

112TH CONGRESS  
1ST SESSION

# H. R. 2197

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives to States and units of local government under the Edward Byrne Memorial Justice Assistance Grant Program for providing certain services to victims of sexual assault or rape, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2011

Mr. NADLER (for himself, Mr. GRIJALVA, Mr. HASTINGS of Florida, Ms. LEE of California, Ms. NORTON, Ms. SCHAKOWSKY, Mr. STARK, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives to States and units of local government under the Edward Byrne Memorial Justice Assistance Grant Program for providing certain services to victims of sexual assault or rape, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Rape Vic-  
5 tims and Improving Use of DNA Evidence Act of 2011”.

1 **SEC. 2. INCENTIVE FUNDS UNDER THE BYRNE GRANT PRO-**  
2 **GRAM FOR STATES AND UNITS OF LOCAL**  
3 **GOVERNMENT THAT PROVIDE CERTAIN**  
4 **SERVICES TO VICTIMS OF SEXUAL ASSAULT.**

5 Section 505 of the Omnibus Crime Control and Safe  
6 Streets Act of 1968 (42 U.S.C. 3754) is amended by add-  
7 ing at the end the following new subsection:

8 “(i) INCENTIVE FUNDS FOR PROVIDING CERTAIN  
9 SERVICES TO VICTIMS OF SEXUAL ASSAULT AND ESTAB-  
10 LISHING RAPE KIT DATABASES.—

11 “(1) IN GENERAL.—The amounts allocated  
12 under this section to a State or unit of local govern-  
13 ment for a fiscal year (beginning with the first fiscal  
14 year that begins at least one year after the date of  
15 the enactment of this subsection) shall be increased  
16 by 10 percent if such State or unit of local govern-  
17 ment provides and certifies, in accordance with such  
18 standards as the Attorney General may require, that  
19 the State or unit of local government had in effect,  
20 for the previous fiscal year, each of the following:

21 “(A) EXAMINATION AND TESTING OF RAPE  
22 KIT.—A process to provide to each victim of  
23 sexual assault, with respect to an act of sexual  
24 assault over which the State or unit of local  
25 government has jurisdiction, each of the fol-  
26 lowing:

1           “(i) Examination by a qualified sexual  
2 assault nurse examiner to collect a rape kit  
3 from such victim.

4           “(ii) Testing of any rape kit collected  
5 from such victim and the furnishing of any  
6 results from such test to the victim not  
7 later than 180 days after the date on  
8 which such testing was requested.

9           “(B) RAPE KIT DATABASE.—A database  
10 developed and maintained by such State or unit  
11 of local government related to rape kits col-  
12 lected, in connection with acts of sexual assault  
13 over which the State or unit of local govern-  
14 ment has jurisdiction, from victims of such acts  
15 that complies with the following requirements:

16           “(i) The database, for each rape kit  
17 collected from each victim of sexual as-  
18 sault, provides for the following:

19           “(I) Identifies such rape kit by a  
20 unique identifying number.

21           “(II) Contains information on  
22 the date and location of each of the  
23 following:

1                   “(aa) The act of sexual as-  
2                   sault for which such rape kit was  
3                   collected.

4                   “(bb) The medical examina-  
5                   tion conducted from which such  
6                   rape kit was collected.

7                   “(cc) The testing of such  
8                   rape kit.

9                   “(III) Contains information on  
10                  the real-time physical location of such  
11                  rape kit, including street address, lo-  
12                  cality, and State.

13                  “(IV) Contains information on  
14                  the results of any testing of such rape  
15                  kit.

16                  “(ii) Information contained in the  
17                  database, with respect to a rape kit, may  
18                  be made available only as follows:

19                         “(I) On a publically available  
20                         Internet site but only to the extent  
21                         that such information does not include  
22                         any personally identifiable information  
23                         (including the name of the victim as-  
24                         sociated with a unique identifying  
25                         number).

1                   “(II) To criminal justice agencies  
2                   for law enforcement identification pur-  
3                   poses.

4                   “(III) In judicial proceedings, if  
5                   otherwise admissible pursuant to ap-  
6                   plicable statutes or rules.

7                   “(IV) To a physician or nurse  
8                   who is treating a victim of sexual as-  
9                   sault from whom the rape kit was col-  
10                  lected for injuries resulting from the  
11                  sexual assault of such victim or with  
12                  respect to the collection of such rape  
13                  kit, but only insofar as the informa-  
14                  tion relates to such treatment.

15                  “(V) To the victim of sexual as-  
16                  sault from whom the rape kit was col-  
17                  lected, if the information made avail-  
18                  able is limited to information relating  
19                  to the rape kit collected from such vic-  
20                  tim.

21                  “(iii) Information contained in such  
22                  database shall be searchable by any of the  
23                  criteria specified in clause (i), subject to  
24                  the availability of such information under  
25                  clause (ii).

1           “(iv) Access for purposes of data  
2           entry and editing (including updating) of  
3           such database shall be limited to appro-  
4           priate individuals of a State or local law  
5           enforcement agency.

6           “(2) FUNDING.—

7           “(A) RATABLE REDUCTION FOR INSUFFI-  
8           CIENT FUNDS.—If there are insufficient funds  
9           for a fiscal year to allocate to each State or  
10          unit of local government the amount of incen-  
11          tive funds that such State or unit of local gov-  
12          ernment is eligible to receive under this sub-  
13          section, the Attorney General shall ratably re-  
14          duce the percentage of the increase described in  
15          the matter preceding subparagraph (A) of para-  
16          graph (1) until there are sufficient funds to  
17          provide an allotment of incentive funds under  
18          this section to all States and units of local gov-  
19          ernment that are eligible to receive such incen-  
20          tive funds.

