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576-03937-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to DNA evidence collected in sexual
offense investigations; providing a short title;
amending s. 943.326, F.S.; requiring the Department of
Law Enforcement, by a specified date and subject to
legislative appropriation, to create and maintain a
statewide database for tracking sexual offense
evidence kits; providing database requirements;
requiring the department to adopt rules; providing
database participation requirements for specified
entities mandated to participate in the database if
the entity has certain interaction with the kits;
requiring the department to ensure that alleged sexual
offense victims and certain other persons receive
specified notice and instructions and be informed that
they are entitled to access information regarding such
kits and evidence; providing requirements for such
notification; providing for implementation; requiring
the department to apply for specified grant funds;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as "Gail's Law."

Section 2. Subsection (4) of section 943.326, Florida
Statutes, is amended to read:

943.326 DNA evidence collected in sexual offense



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28 investigations.-

29 (4) ~~By January 1, 2017,~~ The department and each laboratory
30 within the statewide criminal analysis laboratory system, in
31 coordination with the Florida Council Against Sexual Violence,
32 shall adopt and disseminate guidelines and procedures for the
33 collection, submission, and testing of DNA evidence that is
34 obtained in connection with an alleged sexual offense. The
35 timely submission and testing of sexual offense evidence kits is
36 a core public safety issue. Testing of sexual offense evidence
37 kits must be completed no later than 120 days after submission
38 to a member of the statewide criminal analysis laboratory
39 system.

40 (a) The guidelines and procedures must include the
41 requirements of this section, standards for how evidence is to
42 be packaged for submission, what evidence must be submitted to a
43 member of the statewide criminal analysis laboratory system, and
44 timeframes for when the evidence must be submitted, analyzed,
45 and compared to DNA databases.

46 (b) The testing requirements of this section are satisfied
47 when a member of the statewide criminal analysis laboratory
48 system tests the contents of the sexual offense evidence kit in
49 an attempt to identify the foreign DNA attributable to a
50 suspect. If a sexual offense evidence kit is not collected, the
51 laboratory may receive and examine other items directly related
52 to the crime scene, such as clothing or bedding or personal
53 items left behind by the suspect. If probative information is
54 obtained from the testing of the sexual offense evidence kit,
55 the examination of other evidence should be based on the
56 potential evidentiary value to the case and determined through



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57 cooperation among the investigating agency, the laboratory, and
58 the prosecutor.

59 (c) The department shall, subject to appropriation by the
60 Legislature, no later than July 1, 2023, create and maintain a
61 statewide database to track the location, processing status, and
62 storage of each sexual offense evidence kit collected after the
63 implementation of the database that is accessible to law
64 enforcement agencies and alleged victims and other persons
65 listed in paragraph (1)(b). The database shall track the status
66 of the kits from the collection site throughout the criminal
67 justice process, including, but not limited to, the initial
68 collection at medical facilities, inventory and storage by law
69 enforcement agencies or crime laboratories, analysis at crime
70 laboratories, and storage or destruction after completion of
71 analysis.

72 (d) The department shall adopt rules establishing the
73 requirements for each entity that participates in the database.
74 Law enforcement agencies, medical facilities, crime
75 laboratories, and any other facility that collects, receives,
76 maintains, stores, or preserves a sexual offense evidence kit
77 shall participate in the database, as required by the
78 department.

79 (e) The department shall ensure that each alleged victim
80 and other person listed in paragraph (1)(b) is notified of the
81 existence of the database and provided with instruction on how
82 to access it and is informed that he or she is entitled to
83 access information regarding the alleged victim's sexual offense
84 evidence kit, including tracking information, testing status,
85 and any DNA matches to a person deemed by investigators to be a



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86 suspect or person of interest. However, notification of a DNA
87 match shall state only that a DNA match has occurred and may not
88 contain any genetic or other identifying information. Such a
89 notification may be delayed for up to 180 days if such
90 notification would, in the opinion of investigators, negatively
91 affect the investigation.

92 Section 3. The Department of Law Enforcement may phase in
93 initial participation in the statewide database for tracking
94 sexual offense evidence kits created in s. 943.326, Florida
95 Statutes, as amended by this act, according to region, volume of
96 kits, or other appropriate classifications; however, all
97 entities in the chain of custody of sexual offense evidence kits
98 shall fully participate in the statewide database no later than
99 1 year after its creation. The department shall apply for any
100 available grant funds to assist it in implementing the statewide
101 database.

102 Section 4. This act shall take effect July 1, 2021.