

DEBBIE SMITH ACT OF 2023

OCTOBER 25, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JORDAN, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 1105]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1105) to amend the DNA Analysis Backlog Elimination Act of 2000 to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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Purpose and Summary

H.R. 1105, introduced by Rep. Ann Wagner (R-MO), amends the DNA Analysis Backlog Elimination Act of 2000 to reauthorize the Debbie Smith DNA Backlog Grant Program.

Background and Need for the Legislation

When a suspected sexual assault victim is evaluated and treated at a medical facility, the victim may choose to undergo a sexual assault forensic exam. The person conducting the exam will use a sexual assault kit or rape kit, which contains the materials needed to conduct the exam—including a “checklist, materials, and instructions, along with envelopes and containers to package any specimens collected during the exam.”¹ After completing the exam, the contents will be transferred to law enforcement and logged as evidence.²

Analyzing DNA evidence collected in a rape kit makes it more likely that the perpetrator of a sexual assault will be identified, held accountable, and prevented from committing future sexual assaults.³ One recent study found that “25%–50% of tested [sexual assault kits] generated Combined DNA Index System (CODIS)-eligible DNA profiles and 50%–60% of those profiles resulted in a hit (i.e., revealed the DNA identification of the suspect).”⁴ Although rape kits often generate investigatory leads, they often times may not be submitted to a laboratory for testing or may await testing at a laboratory for an extended period of time.⁵

The Debbie Smith DNA Backlog Grant Program provides federal grants to states to reduce the backlog of testing biological material thought to contain DNA in criminal investigations, particularly rapes and sexual assaults. The Debbie Smith program was originally authorized by the DNA Analysis Backlog Elimination Act of 2000.⁶ The program was amended in 2004 by Title II of the Justice for All Act, which expanded the scope of the program and named the program “The Debbie Smith DNA Backlog Grant Program.”⁷ The program was reauthorized in 2008, 2014,⁸ and 2019.⁹

Under current law, grants awarded to states and local governments under this program can be used for the following purposes:

- (1) To carry out, for inclusion in the Combined DNA Index System of the Federal Bureau of Investigation, DNA analyses of samples collected under applicable legal authority.
- (2) To carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes, prioritizing, to the extent practicable consistent with public safety considerations samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect.

¹What Is a Sexual Assault Forensic Exam? RAINN, <https://rainn.org/articles/rape-kit>.

²See EMILY J. HANSON, CONG. RES. SERV., R44237, SEXUAL ASSAULT KITS (SAKS) AND THE BACKLOG OF UNTESTED SEXUAL ASSAULT EVIDENCE: IN BRIEF 4 (2022).

³The Importance of DNA in Sexual Assault Cases, RAINN, <https://rainn.org/articles/importance-dna-sexual-assault-cases>.

⁴HANSON, *supra* note 2, at 1.

⁵See, *Id.* at 5.

⁶P.L. 106–546, codified at 42 U.S.C. Sec. 14135.

⁷P.L. 108–405.

⁸P.L. 113–182.

⁹P.L. 116–104.

(3) To increase the capacity of laboratories owned by the State or by units of local government to carry out DNA analyses of samples specified in paragraph (1) or (2).

(4) To collect DNA samples specified in paragraph (1).

(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.

(6) To implement a DNA arrestee collection process consistent with subchapter III of this chapter.

(7) To conduct an audit consistent with subsection (n) of the samples of sexual assault evidence that are in the possession of the State or unit of local government and are awaiting testing.

(8) To ensure that the collection and processing of DNA evidence by law enforcement agencies from crimes, in particular, sexual assault and other violent crimes against persons, is carried out in an appropriate and timely manner and in accordance with the protocols and practices developed under subsection (o)(1).

