

Union Calendar No. 206

118TH CONGRESS
1ST SESSION

H. R. 5721

[Report No. 118–256]

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to
require certain reporting on sexual assault kit testing.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2023

Ms. MACE (for herself, Ms. LEE of California, Mrs. CHAVEZ-DeREMÉR, Ms. ADAMS, Ms. BROWNLEY, Ms. ESHOO, Ms. SALINAS, Mrs. MCBATH, Ms. BALINT, Mr. VAN DREW, Ms. ESCOBAR, Ms. KELLY of Illinois, Ms. LEE of Florida, Mr. DONALDS, Mr. FITZPATRICK, Mr. MOYLAN, Mrs. LESKO, Ms. LEE of Nevada, Mr. JACKSON of North Carolina, Mr. SMITH of New Jersey, Ms. TLAIB, Ms. KAMLAGER-DOVE, Ms. PRESSLEY, Mr. ZINKE, Ms. VAN DUYNE, and Ms. ROSS) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 26, 2023

Additional sponsors: Mr. HUNT, Mr. TIMMONS, Ms. HOULAHAN, Mrs. GONZÁLEZ-COLÓN, Mr. SABLÁN, Mrs. FOUSHEE, Ms. SCANLON, Mr. BILIRAKIS, Ms. CROCKETT, Ms. TITUS, Mr. CRENSHAW, Ms. SALAZAR, Mrs. TRAHAN, Mr. SANTOS, and Mr. KEAN of New Jersey

OCTOBER 26, 2023

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on September 26, 2023]

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to require certain reporting on sexual assault kit testing.

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 “Rape Kit Backlog*
5 *Progress Act of 2023”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 *(1) A sexual assault kit includes a sexual assault*
9 *forensic exam, meaning an examination provided to*
10 *a sexual assault patient by a health care provider*
11 *who has specialized education and clinical experience*
12 *in the collection of forensic evidence and treatment of*
13 *these patients, which includes—*

14 *(A) gathering information from the patient*
15 *for the medical forensic history;*

16 *(B) an examination;*

17 *(C) coordinating treatment of injuries, doc-*
18 *umentation of biological and physical findings,*
19 *and collection of evidence from the patient;*

20 *(D) documentation of findings;*

21 *(E) providing information, treatment, and*
22 *referrals for sexually transmitted infections,*
23 *pregnancy, suicidal ideation, alcohol and sub-*
24 *stance abuse, and other non-acute medical con-*
25 *cerns; and*

1 (F) providing follow-up as needed to pro-
 2 vide additional healing, treatment, or collection
 3 of evidence.

4 (2) A sexual assault kit is an important forensic
 5 tool used by law enforcement and prosecutors to inves-
 6 tigate and prosecute sexual assault and other crimes.

7 (3) It is estimated that there are currently well
 8 over 100,000 untested sexual assault kits in America,
 9 but the exact number is not known.

10 (4) Untested sexual assault kits means that there
 11 are sexual assaults unprosecuted, sexual assaults oc-
 12 curring that could have been prevented, and a delay
 13 in uploading DNA to Combined DNA Index System
 14 (commonly known as “CODIS”) that can assist law
 15 enforcement in solving other violent crimes.

16 **SEC. 3. REPORT TO ATTORNEY GENERAL REQUIRED ON**
 17 **SEXUAL ASSAULT KIT TESTING.**

18 Section 502 of the Omnibus Crime Control and Safe
 19 Streets Act of 1968 (34 U.S.C. 10153) is amended—

20 (1) in subsection (a), by adding at the end the
 21 following:

22 “(7) A report indicating whether—

23 “(A) the State or unit of local government
 24 has conducted a comprehensive sexual assault kit
 25 inventory, commonly known as a ‘backlog inven-

1 *tory’, to identify the physical location, untested*
2 *or tested status (or full sexual assault kit status,*
3 *if available), and any individual test kit identi-*
4 *fication or tracking information of each sexual*
5 *assault kit in the possession of such State or unit*
6 *of local government, or that has been otherwise*
7 *transmitted by a State or unit of local govern-*
8 *ment to a third-party, such as for testing, stor-*
9 *ing, processing, or handling;*

10 *“(B) with respect to each sexual assault kit*
11 *that the victim has consented to have collected,*
12 *the State or unit of local government has sub-*
13 *mitted each such sexual assault kit to a labora-*
14 *tory for DNA analysis;*

15 *“(C) results of any such DNA analysis were*
16 *uploaded to the Combined DNA Index System;*

