

By Senator Stewart

13-00904A-21

20211002\_\_

1                   A bill to be entitled  
2       An act relating to DNA evidence collected in sexual  
3       offense investigations; providing a short title;  
4       amending s. 943.326, F.S.; requiring the Department of  
5       Law Enforcement, by a specified date and subject to  
6       legislative appropriation, to create and maintain a  
7       statewide database for tracking sexual offense  
8       evidence kits; providing database requirements;  
9       providing participation requirements; requiring the  
10      department to ensure that alleged sexual offense  
11      victims and certain other persons receive specified  
12      notice and instructions and be informed that they are  
13      entitled to access information regarding such kits and  
14      evidence; providing requirements for such  
15      notification; providing for implementation; providing  
16      an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. This act may be cited as "Gail's Law."

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

23       943.326 DNA evidence collected in sexual offense  
24 investigations.—

25       (4) ~~By January 1, 2017,~~ The department and each laboratory  
26 within the statewide criminal analysis laboratory system, in  
27 coordination with the Florida Council Against Sexual Violence,  
28 shall adopt and disseminate guidelines and procedures for the  
29 collection, submission, and testing of DNA evidence that is

13-00904A-21

20211002\_\_

30 obtained in connection with an alleged sexual offense. The  
31 timely submission and testing of sexual offense evidence kits is  
32 a core public safety issue. Testing of sexual offense evidence  
33 kits must be completed no later than 120 days after submission  
34 to a member of the statewide criminal analysis laboratory  
35 system.

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

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

55 (c) The department shall, subject to appropriation by the  
56 Legislature, no later than July 1, 2023, create and maintain a  
57 statewide database to track the location, processing status, and  
58 storage of sexual offense evidence kits which is accessible to

13-00904A-21

20211002\_\_

59 law enforcement agencies and alleged victims and other persons  
60 listed in paragraph (1)(b). The database shall track the status  
61 of the kits from the collection site throughout the criminal  
62 justice process, including, but not limited to, the initial  
63 collection at medical facilities, inventory and storage by law  
64 enforcement agencies or crime laboratories, analysis at crime  
65 laboratories, and storage or destruction after completion of  
66 analysis. Law enforcement agencies, medical facilities, crime  
67 laboratories, and any other facilities that collect, receive,  
68 maintain, store, or preserve the kits shall participate in the  
69 database, as required by the department.

70 (d) The department shall ensure that each alleged victim  
71 and other person listed in paragraph (1)(b) is notified of the  
72 existence of the database and provided with instruction on how  
73 to access it and is informed that he or she is entitled to  
74 access information regarding the alleged victim's sexual offense  
75 evidence kit, including tracking information, testing status,  
76 and any DNA matches to a person deemed by investigators to be a  
77 suspect or person of interest. However, notification of a DNA  
78 match shall state only that a DNA match has occurred and may not  
79 contain any genetic or other identifying information. Such a  
80 notification may be delayed for up to 180 days if such  
81 notification would, in the opinion of investigators, negatively  
82 affect the investigation.

83 Section 3. The Department of Law Enforcement may phase in  
84 initial participation in the statewide database for tracking  
85 sexual offense evidence kits created in s. 943.326, Florida  
86 Statutes, as amended by this act, according to region, volume of  
87 kits, or other appropriate classifications; however, all

13-00904A-21

20211002\_\_

88 entities in the chain of custody of sexual offense evidence kits  
89 shall fully participate in the statewide database no later than  
90 1 year after its creation.

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