(9) To increase the capacity of State and local prosecution offices to address the backlog of violent crime cases in which suspects have been identified through DNA evidence.¹⁰

On February 17, 2023, Representative Ann Wagner, along with Rep. Wesley Hunt (R-TX), Rep. Ben Cline (R-VA), Rep. Steve Cohen (D-TN), and Rep. Sheila Jackson Lee (D-TX) introduced the Debbie Smith Act of 2023.¹¹ This bill reauthorizes the grant program through fiscal year 2029.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearing was used to develop H.R. 1105: “Children are Not for Sale: Examining the Threat of Exploitation of Children in the U.S. and Abroad,” a hearing held on September 13, 2023 before the Subcommittee on Crime and Federal Government Surveillance of the Committee on the Judiciary. The Subcommittee heard testimony from the following witnesses:

- Anne Basham, Founder & Chair, Interparliamentary Taskforce on Human Trafficking
- Vanessa Bautista, Founding Member, Global Survivor Network
- John Pizzuro, Chief Executive Officer, Raven
- Frank Russo, Director & Associate General Counsel, Center for Combatting Human Trafficking, American Conservative Union
- John Tanagho, Executive Director, Center to End Sexual Exploitation of Children
- Jose Alfaro, Board Member, Human Trafficking Legal Center
- Lori Cohen, Chief Executive Officer, Protect All Children From Trafficking

The hearing addressed child sexual exploitation and trafficking. In his submitted testimony, Mr. Russo highlighted the Debbie

¹⁰ 34 U.S.C. § 40701.

¹¹ H.R. 1105, 118th Cong. (2023).

Smith Act as a program that assists law enforcement in identifying and holding traffickers accountable.¹²

Committee Consideration

On September 28, 2023, the Committee met in open session and ordered the bill, H.R. 1105, favorably reported by a roll call vote of 28 to 0, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee's consideration of H.R. 1105:

1. Vote on favorably reporting H.R. 1105—passed 28 ayes to 0 nays.

¹²*Children are Not for Sale: Examining the Threat of Exploitation of Children in the U.S. and Abroad: Hearing before the Subcomm. On Crime and Federal Government Surveillance of the H. Comm. On the Judiciary, 118th Cong. (2023) (prepared statement of Mr. Frank Russo).*

COMMITTEE ON THE JUDICIARY

118th CONGRESS

25-19

ROLL CALL

Date: 9/28/20

Vote on: Final passage of H.R. 1105

Roll Call #: 3

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>	✓			MR. NADLER (NY) <i>Ranking Member</i>	✓		
MR. ISSA (CA)				MS. LOFGREN (CA)			
MR. BUCK (CO)	✓			MS. JACKSON LEE (TX)	✓		
MR. GAETZ (FL)				MR. COHEN (TN)	✓		
MR. JOHNSON (LA)				MR. JOHNSON (GA)	✓		
MR. BIGGS (AZ)	✓			MR. SCHIFF (CA)	✓		
MR. McCLINTOCK (CA)	✓			MR. SWALWELL (CA)			
MR. TIFFANY (WI)	✓			MR. LIEU (CA)			
MR. MASSIE (KY)				MS. JAYAPAL (WA)			
MR. ROY (TX)				MR. CORREA (CA)	✓		
MR. BISHOP (NC)				MS. SCANLON (PA)	✓		
MS. SPARTZ (IN)				MR. NEGUSE (CO)	✓		
MR. FITZGERALD (WI)	✓			MS. McBATH (GA)			
MR. BENTZ (OR)	✓			MS. DEAN (PA)	✓		
MR. CLINE (VA)	✓			MS. ESCOBAR (TX)			
MR. GOODEN (TX)	✓			MS. ROSS (NC)	✓		
MR. VAN DREW (NJ)	✓			MS. BUSH (MO)			
MR. NEHLS (TX)	✓			MR. IVEY (MD)	✓		
MR. MOORE (AL)	✓			MS. BALINT (VT)			
MR. KILEY (CA)	✓						
MS. HAGEMAN (WY)	✓						
MR. MORAN (TX)							
MS. LEE (FL)	✓						
MR. HUNT (TX)	✓						
MR. FRY (SC)	✓						

Roll Call Totals:

Ayes:

28

Nays:

0

Present:

Passed:

X

Failed:

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974* has been timely submitted prior to filing of the report and is included in the report. Such a cost estimate is included in this report.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 1105 from the Director of the Congressional Budget Office:

