

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; providing participation requirements;  
9 requiring the department to ensure that alleged sexual  
10 offense victims and certain other persons receive  
11 specified notice and be informed that they have access  
12 to information regarding such kits and evidence;  
13 providing requirements for notification of DNA  
14 matches; providing for implementation; providing an  
15 effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. This act may be cited as "Gail's Law."

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

22 943.326 DNA evidence collected in sexual offense  
23 investigations.—

24 (4) ~~By January 1, 2017,~~ The department and each laboratory  
25 within the statewide criminal analysis laboratory system, in

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

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

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

51 potential evidentiary value to the case and determined through  
52 cooperation among the investigating agency, the laboratory, and  
53 the prosecutor.

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

69 (d) The department shall ensure that each alleged victim  
70 and other person listed in paragraph (1)(b) is notified of the  
71 existence of the database and provided with instructions on how  
72 to access it and informed that he or she is entitled to access  
73 to information regarding the alleged victim's sexual offense  
74 evidence kit, including tracking information, testing status,  
75 and any DNA matches to a person deemed by investigators to be a

76 | suspect or person of interest. However, notification of a DNA  
77 | match shall state only that a DNA match has occurred and may not  
78 | contain any genetic or other identifying information. Such a  
79 | notification may be delayed for up to 180 days if such  
80 | notification would, in the opinion of investigators, negatively  
81 | affect the investigation.

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

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