

112TH CONGRESS
2D SESSION

H. R. 6628

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

DECEMBER 4, 2012

Mr. POE of Texas (for himself and Mrs. MALONEY) 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 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 2014 through 2018,
15 not less than 5 percent, but not more than 10 per-
16 cent, of the grant amounts distributed under para-
17 graph (1) shall, if sufficient applications to justify
18 such amounts are received by the Attorney General,
19 be awarded for purposes described in subsection
20 (a)(6), provided that none of the funds required to
21 be distributed under this paragraph shall decrease or
22 otherwise limit the availability of funds required to
23 be awarded to States or units of local government
24 under paragraph (3).”; and

25 (3) by adding at the end the following new sub-
26 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 sault evidence that was not in the posses-
13 sion of the State or unit of local govern-
14 ment at the time of the initiation of such
15 audit, subject to paragraph (4), enter into
16 the Sexual Assault Forensic Evidence Reg-
17 istry the information listed in subsection
18 (o)(2) with respect to the sample;

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; and

25 “(iv) provide that—

1 “(I) the chief law enforcement of-
2 ficer of the State or unit of local gov-
3 ernment, respectively, is the individual
4 responsible for the compliance of the
5 State or unit of local government, re-
6 spectively, with the registry require-
7 ments under this subparagraph; or

8 “(II) the designee of such officer
9 may fulfill the responsibility described
10 in subclause (II) so long as such des-
11 ignee is an employee of the State or
12 unit of local government, respectively,
13 and is not an employee of any govern-
14 mental laboratory or non-govern-
15 mental vendor laboratory.

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

22 “(4) SAMPLES EXEMPT FROM REGISTRY RE-
23 QUIREMENT.—A State or unit of local government is
24 not required under paragraph (2) to enter into the
25 Registry described in such paragraph information

1 with respect to a sample of sexual assault evidence
2 if—

3 “(A) the sample is not considered criminal
4 evidence (such as a sample collected anony-
5 mously from a victim who is unwilling to make
6 a criminal complaint); or

7 “(B) the sample relates to a sexual assault
8 for which the prosecution of each perpetrator is
9 barred by a statute of limitations.

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

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

14 “(i) the sample has been collected and
15 is in the possession of a State or unit of
16 local government;

17 “(ii) DNA and other appropriate fo-
18 rensic analyses have not been performed on
19 such sample; and

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

23 “(B) FINAL DISPOSITION.—The term ‘final
24 disposition’ means, with respect to a criminal

1 case or investigation to which a sample of sex-
2 ual assault evidence relates—

3 “(i) the conviction or acquittal of all
4 suspected perpetrators of the crime in-
5 volved;

6 “(ii) a determination by the State or
7 unit of local government in possession of
8 the sample that the case is unfounded; or

9 “(iii) a declaration by the victim of
10 the crime involved that the act constituting
11 the basis of the crime was not committed.

12 “(C) POSSESSION.—

13 “(i) IN GENERAL.—The term ‘posses-
14 sion’, used with respect to possession of a
15 sample of sexual assault evidence by a
16 State or unit of local government, includes
17 possession by an individual who is acting
18 as an agent of the State or unit of local
19 government for the collection of the sam-
20 ple.

21 “(ii) RULE OF CONSTRUCTION.—
22 Nothing in clause (i) shall be construed to
23 create or amend any Federal rights or
24 privileges for non-governmental vendor lab-
25 oratories described in regulations promul-

1 gated under section 210303 of the DNA
2 Identification Act of 1994 (42 U.S.C.
3 14131).”.

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

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

9 “(o) SEXUAL ASSAULT FORENSIC EVIDENCE REG-
10 ISTRY.—

11 “(1) IN GENERAL.—Subject to subsection (j),
12 not later than 1 year after the date of the enactment
13 of this subsection, the Attorney General shall estab-
14 lish a Sexual Assault Forensic Evidence Registry (in
15 this section referred to as the ‘Registry’) that—

16 “(A) is administered by the Department of
17 Justice;

18 “(B) allows States and units of local gov-
19 ernment to enter information into the Registry
20 about samples of sexual assault evidence that
21 are in the possession of such States or units of
22 local government and are awaiting testing; and

23 “(C) tracks the testing and processing of
24 such samples.

25 “(2) INFORMATION IN REGISTRY.—

1 “(A) IN GENERAL.—A State or unit of
2 local government that chooses to enter informa-
3 tion into the Registry about a sample of sexual
4 assault evidence shall include the following in-
5 formation:

6 “(i) The date of the sexual assault to
7 which the sample relates.