H.R. 1105, Debbie Smith Act of 2023			
As ordered reported by the House Committee on the Judiciary on September 28, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	423	755
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 1105 would authorize the appropriation of \$151 million annually over the 2025–2029 period for the Debbie Smith DNA Backlog Grant Program. Under the program, the Department of Justice (DOJ) awards grants to state and local governments to analyze DNA samples, improve DNA sample collection, prosecute violent crime cold cases, and undertake other work related to criminal investigations. Under current law, the annual authorization of \$151 million for this program expires at the end of fiscal year 2024. (In 2023, the Congress provided \$130 million for this program.)

Based on the historical spending patterns for this program, CBO estimates that implementing H.R. 1105 would cost \$423 million over the 2024–2028 period and \$332 million after 2028, assuming the appropriation of the authorized amounts.

The costs of the legislation, detailed in Table 1, fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1105

	By fiscal year, millions of dollars—					
	2024	2025	2026	2027	2028	2024– 2028
Estimated Authorization	0	151	151	151	151	604
Estimated Outlays	0	30	91	151	151	423

The CBO staff contact for this estimate is Jeremy Crimm. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

Committee Estimate of Budgetary Effects

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974*.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 1105 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 1105 amends the DNA Analysis Backlog Elimination Act of 2000 to reauthorize the Debbie Smith DNA Backlog Grant Program.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 1105 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House rule XXI.

Federal Mandates Statement

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act*.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104–1).

Section-by-Section Analysis

Section 1: Short Title. The Debbie Smith Act of 2023.

Section 2: Reauthorization. Reauthorizes Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 through 2029.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

* * * * *

SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) AUTHORIZATION OF GRANTS.—The Attorney General may make grants to eligible States or units of local government for use by the State or unit of local government for the following purposes:

(1) To carry out, for inclusion in the Combined DNA Index System of the Federal Bureau of Investigation, DNA analyses of samples collected under applicable legal authority.

(2) To carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes, prioritizing, to the extent practicable consistent with public safety considerations samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect.

(3) To increase the capacity of laboratories owned by the State or by units of local government to carry out DNA analyses of samples specified in paragraph (1) or (2).

(4) To collect DNA samples specified in paragraph (1).

(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.

(7) To conduct an audit consistent with subsection (n) of the samples of sexual assault evidence that are in the possession of the State or unit of local government and are awaiting testing.

(8) To ensure that the collection and processing of DNA evidence by law enforcement agencies from crimes, in particular, sexual assault and other violent crimes against persons, is carried out in an appropriate and timely manner and in accordance with the protocols and practices developed under subsection (o)(1).

(9) To increase the capacity of State and local prosecution offices to address the backlog of violent crime cases in which suspects have been identified through DNA evidence.

(b) ELIGIBILITY.—For a State or unit of local government to be eligible to receive a grant under this section, the chief executive officer of the State or unit of local government shall submit to the Attorney General an application in such form and containing such in-

formation as the Attorney General may require. The application shall, as required by the Attorney General—

(1) provide assurances that the State or unit of local government has implemented, or will implement not later than 120 days after the date of such application, a comprehensive plan for the expeditious DNA analysis of samples in accordance with this section;

(2) include a certification that each DNA analysis carried out under the plan shall be maintained pursuant to the privacy requirements described in section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

(3) include a certification that the State or unit of local government has determined, by statute, rule, or regulation, those offenses under State law that shall be treated for purposes of this section as qualifying State offenses;

(4) specify the allocation that the State or unit of local government shall make, in using grant amounts to carry out DNA analyses of samples, as between samples specified in subsection (a)(1) and samples specified in subsection (a)(2);

(5) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(3);

(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System;

(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4); and

(8) provide assurances that the DNA section of the laboratory to be used to conduct DNA analyses has a written policy that prioritizes the analysis of, to the extent practicable consistent with public safety considerations, samples from homicides and sexual assaults.

(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

(ii) the population in the jurisdiction; and

(iii) the number of part 1 violent crimes in the jurisdiction.

