

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. _____

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Rape Kit Backlog
3 Progress Act of 2023”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) A sexual assault kit includes a sexual as-
7 sault forensic exam, meaning an examination pro-
8 vided to a sexual assault patient by a health care
9 provider who has specialized education and clinical
10 experience in the collection of forensic evidence and
11 treatment of these patients, which includes—

12 (A) gathering information from the patient
13 for the medical forensic history;

14 (B) an examination;

15 (C) coordinating treatment of injuries, doc-
16 umentation of biological and physical findings,
17 and collection of evidence from the patient;

18 (D) documentation of findings;

1 (E) providing information, treatment, and
2 referrals for sexually transmitted infections,
3 pregnancy, suicidal ideation, alcohol and sub-
4 stance abuse, and other non-acute medical con-
5 cerns; and

6 (F) providing follow-up as needed to pro-
7 vide additional healing, treatment, or collection
8 of evidence.

9 (2) A sexual assault kit is an important forensic
10 tool used by law enforcement and prosecutors to in-
11 vestigate and prosecute sexual assault and other
12 crimes.

13 (3) It is estimated that there are currently well
14 over 100,000 untested sexual assault kits in Amer-
15 ica, but the exact number is not known.

16 (4) Untested sexual assault kits means that
17 there are sexual assaults unprosecuted, sexual as-
18 saults occurring that could have been prevented, and
19 a delay in uploading DNA to Combined DNA Index
20 System (commonly known as “CODIS”) that can as-
21 sist law enforcement in solving other violent crimes.

22 **SEC. 3. REPORT TO ATTORNEY GENERAL REQUIRED ON**
23 **SEXUAL ASSAULT KIT TESTING.**

24 Section 502 of the Omnibus Crime Control and Safe
25 Streets Act of 1968 (34 U.S.C. 10153) is amended—

1 (1) in subsection (a), by adding at the end the
2 following:

3 “(7) A report indicating whether—

4 “(A) the State or unit of local government
5 has conducted a comprehensive sexual assault
6 kit inventory, commonly known as a ‘backlog
7 inventory’, to identify the physical location, un-
8 tested or tested status (or full sexual assault kit
9 status, if available), and any individual test kit
10 identification or tracking information of each
11 sexual assault kit in the possession of such
12 State or unit of local government, or that has
13 been otherwise transmitted by a State or unit
14 of local government to a third-party, such as for
15 testing, storing, processing, or handling;

16 “(B) with respect to each sexual assault
17 kit that the victim has consented to have col-
18 lected, the State or unit of local government
19 has submitted each such sexual assault kit to a
20 laboratory for DNA analysis;

21 “(C) results of any such DNA analysis
22 were uploaded to the Combined DNA Index
23 System;

24 “(D) the State or unit of local government
25 has established an electronic tracking system

1 for a victim to identify the physical location of
2 their sexual assault kit and the results of any
3 DNA analysis that was performed;

4 “(E) the State or unit of local government
5 has established a victim notification protocol for
6 informing a victim of the status of their sexual
7 assault kit, including where their sexual assault
8 kit was analyzed;

9 “(F) the State or unit of local government
10 has in place a comprehensive sexual assault kit
11 inventory system to identify sexual assault kit
12 status, physical location, and any test kit iden-
13 tification or tracking information of each sexual
14 assault kit in the possession of such State or
15 unit of local government, or otherwise trans-
16 mitted by a State or unit of local government
17 to a third-party, such as for testing, storing,
18 processing, or handling; and

19 “(G) the information in any comprehensive
20 sexual assault kit inventory system described in
21 subparagraph (F) is updated, and how and
22 when it is updated.”; and

23 (2) by adding at the end the following:

24 “(c) DETERMINATION BY ATTORNEY GENERAL.—
25 Between the receipt of a grant application and deciding

1 on such application, the Attorney General shall deter-
2 mine—

3 “(1) if the State or unit of local government
4 has completed the conduct described under sub-
5 section (a)(7); and

6 “(2) if such conduct has not been completed,
7 the reason that it has not been completed.

8 “(d) ELIGIBILITY.—A State or unit or local govern-
9 ment shall only be eligible for a grant under this subpart
10 if the Attorney General determines such State or unit of
11 local government has completed the conduct described
12 under subsection (a)(7).

13 “(e) REQUIREMENT FOR GRANT RECIPIENTS.—A
14 State or unit of local government that has been awarded
15 a grant under this subpart as of the date of the enactment
16 of the ‘Rape Kit Backlog Progress Act of 2023’ shall have
17 one calendar year from such date of enactment to com-
18 plete the conduct described in subsection (a)(7) or such
19 State or unit of local government shall become ineligible
20 for a grant under this subpart.

21 “(g) DEFINITIONS.—In this section:

22 “(1) SEXUAL ASSAULT KIT.—The term ‘sexual
23 assault kit’ means evidence gathered by a medical
24 professional from a victim following a sexual assault,
25 which evidence may—

1 “(A) include swabs, test tubes, microscopic
2 slides, and evidence collection envelopes, for
3 hairs and fibers; and

4 “(B) vary in accordance with the cir-
5 cumstances of the sexual assault and with any
6 applicable rules or procedures of the jurisdic-
7 tion.

8 “(2) SEXUAL ASSAULT KIT STATUS.—The term
9 ‘sexual assault kit status’ means whether an indi-
10 vidual sexual assault kit is—

11 “(A) collected and untested;

12 “(B) collected and tested;

13 “(C) lost or missing, expired or spoiled; or

14 “(D) tested and results reported to the vic-
15 tim, proper authorities, and the Combined DNA
16 Index System.”.

17 **SEC. 4. ATTORNEY GENERAL PUBLIC REPORT ON RAPE KIT**
18 **BACKLOGS.**

19 Subpart 1 of part E of title I of the Omnibus Crime
20 Control and Safe Streets Act of 1968 (34 U.S.C. 10151
21 et seq.) is amended by adding at the end the following:

22 **“SEC. 510. ATTORNEY GENERAL PUBLIC REPORT ON RAPE**
23 **KIT BACKLOGS.**

24 “(a) IN GENERAL.—Beginning not later than two
25 years after the date of the enactment of the ‘Rape Kit

1 Backlog Progress Act of 2023’, and annually thereafter,
2 the Attorney General shall make publicly available on the
3 internet website of the Department of Justice a report,
4 including—

5 “(1) each report on the conduct described
6 under section 502(a)(7) received from an applicant
7 for a grant under this subpart;

8 “(2) an aggregate analysis of the reports de-
9 scribed under paragraph (1);

10 “(3) if an applicant for a grant under this sub-
11 part has been awarded a grant; and

12 “(4) if an applicant for a grant under this sub-
13 part completed the conduct described under section
14 502(a)(7) and if it has not completed the conduct
15 described under such subsection, the reason that the
16 conduct has not been completed.

17 “(b) PROHIBITION ON PERSONALLY IDENTIFIABLE
18 INFORMATION.—Any information published by the Attor-
19 ney General pursuant to this section may not contain the
20 personally identifiable information of a victim and if such
21 information was erroneously published, it shall be removed
22 from the website of the Department of Justice imme-
23 diately upon discovery.”.

