

By the Committee on Appropriations; and Senator Stewart

576-04479-21

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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           requiring the department to adopt rules; providing  
10          database participation requirements for specified  
11          entities mandated to participate in the database if  
12          the entity has certain interaction with the kits;  
13          requiring the department to ensure that alleged sexual  
14          offense victims and certain other persons receive  
15          specified notice and instructions and be informed that  
16          they are entitled to access information regarding such  
17          kits and evidence; providing requirements for such  
18          notification; providing for implementation; requiring  
19          the department to apply for specified grant funds;  
20          providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. This act may be cited as "Gail's Law."

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

27           943.326 DNA evidence collected in sexual offense  
28 investigations.—

29           (4) ~~By January 1, 2017,~~ The department and each laboratory

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

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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, alleged victims, and other persons listed  
65 in paragraph (1) (b). The database shall track the status of the  
66 kits from the collection site throughout the criminal justice  
67 process, including, but not limited to, the initial collection  
68 at medical facilities, inventory and storage by law enforcement  
69 agencies or crime laboratories, analysis at crime laboratories,  
70 and storage or destruction after completion of analysis.

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

78       (e) The department shall ensure that each alleged victim  
79 and other person listed in paragraph (1) (b) is notified of the  
80 existence of the database and provided with instruction on how  
81 to access it and is informed that he or she is entitled to  
82 access information regarding the alleged victim's sexual offense  
83 evidence kit, including tracking information, testing status,  
84 and any DNA matches to a person deemed by investigators to be a  
85 suspect or person of interest. However, notification of a DNA  
86 match shall state only that a DNA match has occurred and may not  
87 contain any genetic or other identifying information. Such a

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88 notification may be delayed for up to 180 days if such  
89 notification would, in the opinion of investigators, negatively  
90 affect the investigation.

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

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