(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount ap-

appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

(A) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

(B) For each of the fiscal years 2019 through 2024, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

(C) For each of fiscal years 2019 through 2024, not less than 75 percent of the total grant amounts shall be awarded for a combination of purposes under paragraphs (1), (2), and (3) of subsection (a).

(4) ALLOCATION OF GRANT AWARDS FOR AUDITS.—For each of fiscal years 2014 through 2022, not less than 5 percent, but not more than 7 percent, of the grant amounts distributed under paragraph (1) shall, if sufficient applications to justify such amounts are received by the Attorney General, be awarded for purposes described in subsection (a)(7), provided that none of the funds required to be distributed under this paragraph shall decrease or otherwise limit the availability of funds required to be awarded to States or units of local government under paragraph (3).

(5) ALLOCATION OF GRANT AWARDS FOR PROSECUTORS.—For each fiscal year, not less than 5 percent, but not more than 7 percent, of the grant amounts distributed under paragraph (1) shall, if sufficient applications to justify such amounts are received by the Attorney General, be awarded for purposes described in subsection (a)(9), provided that none of the funds required to be distributed under this paragraph shall decrease or otherwise limit the availability of funds required to be awarded to States or units of local government under paragraph (3).

(d) ANALYSIS OF SAMPLES.—

(1) IN GENERAL.—A plan pursuant to subsection (b)(1) shall require that, except as provided in paragraph (3), each DNA analysis be carried out in a laboratory that satisfies quality assurance standards and is—

(A) operated by the State or a unit of local government;

or

(B) operated by a private entity pursuant to a contract with the State or a unit of local government.

(2) QUALITY ASSURANCE STANDARDS.—(A) The Director of the Federal Bureau of Investigation shall maintain and make available to States and units of local government a description of quality assurance protocols and practices that the Director considers adequate to assure the quality of a forensic laboratory.

(B) For purposes of this section, a laboratory satisfies quality assurance standards if the laboratory satisfies the quality control requirements described in paragraphs (1) and (2) of section

210304(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)).

(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).

(e) RESTRICTIONS ON USE OF FUNDS.—

(1) NONSUPPLANTING.—Funds made available pursuant to this section shall not be used to supplant State or local government funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State or local government sources for the purposes of this Act.

(2) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 3 percent of the funds it receives from this section for administrative expenses.

(f) REPORTS TO THE ATTORNEY GENERAL.—Each State or unit of local government which receives a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section is expended, a report at such time and in such manner as the Attorney General may reasonably require, which contains—

(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application; and

(2) such other information as the Attorney General may require.

(g) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year for which grants are made under this section, the Attorney General shall submit to the Congress a report that includes—

(1) the aggregate amount of grants made under this section to each State or unit of local government for such fiscal year;

(2) a summary of the information provided by States or units of local government receiving grants under this section; and

(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.

(h) EXPENDITURE RECORDS.—

(1) IN GENERAL.—Each State or unit of local government which receives a grant under this section shall keep records as the Attorney General may require to facilitate an effective

audit of the receipt and use of grant funds received under this section.

(2) ACCESS.—Each State or unit of local government which receives a grant under this section shall make available, for the purpose of audit and examination, such records as are related to the receipt or use of any such grant.

(i) DEFINITION.—For purposes of this section, the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for grants under subsection (a) \$151,000,000 for each of [fiscal years 2019 through 2024] *fiscal years 2024 through 2029*.

(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

(C) to support future capacity building efforts; and

(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

(l) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may award a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

(1) certifies to the Attorney General that in such State or unit—

(A) all of the purposes set forth in subsection (a) have been met;

(B) a significant backlog of casework is not waiting for DNA analysis; and

(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely DNA processing of casework or offender samples; and

(2) demonstrates to the Attorney General that such State or unit requires assistance in alleviating a backlog of cases involving a forensic science other than DNA analysis.

(m) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.

