

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4746

To assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2002

Mr. WEINER introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

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 “DNA Sexual Assault  
5 Justice Act of 2002”.

6 **SEC. 2. ASSESSMENT ON BACKLOG IN DNA ANALYSIS OF**  
7 **SAMPLES.**

8 (a) ASSESSMENT.—

1           (1) IN GENERAL.—The Attorney General shall  
2 survey each law enforcement jurisdiction to assess  
3 the backlog of DNA testing of rape kit samples and  
4 other sexual assault evidence.

5           (2) DETERMINATIONS.—The Attorney General,  
6 acting through the Director of the National Institute  
7 of Justice, shall carry out an assessment of Federal,  
8 State, local, and tribal territories law enforcement  
9 jurisdictions to determine the amount of—

10                   (A) evidence contained in rape kits that  
11 has not been subjected to DNA testing and  
12 analysis; and

13                   (B) evidence from sexual assault crimes  
14 that has not been subjected to DNA testing and  
15 analysis.

16 (b) REPORT.—

17           (1) IN GENERAL.—Not later than 1 year after  
18 the date of enactment of this Act, the Attorney Gen-  
19 eral shall submit to Congress a report on the assess-  
20 ment carried out under subsection (a).

21           (2) CONTENTS.—The report submitted under  
22 paragraph (1) shall include—

23                   (A) the results of the assessment carried  
24 out under subsection (a);

1 (B) the number of rape kit samples and  
2 other evidence from sexual assault crimes that  
3 have not been subjected to DNA testing and  
4 analysis; and

5 (C) a plan for carrying out additional as-  
6 sessments and reports to continue until all law  
7 enforcement jurisdictions report no backlog in  
8 crime scene DNA testing and analysis.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
10 authorized to be appropriated such sums as may be nec-  
11 essary to carry out this section.

12 **SEC. 3. GRANTS FOR ANALYSIS OF DNA SAMPLES FROM**  
13 **RAPE KITS.**

14 Section 2(a) of the DNA Analysis Backlog Elimini-  
15 nation Act of 2000 (42 U.S.C. 14135(a)) is amended—

16 (1) in paragraph (2), by inserting “including  
17 samples from rape kits and nonsuspect cases” after  
18 “crime scenes”; and

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

20 “(4) To ensure that DNA testing and analysis  
21 of samples from rape kits and nonsuspect cases are  
22 carried out in a timely manner.”.

23 **SEC. 4. INCREASED GRANTS FOR DNA ANALYSIS.**

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

1 (1) in paragraph (1)—

2 (A) in subparagraph (B), by striking  
3 “and” at the end; and

4 (B) by striking subparagraph (C) and in-  
5 serting the following:

6 “(C) \$25,000,000 for fiscal year 2003;

7 “(D) \$25,000,000 for fiscal year 2004;

8 “(E) \$25,000,000 for fiscal year 2005; and

9 “(F) \$25,000,000 for fiscal year 2006.”;

10 and

11 (2) in paragraph (2), by striking subparagraphs  
12 (C) and (D) and inserting the following:

13 “(C) \$100,000,000 for fiscal year 2003;

14 “(D) \$100,000,000 for fiscal year 2004;

15 “(E) \$50,000,000 for fiscal year 2005; and

16 “(F) \$50,000,000 for fiscal year 2006.”.

17 **SEC. 5. AUTHORITY OF LOCAL GOVERNMENTS TO APPLY**  
18 **FOR AND RECEIVE DNA BACKLOG ELIMI-**  
19 **NATION GRANTS.**

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

22 (1) in subsection (a), by inserting “or eligible  
23 units of local government” after “eligible States”;

24 (2) in subsection (b)—

1 (A) in the matter preceding paragraph (1),  
2 by inserting “or unit of local government” after  
3 “State” each place that term appears;

4 (B) in paragraph (1), by inserting “or unit  
5 of local government” after “State”;

6 (C) in paragraph (3), by inserting “or unit  
7 of local government” after “State” the first  
8 time that term appears;

9 (D) in paragraph (4)—

10 (i) by inserting “or unit of local gov-  
11 ernment” after “State”; and

12 (ii) by striking “and” after the semi-  
13 colon;

14 (E) in paragraph (5)—

15 (i) by inserting “or unit of local gov-  
16 ernment” after “State”; and

17 (ii) by striking the final period and in-  
18 serting “; and”; and

19 (F) by adding at the end the following:

20 “(6) if the applicant is a unit of local govern-  
21 ment, certify that the applicant participates in a  
22 State laboratory system.”;