8 “(ii) The city, county, or other appro-
9 priate locality where the sexual assault oc-
10 curred.

11 “(iii) The date on which the sample
12 was collected.

13 “(iv) The date on which information
14 about the sample was entered into the
15 Registry.

16 “(v) The status of the progression of
17 the sample through testing and other
18 stages of the evidentiary handling process,
19 limited to the following information:

20 “(I) The identity of the entity in
21 possession of the sample of untested
22 sexual assault evidence by the State
23 or unit of local government.

24 “(II) The identification of the
25 sample of untested sexual assault evi-

1 dence by the State or unit of local
2 government.

3 “(III) The submission of the
4 sample of untested sexual assault evi-
5 dence to a laboratory for analysis, or
6 the decision of the State or unit of
7 local government to indefinitely re-
8 frain from submitting the sample.

9 “(IV) The completion of the
10 analysis of the sample of untested sex-
11 ual assault evidence, or the decision of
12 the State or unit of local government
13 to indefinitely refrain from analyzing
14 the sample of untested sexual assault
15 evidence.

16 “(vi) The date or dates after which
17 the State or unit of local government
18 would be barred by any applicable statutes
19 of limitations from prosecuting a perpe-
20 trator of the sexual assault for the sexual
21 assault.

22 “(B) PERSONALLY IDENTIFIABLE INFOR-
23 MATION.—The Attorney General shall ensure
24 that the Registry does not include personally
25 identifiable information or details about a sex-

1 ual assault that might lead to the identification
2 of the individuals involved, except the informa-
3 tion listed in subparagraph (A).

4 “(3) SAMPLE IDENTIFICATION NUMBER.—

5 “(A) IN GENERAL.—A State or unit of
6 local government that chooses to enter informa-
7 tion about a sample of sexual assault evidence
8 into the Registry shall assign to the sample a
9 unique numeric or alphanumeric identifier.

10 “(B) UNIQUE IDENTIFIER REQUIRED.—In
11 assigning the identifier under subparagraph
12 (A), a State or unit of local government may
13 use a case-numbering system used for other
14 purposes, but the Attorney General shall ensure
15 that the identifier assigned to each sample is
16 unique with respect to all samples entered by
17 all States and units of local government.

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

24 “(5) INTERNET ACCESS.—The Attorney Gen-
25 eral shall make publicly available, on an appropriate

1 Internet website, aggregate non-individualized and
2 non-personally identifying data compiled from infor-
3 mation required to be entered into the registry
4 under paragraph (2)(A), to allow for comparison of
5 backlog data by State and unit of local government.

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

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

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

14 “(7) RULE OF CONSTRUCTION.—Nothing in
15 this subsection shall be construed to require that
16 any State or unit of local government participate in
17 the Sexual Assault Forensic Evidence Registry es-
18 tablished under this subsection unless the State or
19 unit of local government—

20 “(A) accepts a grant awarded under sub-
21 section (n); or

22 “(B) the State or unit of local government
23 expressly agrees to participate in the registry in
24 accordance with the conditions enumerated in
25 this subsection.”.

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

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

6 (2) by striking “2014” and inserting “2018”;
7 and

8 (3) by adding at the end the following new sen-
9 tence: “For each of the fiscal years 2014 through
10 2018, not less than 1 percent of the amount author-
11 ized to be appropriated under the previous sentence
12 for such fiscal year shall be for carrying out sub-
13 section (o).”.

14 **SEC. 4. REPORTS TO CONGRESS.**

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

20 (1) lists the States and units of local govern-
21 ment that have been awarded such grants and the
22 amount of the grant received by each such State or
23 unit of local government;

24 (2) states the number of extensions granted by
25 the Attorney General under section 2(n)(3) of the

1 DNA Analysis Backlog Elimination Act of 2000, as
2 added by section 2; and

3 (3) summarizes the processing status of the
4 samples of sexual assault evidence about which in-
5 formation has been entered into the Sexual Assault
6 Forensic Evidence Registry established under section
7 2(o) of the DNA Analysis Backlog Act of 2000, as
8 added by section 3(a), including the number of sam-
9 ples that have not been tested.

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

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

13 (1) in subparagraph (B), by striking “2014”
14 and inserting “2018”; and

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

16 “(C) For each of fiscal years 2014 through
17 2018, not less than 75 percent of the total
18 grant amounts shall be awarded for a combina-
19 tion of purposes under paragraphs (1), (2), and
20 (3) of subsection (a).”.

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