

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 requiring the department to apply for specified grant
19 funds; providing an effective date.

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

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

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

26 943.326 DNA evidence collected in sexual offense
27 investigations.—

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

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

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

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

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

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

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

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

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