(n) USE OF FUNDS FOR AUDITING SEXUAL ASSAULT EVIDENCE BACKLOGS.—

(1) ELIGIBILITY.—The Attorney General may award a grant under this section to a State or unit of local government for the purpose described in subsection (a)(7) only if the State or unit of local government—

(A) submits a plan for performing the audit of samples described in such subsection; and

(B) includes in such plan a good-faith estimate of the number of such samples.

(2) GRANT CONDITIONS.—A State or unit of local government receiving a grant for the purpose described in subsection (a)(7)—

(A) may not enter into any contract or agreement with any non-governmental vendor laboratory to conduct an audit described in subsection (a)(7); and

(B) shall—

(i) not later than 1 year after receiving the grant, complete the audit referred to in paragraph (1)(A) in accordance with the plan submitted under such paragraph;

(ii) not later than 60 days after receiving possession of a sample of sexual assault evidence that was not in the possession of the State or unit of local government at the time of the initiation of an audit under paragraph (1)(A), subject to paragraph (4)(F), include in any required reports under clause (v), the information listed under paragraph (4)(B);

(iii) for each sample of sexual assault evidence that is identified as awaiting testing as part of the audit referred to in paragraph (1)(A)—

(I) assign a unique numeric or alphanumeric identifier to each sample of sexual assault evidence that is in the possession of the State or unit of local government and is awaiting testing; and

(II) identify the date or dates after which the State or unit of local government would be barred by any applicable statutes of limitations from prosecuting a perpetrator of the sexual assault to which the sample relates;

(iv) provide that—

(I) the chief law enforcement officer of the State or unit of local government, respectively, is the individual responsible for the compliance of the State or unit of local government, respectively, with the reporting requirements described in clause (v); or

(II) the designee of such officer may fulfill the responsibility described in subclause (I) so long as such designee is an employee of the State or unit of local government, respectively, and is not an employee of any governmental laboratory or non-governmental vendor laboratory; and

(v) comply with all grantee reporting requirements described in paragraph (4).

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

(4) SEXUAL ASSAULT FORENSIC EVIDENCE REPORTS.—

(A) IN GENERAL.—For not less than 12 months after the completion of an initial count of sexual assault evidence that is awaiting testing during an audit referred to in paragraph (1)(A), a State or unit of local government that receives a grant award under subsection (a)(7) shall, not less than every 60 days, submit a report to the Department of Justice, on a form prescribed by the Attorney General, which shall contain the information required under subparagraph (B).

(B) CONTENTS OF REPORTS.—A report under this paragraph shall contain the following information:

(i) The name of the State or unit of local government filing the report.

(ii) The period of dates covered by the report.

(iii) The cumulative total number of samples of sexual assault evidence that, at the end of the reporting period—

(I) are in the possession of the State or unit of local government at the reporting period;

(II) are awaiting testing; and

(III) the State or unit of local government has determined should undergo DNA or other appropriate forensic analyses.

(iv) The cumulative total number of samples of sexual assault evidence in the possession of the State or unit of local government that, at the end of the reporting period, the State or unit of local government has determined should not undergo DNA or other appropriate forensic analyses, provided that the reporting form shall allow for the State or unit of local government, at its sole discretion, to explain the reasoning for this determination in some or all cases.

(v) The cumulative total number of samples of sexual assault evidence in a total under clause (iii) that

have been submitted to a laboratory for DNA or other appropriate forensic analyses.

(vi) The cumulative total number of samples of sexual assault evidence identified by an audit referred to in paragraph (1)(A) or under paragraph (2)(B)(ii) for which DNA or other appropriate forensic analysis has been completed at the end of the reporting period.

(vii) The total number of samples of sexual assault evidence identified by the State or unit of local government under paragraph (2)(B)(ii), since the previous reporting period.

(viii) The cumulative total number of samples of sexual assault evidence described under clause (iii) for which the State or unit of local government will be barred within 12 months by any applicable statute of limitations from prosecuting a perpetrator of the sexual assault to which the sample relates.

(C) PUBLICATION OF REPORTS.—Not later than 7 days after the submission of a report under this paragraph by a State or unit of local government, the Attorney General shall, subject to subparagraph (D), publish and disseminate a facsimile of the full contents of such report on an appropriate internet website.

