

107TH CONGRESS
2^D SESSION

S. 2513

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.

IN THE SENATE OF THE UNITED STATES

MAY 14 (legislative day, MAY 9), 2002

Mr. BIDEN (for himself and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 scene”; 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 sserting “; 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), by striking the pe-
25 riod at the end and inserting: “; and”; and

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

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

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

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

12 **SEC. 7. AUTHORIZATION FOR GRANTS FOR IMPROVED RE-**
13 **SPONSES TO AND INVESTIGATION OF SEXUAL**
14 **ASSAULT CASES.**

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

17 (1) carry out sexual assault examiner training
18 and certification;

19 (2) develop sexual assault examiner programs;

20 (3) acquire or improve forensic equipment;

21 (4) train law enforcement personnel in the han-
22 dling of sexual assault cases and the collection and
23 use of DNA samples for use as forensic evidence;
24 and

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

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

6 (1) a State;

7 (2) a unit of local government;

8 (3) a college, university, or other institute of
9 higher learning;

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

15 (5) a State sexual assault coalition.

16 (c) APPLICATION.—To receive a grant under this
17 section—

18 (1) the chief executive officer of a State, unit
19 of local government, or university that desires a
20 grant under this section 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 testing will be
2 done in a laboratory that complies with the
3 quality assurance and proficiency testing stand-
4 ards for collecting and processing DNA samples
5 issued by the Director of the Federal Bureau of
6 Investigation under section 210303 of the DNA
7 Identification Act of 1994 (42 U.S.C. 14131);

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

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

16 (2) an existing or proposed sexual assault ex-
17 amination program shall submit to the Attorney
18 General—

19 (A) an application in such form and con-
20 taining such information as the Attorney Gen-
21 eral may require;

22 (B) certification that the program complies
23 with the standards and recommended protocol
24 developed by the Attorney General pursuant to
25 section 1405 of the Victims of Trafficking and

1 Violence Protection Act of 2000 (42 U.S.C.
2 3796gg note); and

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

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

13 (e) RESTRICTIONS ON USE OF FUNDS.—

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

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

23 (3) NONEXCLUSIVITY.—Nothing in this section
24 shall be construed to limit or restrict the ability of
25 proposed or existing sexual assault examination pro-

1 grams to apply for and obtain Federal funding from
2 any other agency or department or any other Fed-
3 eral Grant program.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Department of
6 Justice \$15,000,000 for each of fiscal years 2003 through
7 2006 to carry out this section.

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

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

11 (1) by striking “Except” and inserting the fol-
12 lowing:

13 “(a) LIMITATION.—Except”; and

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

15 “(b) DNA PROFILE INDICTMENT.—

16 “(1) IN GENERAL.—In any indictment found
17 for an offense under chapter 109A, if the identity of
18 the accused is unknown, it shall be sufficient to de-
19 scribe the accused as an individual whose name is
20 unknown, but who has a particular DNA profile.

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

1 “(A) the limitations period described in
2 subsection (a); and

3 “(B) the provisions of chapter 208 until
4 the individual is arrested or served with a sum-
5 mons in connection with the charges contained
6 in the indictment.

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

10 (b) PRIVACY PROTECTION STANDARD.—Section
11 10(a) of the DNA Analysis Backlog Elimination Act of
12 2000 (42 U.S.C. 14135e(a)) is amended by inserting be-
13 fore the period at the end the following: “or in section
14 3282(b) of title 18, United States Code”.

15 (c) RULES OF CRIMINAL PROCEDURE.—Rule 7 of the
16 Federal Rules of Criminal Procedure is amended in sub-
17 division (c)(1) by adding at the end the following: “For
18 purposes of an indictment referred to in section 3282 of
19 title 18, United States Code, if the identity of the defend-
20 ant is unknown, it shall be sufficient to describe the de-
21 fendant, in the indictment, as an individual whose name
22 is unknown, but who has a particular DNA profile, as de-
23 fined in that section 3282.”.

1 **SEC. 9. INCREASED GRANTS FOR COMBINED DNA INDEX**
2 **(CODIS) SYSTEM.**

3 Section 210306 of the DNA Identification Act of
4 1994 (42 U.S.C.14134) is amended—

5 (1) by striking “There” and inserting the fol-
6 lowing:

7 “(a) IN GENERAL.—There”; and

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

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

13 **SEC. 10. INCREASED GRANTS FOR FEDERAL CONVICTED**
14 **OFFENDER PROGRAM (FCOP).**

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

18 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
19 is authorized to be appropriated to the Federal Bureau
20 of Investigation to carry out this section \$497,000 for fis-
21 cal year 2003.”.

○