23 (3) in subsection (c), by inserting “or unit of  
24 local government” after “State”;

1 (4) in subsection (d)(2)(A), by inserting “or  
2 units of local government” after “States”;

3 (5) in subsection (e)—

4 (A) in paragraph (1), by inserting “or local  
5 government” after “State” each place that term  
6 appears; and

7 (B) in paragraph (2), by inserting “or unit  
8 of local government” after “State”;

9 (6) in subsection (f), by inserting “or unit of  
10 local government” after “State”;

11 (7) in subsection (g)—

12 (A) in paragraph (1), by inserting “or unit  
13 of local government” after “State”; and

14 (B) in paragraph (2), by inserting “or  
15 units of local government” after “States”; and

16 (8) in subsection (h), by inserting “or unit of  
17 local government” after “State” each place that  
18 term appears.

19 **SEC. 6. IMPROVING ELIGIBILITY CRITERIA FOR BACKLOG**  
20 **GRANTS.**

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

23 (1) in subsection (b)—

24 (A) in paragraph (5) (as amended by sec-  
25 tion 5), by striking “and” at the end;

1 (B) in paragraph (6) (as added by section  
2 5), by striking the period at the end and insert-  
3 ing: “; and”; and

4 (C) by adding at the end the following:

5 “(7) ensure that each laboratory performing  
6 DNA testing or analysis satisfies the quality assur-  
7 ance protocols and practices described in subsection  
8 (d)(2).”; and

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

10 “(k) PRIORITY.—In awarding grants under this sec-  
11 tion, the Attorney General shall give priority to a State  
12 or unit of local government that has a significant rape kit  
13 or nonsuspect case backlog as compared to other appli-  
14 cants.”.

15 **SEC. 7. AUTHORIZATION FOR GRANTS FOR IMPROVED RE-**  
16 **SPONSES TO AND INVESTIGATION OF SEXUAL**  
17 **ASSAULT CASES.**

18 (a) AUTHORIZATION OF GRANTS.—The Attorney  
19 General shall make grants to eligible entities to—

20 (1) carry out sexual assault examiner training  
21 and certification;

22 (2) develop sexual assault examiner programs;

23 (3) acquire or improve forensic equipment;

24 (4) train law enforcement personnel in the han-  
25 dling of sexual assault cases and the collection and

1 use of DNA samples for use as forensic evidence;  
2 and

3 (5) train law enforcement personnel to recog-  
4 nize, detect, report, and respond to drug-facilitated  
5 sexual assaults.

6 (b) ELIGIBLE ENTITY.—For purposes of this section,  
7 the term “eligible entity” means—

8 (1) a State;

9 (2) a unit of local government;

10 (3) a college, university, or other institute of  
11 higher learning;

12 (4) sexual assault examination programs, in-  
13 cluding sexual assault forensic examiner (SAFE)  
14 programs, sexual assault nurse examiner (SANE)  
15 programs, and sexual assault response team (SART)  
16 programs; and

17 (5) a State sexual assault coalition.

18 (c) APPLICATION.—To receive a grant under this  
19 section—

20 (1) the chief executive officer of a State, unit  
21 of local government, or university that desires a  
22 grant under this section shall submit to the Attorney  
23 General—

1 (A) an application in such form and con-  
2 taining such information as the Attorney Gen-  
3 eral may require;

4 (B) certification that the testing will be  
5 done in a laboratory that complies with the  
6 quality assurance and proficiency testing stand-  
7 ards for collecting and processing DNA samples  
8 issued by the Director of the Federal Bureau of  
9 Investigation under section 210303 of the DNA  
10 Identification Act of 1994 (42 U.S.C. 14131);

11 (C) notice that the applicant is aware of,  
12 and utilizing, uniform protocols and standards  
13 issued by the Department of Justice on the col-  
14 lection and processing of DNA evidence at  
15 crime scenes; and

16 (D) if the applicant is a unit of local gov-  
17 ernment, certification that the applicant partici-  
18 pates in a State laboratory system; and

19 (2) an existing or proposed sexual assault ex-  
20 amination program shall submit to the Attorney  
21 General—

22 (A) an application in such form and con-  
23 taining such information as the Attorney Gen-  
24 eral may require;

1           (B) certification that the program complies  
2           with the standards and recommended protocol  
3           developed by the Attorney General pursuant to  
4           section 1405 of the Victims of Trafficking and  
5           Violence Protection Act of 2000 (42 U.S.C.  
6           3796gg note); and

7           (C) notice that the applicant is aware of,  
8           and utilizing, uniform protocols and standards  
9           issued by the Department of Justice on the col-  
10          lection and processing of DNA evidence at  
11          crime scenes.