(D) PERSONALLY IDENTIFIABLE INFORMATION.—The Attorney General shall ensure that any information published and disseminated as part of a report under this paragraph, which reports information under this subsection, does not include personally identifiable information or details about a sexual assault that might lead to the identification of the individuals involved.

(E) OPTIONAL REPORTING.—The Attorney General shall—

(i) at the discretion of a State or unit of local government required to file a report under subparagraph (A), allow such State or unit of local government, at their sole discretion, to submit such reports on a more frequent basis; and

(ii) make available to all States and units of local government the reporting form created pursuant to subparagraph (A), whether or not they are required to submit such reports, and allow such States or units of local government, at their sole discretion, to submit such reports for publication.

(F) SAMPLES EXEMPT FROM REPORTING REQUIREMENT.—The reporting requirements described in paragraph (2) shall not apply to a sample of sexual assault evidence that—

(i) is not considered criminal evidence (such as a sample collected anonymously from a victim who is unwilling to make a criminal complaint); or

(ii) relates to a sexual assault for which the prosecution of each perpetrator is barred by a statute of limitations.

(5) DEFINITIONS.—In this subsection:

(A) AWAITING TESTING.—The term “awaiting testing” means, with respect to a sample of sexual assault evidence, that—

- (i) the sample has been collected and is in the possession of a State or unit of local government;
- (ii) DNA and other appropriate forensic analyses have not been performed on such sample; and
- (iii) the sample is related to a criminal case or investigation in which final disposition has not yet been reached.

(B) FINAL DISPOSITION.—The term “final disposition” means, with respect to a criminal case or investigation to which a sample of sexual assault evidence relates—

- (i) the conviction or acquittal of all suspected perpetrators of the crime involved;
- (ii) a determination by the State or unit of local government in possession of the sample that the case is unfounded; or
- (iii) a declaration by the victim of the crime involved that the act constituting the basis of the crime was not committed.

(C) POSSESSION.—

(i) IN GENERAL.—The term “possession”, used with respect to possession of a sample of sexual assault evidence by a State or unit of local government, includes possession by an individual who is acting as an agent of the State or unit of local government for the collection of the sample.

(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed to create or amend any Federal rights or privileges for non-governmental vendor laboratories described in regulations promulgated under section 210303 of the DNA Identification Act of 1994 (42 U.S.C. 14131).

(o) ESTABLISHMENT OF PROTOCOLS, TECHNICAL ASSISTANCE, AND DEFINITIONS.—

(1) PROTOCOLS AND PRACTICES.—Not later than 18 months after the date of enactment of the SAFER Act of 2013, the Director, in consultation with Federal, State, and local law enforcement agencies and government laboratories, shall develop and publish a description of protocols and practices the Director considers appropriate for the accurate, timely, and effective collection and processing of DNA evidence, including protocols and practices specific to sexual assault cases, which shall address appropriate steps in the investigation of cases that might involve DNA evidence, including—

(A) how to determine—

- (i) which evidence is to be collected by law enforcement personnel and forwarded for testing;
- (ii) the preferred order in which evidence from the same case is to be tested; and
- (iii) what information to take into account when establishing the order in which evidence from different cases is to be tested;

(B) the establishment of a reasonable period of time in which evidence is to be forwarded by emergency response providers, law enforcement personnel, and prosecutors to a laboratory for testing;

(C) the establishment of reasonable periods of time in which each stage of analytical laboratory testing is to be completed;

(D) systems to encourage communication within a State or unit of local government among emergency response providers, law enforcement personnel, prosecutors, courts, defense counsel, crime laboratory personnel, and crime victims regarding the status of crime scene evidence to be tested; and

(E) standards for conducting the audit of the backlog for DNA case work in sexual assault cases required under subsection (n).

(2) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall make available technical assistance and training to support States and units of local government in adopting and implementing the protocols and practices developed under paragraph (1) on and after the date on which the protocols and practices are published.

(3) DEFINITIONS.—In this subsection, the terms “awaiting testing” and “possession” have the meanings given those terms in subsection (n).

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