

The SAFER Act of 2012

Section-by-Section Analysis

The nationwide backlog of untested rape kits is a serious problem with tragic consequences for sexual assault victims. An estimated 400,000 rape kits currently sit untested in labs and on police storage shelves across the nation—each one of them holding the potential to solve a crime, imprison a rapist and provide a victim with the justice they deserve. This legislation will help end the rape kit backlog with no new spending by better targeting existing funds under the Debbie Smith Act.

This legislation is endorsed by key victims' rights groups such as: the Rape, Abuse and Incest National Network (RAINN), the National Alliance to End Sexual Violence (NAESV), the National Organization for Victim Assistance (NOVA), Hope Exists After Rape Trauma (HEART) and the Texas Association Against Sexual Assault (TAASA).

Section 1.Short Title.

- ❖ The Sexual Assault Forensic Evidence Registry Act of 2012.

Section 2. Debbie Smith Grants For Auditing Sexual Assault Evidence Backlogs.

- ❖ There are two distinct rape kit backlogs: (1) the **well-known** backlog of untested kits that have already been submitted to a laboratory for testing; and (2) the **hidden** backlog of kits in law enforcement storage that have not been submitted for testing.
- ❖ According to a February 2011 report by the National Institute of Justice: “Federal programs to reduce backlogs in crime laboratories are not designed to address untested evidence stored in law enforcement agencies.”
- ❖ This section would therefore encourage State and local law enforcement agencies to work to eliminate both the laboratory and storage facility backlog by adding a new purpose area to the Debbie Smith Act grant program allowing grantees to conduct audits of all sexual assault evidence that is in their possession.
- ❖ Current law (42 U.S. §14135) allows grantees to spend this funding on five different purposes related to the testing of backlogged DNA evidence, but not on conducting audits of their sexual assault evidence backlogs.
- ❖ This section reserves 7% of existing Debbie Smith Act appropriations for the purpose of conducting these audits, provided that these reserved funds will not reduce those available to State and local governments for analyzing untested DNA evidence.

- ❖ In order to receive a grant for this purpose, a State or local government would have to submit an audit plan that includes a good-faith estimate of the number of untested sexual assault samples in their possession.
- ❖ Grantees would also be required to complete these audits within one year and to participate in the Sexual Assault Forensic Evidence Registry (discussed below).

Section 3. Sexual Assault Forensic Evidence Registry.

- ❖ According to the National Institute of Justice, 43% of the nation's law enforcement agencies do not have a computerized system for tracking forensic evidence, either in their storage inventory or after it is sent to a crime lab.
- ❖ This section would therefore require the Attorney General to use 1% of existing Debbie Smith Act appropriations to establish a Sexual Assault Forensic Evidence Registry that would allow States and units of local government to track the testing and processing of untested sexual assault evidence in their possession.
- ❖ If a State or local government chooses to use the registry, they would be required to include the following information about each untested sample of sexual assault evidence:
 - (1) The date of the crime to which the sample relates;
 - (2) The jurisdiction in which the crime occurred;
 - (3) The date on which the sample was collected;
 - (4) The status of the progression of the sample through testing and other stages of the evidentiary handling process, including the identity of the entity in possession of the sample;
 - (5) The date or dates after which the State or unit of local government would be barred by any applicable statutes of limitations from prosecuting the criminal act to which the sample relates; and
 - (6) The date on which information relating to the sample was entered into the registry.
- ❖ This section contains a total bar on the entry of personally identifiable information that might lead to the identification of the individuals involved.
- ❖ This section also requires the Attorney General to provide technical assistance to States and local governments who wish to participate in the registry.

- ❖ The SAFER registry would help DOJ to better analyze the scope of the nationwide rape kit backlog, monitor the progression of sexual assault evidence audits, and better target funding available for DNA testing under the Debbie Smith Act. It would therefore ensure that Federal taxpayer dollars are spent efficiently.
- ❖ To add an additional layer of accountability and open government, this section would require the Attorney General to make aggregate non-individualized and non-personally identifying information gathered from the registry available on an appropriate internet website.

Section 4. Reports to Congress.

- ❖ Requires the Attorney General to issue a report to Congress within 90 days after the end of each fiscal year for which an audit grant is made that discusses:
 - (1) The names of all audit grantees;
 - (2) The monetary size of each grant;
 - (3) The number of extensions granted by the Attorney General;
 - (4) The status of samples of sexual assault evidence that have been entered into the registry, including the number of samples that have not been tested.

Section 5. Reducing the Rape Kit Backlog.

- ❖ Current law (42 U.S. §14135) allows Debbie Smith Act grant funding to be spent on a variety of purposes.
- ❖ This law, however, only requires that 40% of this grant funding be spent on the core purpose area—carrying out DNA analyses of samples from crime scenes.
- ❖ As a result, the Department of Justice has spent a great deal of Debbie Smith Act funds for purposes other than helping State and local governments to test unanalyzed crime scene evidence and reducing the rape kit backlog.
- ❖ A recent Congressional Research Service report found, among other things, that: (1) Congress should consider amending the authorizing statute for Debbie Smith grants so that the Department of Justice is required to award a greater proportion of annual funding for reducing the backlog of forensic casework; and (2) Congress should consider increasing the capacity of state and local laboratories to conduct DNA analyses.
- ❖ This section would therefore instruct the Department of Justice to spend at least 75% of all Debbie Smith Act grant appropriations to analyze untested DNA evidence and to expand the capacity of labs to test that evidence.