17 *“(D) the State or unit of local government*
18 *has established an electronic tracking system for*
19 *a victim to identify the physical location of their*
20 *sexual assault kit and the results of any DNA*
21 *analysis that was performed;*

22 *“(E) the State or unit of local government*
23 *has established a victim notification protocol for*
24 *informing a victim of the status of their sexual*

1 *assault kit, including where their sexual assault*
2 *kit was analyzed;*

3 “(F) the State or unit of local government
4 has in place a comprehensive sexual assault kit
5 inventory system to identify sexual assault kit
6 status, physical location, and any test kit identi-
7 fication or tracking information of each sexual
8 assault kit in the possession of such State or unit
9 of local government, or otherwise transmitted by
10 a State or unit of local government to a third-
11 party, such as for testing, storing, processing, or
12 handling; and

13 “(G) the information in any comprehensive
14 sexual assault kit inventory system described in
15 subparagraph (F) is updated, and how and when
16 it is updated.”; and

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

18 “(c) DETERMINATION BY ATTORNEY GENERAL.— Be-
19 tween the receipt of a grant application and deciding on
20 such application, the Attorney General shall determine—

21 “(1) if the State or unit of local government has
22 completed the conduct described under subsection
23 (a)(7); and

24 “(2) if such conduct has not been completed, the
25 reason that it has not been completed.

1 “(d) *ELIGIBILITY.*—A State or unit or local govern-
2 ment shall only be eligible for a grant under this subpart
3 if the Attorney General determines such State or unit of
4 local government has completed the conduct described under
5 subsection (a)(7).

6 “(e) *REQUIREMENT FOR GRANT RECIPIENTS.*—A
7 State or unit of local government that has been awarded
8 a grant under this subpart as of the date of the enactment
9 of the ‘Rape Kit Backlog Progress Act of 2023’ shall have
10 one calendar year from such date of enactment to complete
11 the conduct described in subsection (a)(7) or such State or
12 unit of local government shall become ineligible for a grant
13 under this subpart.

14 “(g) *DEFINITIONS.*—In this section:

15 “(1) *SEXUAL ASSAULT KIT.*—The term ‘sexual
16 assault kit’ means evidence gathered by a medical
17 professional from a victim following a sexual assault,
18 which evidence may—

19 “(A) include swabs, test tubes, microscopic
20 slides, and evidence collection envelopes, for hairs
21 and fibers; and

22 “(B) vary in accordance with the cir-
23 cumstances of the sexual assault and with any
24 applicable rules or procedures of the jurisdiction.

1 “(2) *SEXUAL ASSAULT KIT STATUS*.—The term
2 ‘sexual assault kit status’ means whether an indi-
3 vidual sexual assault kit is—

4 “(A) collected and untested;

5 “(B) collected and tested;

6 “(C) lost or missing, expired or spoiled; or

7 “(D) tested and results reported to the vic-
8 tim, proper authorities, and the Combined DNA
9 Index System.”.

10 **SEC. 4. ATTORNEY GENERAL PUBLIC REPORT ON RAPE KIT**

11 **BACKLOGS.**

12 Subpart 1 of part E of title I of the Omnibus Crime
13 Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et
14 seq.) is amended by adding at the end the following:

15 **“SEC. 510. ATTORNEY GENERAL PUBLIC REPORT ON RAPE**

16 **KIT BACKLOGS.**

17 “(a) *IN GENERAL*.—Beginning not later than two
18 years after the date of the enactment of the ‘Rape Kit Back-
19 log Progress Act of 2023’, and annually thereafter, the At-
20 torney General shall make publicly available on the internet
21 website of the Department of Justice a report, including—

22 “(1) each report on the conduct described under
23 section 502(a)(7) received from an applicant for a
24 grant under this subpart;

1 “(2) an aggregate analysis of the reports de-
2 scribed under paragraph (1);

3 “(3) if an applicant for a grant under this sub-
4 part has been awarded a grant; and

5 “(4) if an applicant for a grant under this sub-
6 part completed the conduct described under section
7 502(a)(7) and if it has not completed the conduct de-
8 scribed under such subsection, the reason that the con-
9 duct has not been completed.

10 “(b) *PROHIBITION ON PERSONALLY IDENTIFIABLE IN-*
11 *FORMATION.—Any information published by the Attorney*
12 *General pursuant to this section may not contain the per-*
13 *sonally identifiable information of a victim and if such in-*
14 *formation was erroneously published, it shall be removed*
15 *from the website of the Department of Justice immediately*
16 *upon discovery.”.*

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