

CHAPTER 2021-213

Committee Substitute for Committee Substitute for House Bill No. 673

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, 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; requiring specified entities to participate according to department rules; providing participation requirements; requiring the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and be informed that they have access to information regarding such kits and evidence; providing requirements for notification of DNA matches; 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 investigations.—

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

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

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

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

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

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

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

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

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.