

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, to create and  
 6           maintain a statewide database for tracking sexual  
 7           offense evidence kits; providing database  
 8           requirements; requiring the department to adopt rules  
 9           providing database participation requirements;  
 10          requiring specified entities to participate according  
 11          to department rules; providing participation  
 12          requirements; requiring the department to ensure that  
 13          alleged sexual offense victims and certain other  
 14          persons receive specified notice and be informed that  
 15          they have access to information regarding such kits  
 16          and evidence; providing requirements for notification  
 17          of DNA matches; providing for implementation;  
 18          providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. This act may be cited as "Gail's Law."  
 23           Section 2. Subsection (4) of section 943.326, Florida  
 24           Statutes, is amended to read:  
 25           943.326 DNA evidence collected in sexual offense

26 investigations.—

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

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

44 (b) The testing requirements of this section are satisfied  
45 when a member of the statewide criminal analysis laboratory  
46 system tests the contents of the sexual offense evidence kit in  
47 an attempt to identify the foreign DNA attributable to a  
48 suspect. If a sexual offense evidence kit is not collected, the  
49 laboratory may receive and examine other items directly related  
50 to the crime scene, such as clothing or bedding or personal

51 items left behind by the suspect. If probative information is  
52 obtained from the testing of the sexual offense evidence kit,  
53 the examination of other evidence should be based on the  
54 potential evidentiary value to the case and determined through  
55 cooperation among the investigating agency, the laboratory, and  
56 the prosecutor.

57 (c) The department shall, subject to appropriation by the  
58 Legislature, no later than July 1, 2023, create and maintain a  
59 statewide database to track the location, processing status, and  
60 storage of sexual offense evidence kits that is accessible to  
61 law enforcement agencies and alleged victims and other persons  
62 listed in paragraph (1)(b). The database shall track the status  
63 of the kits from the collection site throughout the criminal  
64 justice process, including the initial collection at medical  
65 facilities, inventory and storage by law enforcement agencies or  
66 crime laboratories, analysis at crime laboratories, and storage  
67 or destruction after completion of analysis.

68 (d) The department shall adopt rules establishing the  
69 requirements for each entity that participates in the database.  
70 Law enforcement agencies, medical facilities, crime  
71 laboratories, and any other facilities that collect, receive,  
72 maintain, store, or preserve sexual offense evidence kits shall  
73 participate in the database, as required by the department.

74 (e) The department shall ensure that each alleged victim  
75 and other person listed in paragraph (1)(b) is notified of the

76 | existence of the database and provided with instructions on how  
77 | to access it and informed that he or she is entitled to access  
78 | to information regarding the alleged victim's sexual offense  
79 | evidence kit, including tracking information, testing status,  
80 | and any DNA matches to a person deemed by investigators to be a  
81 | suspect or person of interest. However, notification of a DNA  
82 | match shall state only that a DNA match has occurred and may not  
83 | contain any genetic or other identifying information. Such a  
84 | notification may be delayed for up to 180 days if such  
85 | notification would, in the opinion of investigators, negatively  
86 | affect the investigation.

87 |       Section 3. The Department of Law Enforcement may phase in  
88 | initial participation in the statewide database for tracking  
89 | sexual offense evidence kits created in s. 943.326, Florida  
90 | Statutes, as amended by this act, according to region, volume of  
91 | kits, or other appropriate classifications; however, all  
92 | entities in the chain of custody of sexual offense evidence kits  
93 | shall fully participate in the statewide database no later than  
94 | 1 year after its creation.

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