit and the local laboratory owned by
5 the unit, as applicable, included informa-
6 tion, in accordance with this section, in the
7 database under subsection (a) for substan-
8 tially all rape kits collected or tested by
9 such agency or laboratory.

10 (e) PUBLIC ACCESS.—The database established
11 under subsection (a) shall be made available to the public
12 and shall be made available in a manner that allows the
13 comparison of information and processing of such infor-
14 mation to generate trends.

15 (f) TECHNICAL ASSISTANCE.—The Attorney General
16 shall provide for—

17 (1) assistance to database-participating entities
18 that do not have access to the Internet in order to
19 enable such entities to participate under this section;
20 and

21 (2) a helpdesk and technical assistance for
22 database-participating entities to participate under
23 this section.

24 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated such sums as are necessary

1 for each of fiscal years 2011 through 2016 to carry out
2 this section.

3 (h) DEFINITIONS.—For purposes of this section:

4 (1) RAPE KIT.—The term “rape kit” means a
5 sexual assault forensics evidence collection kit.

6 (2) STATE.—The term “State” means a State
7 of the United States, the District of Columbia, the
8 Commonwealth of Puerto Rico, the United States
9 Virgin Islands, American Samoa, Guam, and the
10 Northern Mariana Islands.

11 (i) CONFORMING AMENDMENTS.—

12 (1) CONDITIONING RECEIPT OF DEBBIE SMITH
13 DNA BACKLOG GRANT PROGRAM FUNDS ON PARTICI-
14 PATION IN NATIONAL RAPE KIT DATABASE.—Section
15 2(b) of the DNA Analysis Backlog Elimination Act
16 of 2000 (42 U.S.C. 14135(b)) is amended—

17 (A) in paragraph (6), by striking “and” at
18 the end;

19 (B) in paragraph (7), by striking the pe-
20 riod at the end and inserting “; and” ; and

21 (C) by adding at the end the following:

22 “(8) for grants for fiscal years beginning after
23 the date of the establishment of the database estab-
24 lished under subsection (a) of section 2 of the Na-
25 tional Rape Kit Database Act, specify that the State

1 or unit of local government is in compliance with
2 such section, as determined under subsection (d)(2)
3 of such section.”.

4 (2) CONDITIONING RECEIPT OF EDWARD BYRNE
5 MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM
6 FUNDS ON PARTICIPATION IN NATIONAL RAPE KIT
7 DATABASE.—Section 502 of the Omnibus Crime
8 Control and Safe Streets Act of 1968 (42 U.S.C.
9 3752) is amended by adding at the end the following
10 new paragraph:

11 “(6) For grants for fiscal years beginning after
12 the date of the establishment of the database estab-
13 lished under subsection (a) of section 2 of the Na-
14 tional Rape Kit Database Act, a certification under
15 subsection (d)(2) of such section that the State or
16 unit of local government is in compliance with such
17 section.”.

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