

111TH CONGRESS
2D SESSION

H. R. 6085

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

AUGUST 10, 2010

Mrs. MALONEY (for herself, Mr. POE of Texas, Ms. RICHARDSON, Mr. COHEN, and Mr. GORDON of Tennessee) 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 2010” or the “SAFER Act
6 of 2010”.

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)(3), in the matter preceding
12 subparagraph (A), by inserting “from funds made
13 available under subsection (j)(1)” after “paragraph
14 (1)”;

15 (3) in subsection (d)(3)(C), by striking “sub-
16 section (j)” and inserting “subsection (j)(1)”;

17 (4) in subsection (j)—

18 (A) by striking “There are” and inserting
19 the following:

20 “(1) IN GENERAL.—There are”; and

21 (B) by adding at the end the following new
22 paragraph:

23 “(2) AMOUNTS FOR AUDITING SEXUAL ASSAULT
24 EVIDENCE BACKLOGS.—In addition to amounts ap-
25 propriated under paragraph (1), there are author-
26 ized to be appropriated to the Attorney General for

1 grants for the purpose described in subsection (a)(6)
2 \$10,000,000 for each of fiscal years 2011 through
3 2014.”;

4 (5) in subsection (k), in the matter preceding
5 paragraph (1), by striking “subsection (j)” and in-
6 serting “subsection (j)(1)”; and

7 (6) by adding at the end the following new sub-
8 section:

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

11 “(1) ELIGIBILITY.—The Attorney General may
12 award a grant under this section to a State or unit
13 of local government for the purpose described in
14 subsection (a)(6) only if the State or unit of local
15 government—

16 “(A) submits a plan for performing the
17 audit of samples described in such subsection;
18 and

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

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

24 “(A) not later than 1 year after receiving
25 such grant—

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

4 “(ii) for each sample of sexual assault
5 evidence identified in such audit, subject to
6 paragraph (4), enter into the Sexual As-
7 sault Forensic Evidence Registry estab-
8 lished under section 3 of the SAFER Act
9 of 2010 the information listed in sub-
10 section (b)(1) of such section;

11 “(B) not later than 14 days after receiving
12 possession of a sample of sexual assault evi-
13 dence that was not in the possession of the
14 State or unit of local government at the time of
15 such audit, subject to paragraph (4), enter into
16 such Registry the information listed in such
17 subsection with respect to the sample; and

18 “(C) not later than 30 days after a change
19 in the status referred to in subparagraph (E) of
20 such subsection of a sample with respect to
21 which the State or unit of local government has
22 entered information into such Registry, update
23 such status.

24 “(3) EXTENSION OF INITIAL DEADLINE.—The
25 Attorney General may grant an extension of the

1 deadline in paragraph (2)(A) to a State or unit of
2 local government that demonstrates that more time
3 is required for compliance with such paragraph.

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

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

14 “(B) the sample relates to a sexual assault
15 for which the prosecution of each perpetrator is
16 barred by a statute of limitations.

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

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

21 “(i) the sample has been collected and
22 is in the possession of a State or unit of
23 local government;

1 “(ii) DNA and other appropriate fo-
2 rensic analyses have not been performed on
3 such sample; and

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

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

11 “(i) the conviction or acquittal of all
12 suspected perpetrators of the crime in-
13 volved;

14 “(ii) a determination by the State or
15 unit of local government in possession of
16 the sample that the case is unfounded; or

17 “(iii) a declaration by the victim of
18 the crime involved that the act constituting
19 the basis of the crime was not committed.

20 “(C) POSSESSION.—The term ‘possession’,
21 used with respect to possession of a sample of
22 sexual assault evidence by a State or unit of
23 local government, includes possession by an in-
24 dividual who is acting as an agent of the State

1 or unit of local government for the collection of
2 the sample.”.

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

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of the enactment of this Act, the Attorney General
6 shall establish a Sexual Assault Forensic Evidence Reg-
7 istry (in this section referred to as the “Registry”) that—

8 (1) allows States and units of local government
9 to enter information into the Registry about samples
10 of sexual assault evidence that are in the possession
11 of such States or units of local government and are
12 awaiting testing; and

13 (2) tracks the testing and processing of such
14 samples.

15 (b) INFORMATION IN REGISTRY.—

16 (1) IN GENERAL.—A State or unit of local gov-
17 ernment that chooses to enter information into the
18 Registry about a sample of sexual assault evidence
19 shall include the following information:

20 (A) The date of the sexual assault to which
21 the sample relates.

22 (B) The city, county, or other appropriate
23 locality where the sexual assault occurred.