21          “(B) AUTHORIZATION OF APPROPRIA-  
22          TIONS.—In addition to funds made available  
23          under section 508, there are authorized to be  
24          appropriated for incentive funds under this sub-

1 section such sums as may be necessary for each  
2 of the fiscal years 2012 through 2016.

3 “(3) DEFINITIONS.—For purposes of this sub-  
4 section:

5 “(A) The term ‘sexual assault’ has the  
6 meaning given such term in section 40002(a) of  
7 the Violence Against Women Act of 1994 (42  
8 U.S.C. 13925(a)).

9 “(B) The term ‘victim of sexual assault’  
10 means an individual who seeks medical treat-  
11 ment or care for an injury sustained as a result  
12 of sexual assault and reports such injury to a  
13 local or State law enforcement officer or agen-  
14 cy.

15 “(C) The term ‘rape kit’ means DNA evi-  
16 dence obtained related to sexual assault.

17 “(D) The term ‘qualified sexual assault  
18 nurse examiner’ means a nurse that has ob-  
19 tained certification from a hospital, govern-  
20 mental entity, or an institution of higher edu-  
21 cation (as defined in section 102 of the Higher  
22 Education Act of 1965 (20 U.S.C. 1002)), for  
23 the collection of rape kits from victims of sexual  
24 assault.

1           “(E) The term ‘tested’ means, with respect  
2           to a rape kit, that such rape kit has undergone  
3           forensic analysis.

4           “(F) The term ‘unique identifying number’  
5           means a series of letters, numbers, or a com-  
6           bination thereof, that a law enforcement agency  
7           assigns to a rape kit that—

8                   “(i) such agency receives in connec-  
9                   tion with an act of sexual assault; and

10                   “(ii) is used in place of the name of  
11                   a victim of sexual assault in the database  
12                   established under this subsection except if  
13                   the person accessing the database is the  
14                   victim of sexual assault or a member of a  
15                   law enforcement agency.”.

16 **SEC. 3. STUDY AND REPORT ON DNA BACKLOG.**

17           Subsection (g) of section 2 of the DNA Analysis  
18           Backlog Elimination Act of 2000 (42 U.S.C. 14135(g))  
19           is amended—

20                   (1) by redesignating paragraphs (1), (2), and  
21                   (3) as subparagraphs (A), (B), and (C), respectively;

22                   (2) by moving subparagraphs (A), (B), and (C)  
23                   (as so redesignated by paragraph (1) of this section)  
24                   two ems to the right;



1           (3) by striking “(g) REPORTS TO CONGRESS—  
2 Not” and inserting the following:

3           “(g) REPORTS TO CONGRESS.—

4           “(1) IN GENERAL.—Not”; and

5           (4) by adding at the end the following new  
6 paragraph:

7           “(2) STUDY AND REPORT TO CONGRESS ON  
8 DNA BACKLOG.—

9           “(A) STUDY.—The Attorney General shall  
10 conduct an annual study to determine the ex-  
11 tent of the backlog in the United States relat-  
12 ing to the analysis of DNA samples collected  
13 from crime scenes, victims, suspects, arrestees,  
14 and convicted offenders. Such study shall deter-  
15 mine the following:

16           “(i) The number of each of the fol-  
17 lowing:

18           “(I) DNA samples that have  
19 been prepared to be sent to a public  
20 or private crime laboratory for foren-  
21 sic analysis but have not been sent to  
22 such laboratory.

23           “(II) Investigations for which  
24 DNA samples described in subclause  
25 (I) have been collected.

1           “(III) DNA samples that have  
2           been received by a public or private  
3           crime laboratory for forensic analysis  
4           but have not yet been tested at such  
5           laboratory.

6           “(IV) Investigations for which  
7           DNA samples described in subclause  
8           (III) have been collected.

9           “(ii) For each category of DNA sam-  
10          ple and for each category of investigation  
11          for which such samples exist, the average  
12          duration of the following periods:

13           “(I) The period beginning on the  
14           date that is 30 days after the date  
15           each sample is collected and ending on  
16           the date each sample is sent to a pub-  
17           lic or private crime laboratory to be  
18           tested.

19           “(II) The period beginning on  
20           the date that is 30 days after the date  
21           each sample is received by a public or  
22           private crime laboratory and ending  
23           on the date each sample is tested at  
24           each such laboratory.

1           “(B) REPORT.—Not later than two years  
2 after the date of the enactment of this para-  
3 graph and for each year thereafter, the Attor-  
4 ney General shall submit to Congress a report  
5 containing—

6                   “(i) the results of the study conducted  
7 under subparagraph (A);

8                   “(ii) a statistical analysis of the data  
9 contained in such study, disaggregated by  
10 jurisdiction, criminal offense, type of DNA  
11 evidence tested, if available, and any other  
12 category of information the Attorney Gen-  
13 eral may require; and

14                   “(iii) recommendations on how to re-  
15 duce—

16                           “(I) the number of DNA samples  
17 and investigations described in sub-  
18 paragraph (A)(i); and

19                           “(II) the average duration of the  
20 periods described in subparagraph  
21 (A)(ii).

22           “(C) DEFINITIONS.—For purposes of this  
23 paragraph:

24                   “(i) The term ‘DNA sample’ means  
25 evidence containing human DNA collected

1 by Federal, State, local, or tribal law en-  
2 forcement agencies.

3 “(ii) The term ‘investigation’ includes  
4 any investigatory action taken by a Fed-  
5 eral, State, tribal, or local law enforcement  
6 agency.

7 “(iii) The term ‘tested’ means, with  
8 respect to a DNA sample, that such sam-  
9 ple has undergone forensic analysis.”.

○