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(Original Signature of Member)

111TH CONGRESS  
2D SESSION

**H. R.**

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.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY (for herself and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on

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**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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Sexual Assault Foren-  
3 sic Evidence Registry Act of 2010” or the “SAFER Act  
4 of 2010”.

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

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

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

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

15 (2) in subsection (c)(3), in the matter preceding  
16 subparagraph (A), by inserting “from funds made  
17 available under subsection (j)(1)” after “paragraph  
18 (1)”;

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

21 (4) in subsection (j)—

22 (A) by striking “There are” and inserting  
23 the following:

24 “(1) IN GENERAL.—There are”; and

25 (B) by adding at the end the following new  
26 paragraph:

1           “(2) AMOUNTS FOR AUDITING SEXUAL ASSAULT  
2 EVIDENCE BACKLOGS.—In addition to amounts ap-  
3 propriated under paragraph (1), there are author-  
4 ized to be appropriated to the Attorney General for  
5 grants for the purpose described in subsection (a)(6)  
6 \$10,000,000 for each of fiscal years 2011 through  
7 2014.”;

8           (5) in subsection (k), in the matter preceding  
9 paragraph (1), by striking “subsection (j)” and in-  
10 sserting “subsection (j)(1)”; and

11           (6) by adding at the end the following new sub-  
12 section:

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

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

20           “(A) submits a plan for performing the  
21 audit of samples described in such subsection;  
22 and

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

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

4           “(A) not later than 1 year after receiving  
5 such grant—

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

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

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

23           “(C) not later than 30 days after a change  
24 in the status referred to in subparagraph (E) of  
25 such subsection of a sample with respect to

1           which the State or unit of local government has  
2           entered information into such Registry, update  
3           such status.

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

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

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

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

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

23                 “(A) AWAITING TESTING.—The term  
24                 ‘awaiting testing’ means, with respect to a sam-  
25                 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.—The term ‘possession’,  
24                  used with respect to possession of a sample of  
25                  sexual assault evidence by a State or unit of

1 local government, includes possession by an in-  
2 dividual who is acting as an agent of the State  
3 or unit of local government for the collection of  
4 the sample.”.

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

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

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

15 (2) tracks the testing and processing of such  
16 samples.

17 (b) INFORMATION IN REGISTRY.—

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

22 (A) The date of the sexual assault to which  
23 the sample relates.

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

1 (C) The date on which the sample was col-  
2 lected.

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

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

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

15 (G) Such other information as the Attor-  
16 ney General considers appropriate.

17 (2) PERSONALLY IDENTIFIABLE INFORMA-  
18 TION.—The Attorney General shall ensure that the  
19 Registry does not include personally identifiable in-  
20 formation or details about a sexual assault that  
21 might lead to the identification of the individuals in-  
22 volved, except the information listed in paragraph  
23 (1).

24 (c) SAMPLE IDENTIFICATION NUMBER.—A State or  
25 unit of local government that chooses to enter information

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

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

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

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

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

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

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$1,000,000 for each of the fiscal years 2011 through  
4 2014.

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

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

19 (b) CONTENT.—The best practices developed under  
20 subsection (a) shall—

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

1 (A) cases in which a suspect has been  
2 identified and cases in which a suspect has not  
3 been identified; and

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

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

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

14 (A) cases in which a suspect has been  
15 identified and cases in which a suspect has not  
16 been identified;

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

21 (C) cases in which prosecution of a pepe-  
22 trator is barred by an applicable statute of limi-  
23 tations; and

24 (D) cases in which forensic evidence has  
25 been collected from a victim who, pursuant to

1 section 2010(d)(1) of the Omnibus Crime Con-  
2 trol and Safe Streets Act of 1968 (42 U.S.C.  
3 3796gg– 4(d)(1)), chooses not to participate in  
4 the criminal justice system or cooperate with  
5 law enforcement; and

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

10 (A) that are actively being investigated (in-  
11 cluding cases being actively investigated after a  
12 period of dormancy); and

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

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

20 **SEC. 5. REPORTS TO CONGRESS.**

21 Not later than 90 days after the end of each fiscal  
22 year for which a grant is made for the purpose described  
23 in section 2(a)(6) of the DNA Analysis Backlog Elimini-  
24 nation Act of 2000, as added by section 2(1) of this Act,

1 the Attorney General shall submit to Congress a report  
2 that—

3           (1) lists the States and units of local govern-  
4           ment that have been awarded such grants and the  
5           amount of the grant received by each such State or  
6           unit of local government;

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

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