24 (C) The date on which the sample was col-
25 lected.

1 (D) The date on which information about
2 the sample was entered into the Registry.

3 (E) The status of the progression of the
4 sample through testing and other stages of the
5 evidentiary handling process, including the
6 identity of the entity in possession of the sam-
7 ple.

8 (F) The date or dates after which the
9 State or unit of local government would be
10 barred by any applicable statutes of limitations
11 from prosecuting a perpetrator of the sexual as-
12 sault for the sexual assault.

13 (G) Such other information as the Attor-
14 ney General considers appropriate.

15 (2) PERSONALLY IDENTIFIABLE INFORMA-
16 TION.—The Attorney General shall ensure that the
17 Registry does not include personally identifiable in-
18 formation or details about a sexual assault that
19 might lead to the identification of the individuals in-
20 volved, except the information listed in paragraph
21 (1).

22 (c) SAMPLE IDENTIFICATION NUMBER.—A State or
23 unit of local government that chooses to enter information
24 about a sample of sexual assault evidence into the Registry
25 shall assign to the sample a unique numeric or alpha-

1 numeric identifier. In assigning the identifier, a State or
2 unit of local government may use a case-numbering system
3 used for other purposes, but the Attorney General shall
4 ensure that the identifier assigned to each sample is
5 unique with respect to all samples entered by all States
6 and units of local government.

7 (d) UPDATE OF INFORMATION.—A State or unit of
8 local government that chooses to enter information about
9 a sample of sexual assault evidence into the Registry shall,
10 not later than 30 days after a change in the status of
11 the sample referred to in subsection (b)(1)(E), update
12 such status.

13 (e) INTERNET ACCESS.—The Attorney General shall
14 make the Registry accessible to the public on an appro-
15 priate Internet website.

16 (f) TECHNICAL ASSISTANCE.—The Attorney General
17 shall—

18 (1) provide a means by which an entity that
19 does not have access to the Internet may enter infor-
20 mation into the Registry; and

21 (2) provide the technical assistance necessary to
22 allow States and units of local government to par-
23 ticipate in the Registry.

24 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to carry out this section

1 \$1,000,000 for each of the fiscal years 2011 through
2 2014.

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

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of the enactment of this Act, the Attorney General
7 shall develop and disseminate to law enforcement agencies
8 and other appropriate entities a report on best practices
9 for the testing and use of DNA evidence collected as part
10 of the criminal investigation of sexual assault cases. In
11 developing the best practices, the Attorney General shall
12 take into account that sexual assault perpetrators are
13 often habitual offenders, may commit many acts of sexual
14 violence against both strangers and victims known to
15 them, and may commit other violent crimes and crimes
16 against property.

17 (b) CONTENT.—The best practices developed under
18 subsection (a) shall—

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

22 (A) cases in which a suspect has been
23 identified and cases in which a suspect has not
24 been identified; and

1 (B) cases in which the assault was com-
2 mitted by a stranger and cases in which the as-
3 sault was committed by someone known to the
4 victim;

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

7 (3) describe the evidentiary value of and make
8 recommendations pertaining to testing all samples of
9 sexual assault evidence, including samples related
10 to—

11 (A) cases in which a suspect has been
12 identified and cases in which a suspect has not
13 been identified;

14 (B) cases in which the assault was com-
15 mitted by a stranger and cases in which the as-
16 sault was committed by someone known to the
17 victim;

18 (C) cases in which prosecution of a perpe-
19 trator is barred by an applicable statute of limi-
20 tations; and

21 (D) cases in which forensic evidence has
22 been collected from a victim who, pursuant to
23 section 2010(d)(1) of the Omnibus Crime Con-
24 trol and Safe Streets Act of 1968 (42 U.S.C.
25 3796gg-4(d)(1)), chooses not to participate in

1 the criminal justice system or cooperate with
2 law enforcement; and

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

7 (A) that are actively being investigated (in-
8 cluding cases being actively investigated after a
9 period of dormancy); and

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

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

17 **SEC. 5. REPORTS TO CONGRESS.**

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

24 (1) lists the States and units of local govern-
25 ment that have been awarded such grants and the

1 amount of the grant received by each such State or
2 unit of local government;

3 (2) states the number of extensions granted by
4 the Attorney General under section 2(n)(3) of such
5 Act, as added by section 2(6) of this Act; and

6 (3) summarizes the processing status of the
7 samples of sexual assault evidence on which informa-
8 tion has been entered into the Sexual Assault Foren-
9 sic Evidence Registry established under section 3,
10 including the number of samples that have not been
11 tested.

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