

112TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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 SENATE OF THE UNITED STATES

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Mr. CORNYN (for himself, Mr. BENNET, Mr. KIRK, Ms. KLOBUCHAR, Mr. FRANKEN, and Ms. COLLINS) introduced the following bill; which was read twice and 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,*

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 2013 through 2017,  
15 not less than 7 percent of the grant amounts distrib-  
16 uted under paragraph (1) shall, if sufficient applica-  
17 tions are received by the Department of Justice, be  
18 awarded for the purpose described in subsection  
19 (a)(6), provided that none of the funds required to  
20 be distributed under this paragraph shall decrease or  
21 otherwise limit the availability of funds required to  
22 be awarded to States or units of local government  
23 under paragraph (3).”; and

24 (3) by adding at the end the following new sub-  
25 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 such audit, subject to  
15 paragraph (4), enter into the Sexual As-  
16 sault Forensic Evidence Registry the infor-  
17 mation listed in subsection (o)(2) with re-  
18 spect to the sample; and

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.

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

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

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

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

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

21           “(A) AWAITING TESTING.—The term  
22 ‘awaiting testing’ means, with respect to a sam-  
23 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.—

24                   “(i) IN GENERAL.—The term ‘posses-  
25                   sion’, used with respect to possession of a

1 sample of sexual assault evidence by a  
2 State or unit of local government, includes  
3 possession by an individual who is acting  
4 as an agent of the State or unit of local  
5 government for the collection of the sam-  
6 ple.

7 “(ii) RULE OF CONSTRUCTION.—  
8 Nothing in clause (i) shall be construed to  
9 create or amend any Federal rights or  
10 privileges for non-governmental vendor lab-  
11 oratories described in regulations promul-  
12 gated under section 210303 of the DNA  
13 Identification Act of 1994 (42 U.S.C.  
14 14131).”.

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

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

20 “(o) SEXUAL ASSAULT FORENSIC EVIDENCE REG-  
21 ISTRY.—

22 “(1) IN GENERAL.—Subject to subsection (j),  
23 not later than 1 year after the date of enactment of  
24 the SAFER Act of 2012, the Attorney General shall  
25 establish a Sexual Assault Forensic Evidence Reg-

1       istry (in this subsection referred to as the ‘Registry’)  
2       that—

3               “(A) is administered by the Department of  
4               Justice;

5               “(B) allows States and units of local gov-  
6               ernment to enter information into the Registry  
7               about samples of sexual assault evidence that  
8               are in the possession of such States or units of  
9               local government and are awaiting testing; and

10              “(C) tracks the testing and processing of  
11              such samples.

12              “(2) INFORMATION IN REGISTRY.—

13              “(A) IN GENERAL.—A State or unit of  
14              local government that chooses to enter informa-  
15              tion into the Registry about a sample of sexual  
16              assault evidence shall include the following in-  
17              formation:

18                      “(i) The date of the sexual assault to  
19                      which the sample relates.

20                      “(ii) The city, county, or other appro-  
21                      priate locality in which the sexual assault  
22                      occurred.

23                      “(iii) The date on which the sample  
24                      was collected.



1                   “(iv) The date on which information  
2 relating to the sample was entered into the  
3 Registry.

4                   “(v) The status of the progression of  
5 the sample through testing and other  
6 stages of the evidentiary handling process,  
7 limited to the following information:

8                   “(I) The identity of the entity in  
9 possession of the sample of untested  
10 sexual assault evidence.

11                   “(II) The identification of the  
12 sample of untested sexual assault evi-  
13 dence by the State or unit of local  
14 government.

15                   “(III) The submission of the  
16 sample of untested sexual assault evi-  
17 dence to a laboratory for analysis, or  
18 the decision of the State or unit of  
19 local government to indefinitely re-  
20 frain from submitting the sample.

21                   “(IV) The completion of the  
22 analysis of the sample of untested sex-  
23 ual assault evidence, or the decision of  
24 the State or unit of local government  
25 to indefinitely refrain from analyzing

1                   the sample of untested sexual assault  
2                   evidence.

3                   “(vi) The date or dates after which  
4                   the State or unit of local government  
5                   would be barred by any applicable statutes  
6                   of limitations from prosecuting a perpe-  
7                   trator of the sexual assault for the sexual  
8                   assault.

9                   “(B) PERSONALLY IDENTIFIABLE INFOR-  
10                  MATION.—The Attorney General shall ensure  
11                  that the Registry does not include personally  
12                  identifiable information or details about a sex-  
13                  ual assault that might lead to the identification  
14                  of the individuals involved, except for the infor-  
15                  mation listed in subparagraph (A).

16                  “(3) SAMPLE IDENTIFICATION NUMBER.—

17                  “(A) IN GENERAL.—A State or unit of  
18                  local government that chooses to enter informa-  
19                  tion about a sample of sexual assault evidence  
20                  into the Registry shall assign to the sample a  
21                  unique numeric or alphanumeric identifier.

22                  “(B) UNIQUE IDENTIFIER REQUIRED.—In  
23                  assigning the identifier under subparagraph  
24                  (A), a State or unit of local government may  
25                  use a case-numbering system used for other

1 purposes, but the Attorney General shall ensure  
2 that the identifier assigned to each sample is  
3 unique with respect to all samples entered by  
4 all States and units of local government.

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

11 “(5) INTERNET ACCESS.—The Attorney Gen-  
12 eral shall make publicly available, on an appropriate  
13 Internet website, aggregate non-individualized and  
14 non-personally identifying data compiled from infor-  
15 mation required to be entered into the Registry  
16 under paragraph (2)(A), to allow for comparison of  
17 backlog data by State and unit of local government.

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

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

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

1           “(7) RULE OF CONSTRUCTION.—Nothing in  
2 this subsection shall be construed to require that  
3 any State or unit of local government participate in  
4 the Sexual Assault Forensic Evidence Registry es-  
5 tablished under this subsection unless the State or  
6 unit of local government—

7           “(A) accepts a grant awarded under sub-  
8 section (n); or

9           “(B) the State or unit of local government  
10 expressly agrees to participate in the registry in  
11 accordance with this conditions enumerated in  
12 this subsection.”.

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

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

19           (2) by adding at the end the following new sen-  
20 tence: “For each of fiscal years 2013 through 2017,  
21 not less than 1 percent of the amount authorized to  
22 be appropriated under the previous sentence for such  
23 fiscal year shall be for carrying out subsection (o).”

1 **SEC. 4. REPORTS TO CONGRESS.**

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

7 (1) lists the States and units of local govern-  
8 ment that have been awarded such grants and the  
9 amount of the grant received by each such State or  
10 unit of local government;

11 (2) states the number of extensions granted by  
12 the Attorney General under section 2(n)(3) of the  
13 DNA Analysis Backlog Elimination Act of 2000, as  
14 added by section 2; and

15 (3) summarizes the processing status of the  
16 samples of sexual assault evidence about which in-  
17 formation has been entered into the Sexual Assault  
18 Forensic Evidence Registry established under section  
19 2(o) of the DNA Analysis Backlog Elimination Act  
20 of 2000, as added by section 3(a), including the  
21 number of samples that have not been tested.

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

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

25 (1) in subparagraph (B), by striking “2014”  
26 and inserting “2017”; and

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

2                   “(C) For each of fiscal years 2013 through  
3           2017, not less than 75 percent of the total  
4           grant amounts shall be awarded for a combina-  
5           tion of purposes under paragraphs (2) and (3)  
6           of subsection (a).”.