12          (d) PRIORITY.—In awarding grants under this sec-  
13          tion, the Attorney General shall give priority to proposed  
14          or existing sexual assault examination programs that are  
15          serving, or will serve, populations currently underserved  
16          by existing sexual assault examination programs.

17          (e) RESTRICTIONS ON USE OF FUNDS.—

18           (1) SUPPLEMENTAL FUNDS.—Funds made  
19           available under this section shall not be used to sup-  
20           plant State funds, but shall be used to increase the  
21           amount of funds that would, in the absence of Fed-  
22           eral funds, be made available from State sources for  
23           the purposes of this section.

1           (2) ADMINISTRATIVE COSTS.—An eligible entity  
2           may not use more than 3 percent of the funds it re-  
3           ceives under this section for administrative expenses.

4           (3) NONEXCLUSIVITY.—Nothing in this section  
5           shall be construed to limit or restrict the ability of  
6           proposed or existing sexual assault examination pro-  
7           grams to apply for and obtain Federal funding from  
8           any other agency or department or any other Fed-  
9           eral Grant program.

10          (f) AUTHORIZATION OF APPROPRIATIONS.—There  
11          are authorized to be appropriated to the Department of  
12          Justice \$15,000,000 for each of fiscal years 2003 through  
13          2006 to carry out this section.

14          **SEC. 8. AUTHORIZING JOHN DOE DNA INDICTMENTS.**

15          (a) LIMITATIONS.—Section 3282 of title 18, United  
16          States Code, is amended—

17                  (1) by striking “Except” and inserting the fol-  
18                  lowing:

19                  “(a) LIMITATION.—Except”; and

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

21                  “(b) DNA PROFILE INDICTMENT.—

22                          “(1) IN GENERAL.—In any indictment found  
23                          for an offense under chapter 109A, if the identity of  
24                          the accused is unknown, it shall be sufficient to de-

1       scribe the accused as an individual whose name is  
2       unknown, but who has a particular DNA profile.

3               “(2) EXCEPTION.—Any indictment described in  
4       paragraph (1), which is found within 5 years after  
5       the offense under chapter 109A shall have been com-  
6       mitted, shall not be subject to—

7                       “(A) the limitations period described in  
8                       subsection (a); and

9                       “(B) the provisions of chapter 208 until  
10       the individual is arrested or served with a sum-  
11       mons in connection with the charges contained  
12       in the indictment.

13               “(3) DEFINITION.—For purposes of this sub-  
14       section, the term ‘DNA profile’ means a set of DNA  
15       identification characteristics.”.

16       (b) PRIVACY PROTECTION STANDARD.—Section  
17       10(a) of the DNA Analysis Backlog Elimination Act of  
18       2000 (42 U.S.C. 14135e(a)) is amended by inserting be-  
19       fore the period at the end the following: “or in section  
20       3282(b) of title 18, United States Code.”.

21       (c) RULES OF CRIMINAL PROCEDURE.—Rule 7 of the  
22       Federal Rules of Criminal Procedure is amended in sub-  
23       division (c)(1) by adding at the end the following: “For  
24       purposes of an indictment referred to in section 3282 of  
25       title 18, United States Code, if the identity of the defend-

1 ant is unknown, it shall be sufficient to describe the de-  
2 fendant, in the indictment, as an individual whose name  
3 is unknown, but who has a particular DNA profile, as de-  
4 fined in that section 3282.”.

5 **SEC. 9. INCREASED GRANTS FOR COMBINED DNA INDEX**  
6 **(CODIS) SYSTEM.**

7 Section 210306 of the DNA Identification Act of  
8 1994 (42 U.S.C.14134) is amended—

9 (1) by striking “There” and inserting the fol-  
10 lowing:

11 “(a) IN GENERAL.—There”; and

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

13 “(b) INCREASED GRANTS FOR CODIS.—There is au-  
14 thorized to be appropriated to the Federal Bureau of In-  
15 vestigation to carry out a redesign of the Combined DNA  
16 Index System (CODIS) \$9,646,000 for fiscal year 2003.”.

17 **SEC. 10. INCREASED GRANTS FOR FEDERAL CONVICTED**  
18 **OFFENDER PROGRAM (FCOP).**

19 Section 3 of the DNA Analysis Backlog Elimination  
20 Act of 2000 (42 U.S.C. 14135a) is amended by adding  
21 at the end the following:

22 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
23 is authorized to be appropriated to the Federal Bureau

1 of Investigation to carry out this section \$497,000 for fis-  
2 cal year 2003.”.

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