

CONSORTIUM OF FORENSIC SCIENCE ORGANIZATIONS

MARCH 2013

113th Congress 1st Session

LEGISLATIVE UPDATE

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Budget

FY13: After maintaining a stoic resistance to do anything about spending bills, both sides seem to be embracing a new found willingness to get something done before the next “cliff”, the expiration of the current Continuing Resolution (CR) on March 27th. Last week, the House passed a CR (H.R. 933), which will run to the end of this Fiscal Year, September 30th. That bill calls for \$984 billion in spending which includes the sequester cuts in spending increases.

Included in the House bill are some full-year spending provisions for the Department of Defense and other agencies are held to FY12 levels with \$370 million for the Office of Justice Programs in the Department of Justice.

The Senate is expected to take up H.R. 933 this week. In a statement late last week, Sen. Barbara Mikulski (D-MD), Chairman of the Senate Appropriations Committee, unveiled a bill that would include specific appropriations for Agriculture, Homeland Security and Justice. She had earlier proposed separate bills for other departments but appears to have had a dose of reality, commenting she was striking a “delicate balance” between supporting the President’s position versus “sinking the bill.” Most Senators seem to favor a hybrid CR/Omnibus approach. In addition to setting up funding levels, Mikulski wants to give the Pentagon and others more flexibility in how they move funds around.

The FY14 budget is scheduled to be delivered to Congress in April leaving very little time for debate.

Criminal Justice and Forensic Science Reform Act of 2011

As many of you know from the meetings at the American Academy of Forensic Sciences meeting, Senator Leahy is very committed to the re-introduction of the Criminal Justice and Forensic Science Reform Act. We will continue to work with his office on bringing forward the positions of the forensic science community and providing you information about the status and content of the legislation.

VAWA/SAFER

The Violence Against Women Act (to include the SAFER Act) was passed by the Senate on February 12, 2013 and passed the House on February 28, 2013. The Bill passed by the House was the Senate Bill despite attempts by the House to offer a substitute.

Included below is a point paper with the specifics of VAWA and SAFER for your edification. The Consortium of Forensic Science Organizations (CFSO), with very active assistance from ASCLD, worked on the SAFER Act with the Members of the House and Senate. We are pleased that through our efforts of education, the original legislation was amended. We were able to meet with lawmakers to ensure the mission of crime laboratories was focused on the overall forensic DNA analysis of a rape kit rather than auditing each sample in the rape kit throughout every step of the actual forensic DNA analysis process. Because of our continued educational outreach, the original legislation was amended before it even made it to the floor for a vote. Specifically, the Senate, based on our input, changed the original language to state the following (and now the final Bill):

- Designates that 75% of all Debbie Smith Act grant appropriations be used to analyze untested crime scene DNA evidence, analyze offender samples, and expand the capacity of labs to test biology related evidence. This is a significant change from previous years! In the past, there was not a dedicated or “fixed” amount that was set aside for capacity building. In fact, a review of funding has shown that in the past, laboratories received less than 35% of available Debbie Smith funds.
- Provides that no more than 7% be spent on audits.
- Ensures that the Administrative duties of the SAFER Act audit will not be passed down to crime laboratories but rather the law enforcement agencies where the evidence potentially resides.
- Prevents personal information about victims from being published in public reports

Overview of Legislation

Sexual Assault Forensic Evidence Reporting Act of 2013 or the SAFER Act of 2013 -

- Allows grantees to use existing appropriations to conduct audits of all untested sexual assault evidence that is in their possession. Current law (42 U.S. §14135) allows grantees to spend this funding on five different purposes related to the testing of backlogged DNA evidence, but not on conducting audits of their sexual assault evidence backlogs.
- Reserves 5-7% of existing Debbie Smith Act appropriations for the purpose of conducting audits of untested sexual assault evidence, provided that these reserved funds may not reduce those available to State and local governments for analyzing untested crime scene DNA evidence.
- Requires audit grant applicants to submit an audit plan that includes a good-faith estimate of the number of untested sexual assault samples in their possession.
- Requires audit grantees to complete their audits within 12 months of receiving funds for this purpose. Allows the Attorney General to grant extensions of deadline.
- Clarifies that audit grantees cannot contract with a non-governmental vendor laboratory to conduct this audit.
- Ensures that open-government, accountability, and responsibility to each individual victim will be a part of the audit process by requiring audit grantees to file a public report every 60 days for a 12 month period following the completion of an initial count of untested sexual assault evidence in their possession.
- Grants the sole authority for this report to the chief law enforcement officer of the jurisdiction receiving audit grant funds.
- This report must include aggregate non-personally identifying information about the size and scope of the rape kit backlog in that jurisdiction, such as:

- The name of the jurisdiction filing the report;
 - The reporting period;
 - The total number of kits that have been identified by the jurisdiction as awaiting testing;
 - The total number of kits awaiting testing that the jurisdiction has determined should not be tested;
 - The total number of kits awaiting testing that have been sent to a lab for analysis;
 - The total number of kits identified by the audit as awaiting testing that have actually been tested; and
 - The total number of kits awaiting testing for which the relevant statute of limitations will run within 1-year of the report.
- Allows jurisdictions that are not receiving audit grant funding to voluntarily file reports under this subsection.
 - Requires the Director of the National Institute of Justice to work with Federal, State, and local law enforcement agencies to produce a set of non-binding protocols and practices for the accurate, timely, and effective collection and processing of crime scene DNA evidence, including protocols and practices specific to sexual assault cases.
 - Allows for training and technical assistance for jurisdictions who wish to implement some or all of these guidelines.
 - Requires the Attorney General to issue a report to Congress within 90 days after the end of each fiscal year for which an audit grant is made that discusses:
 - The names of all audit grantees;
 - The monetary size of each grant;
 - The number of extensions granted by the Attorney General;
 - The status of reported samples of sexual assault evidence, including the number of samples that have not been tested.
 - Requires that 40% of this grant funding be spent on the core purpose area—carrying out DNA analyses of samples from crime scenes.
 - Instructs the Department of Justice to spend at least 75% of all Debbie Smith Act grant appropriations to analyze untested crime scene DNA evidence, analyze offender samples, and to expand the capacity of labs to test that evidence.

Sunsets, the SAFER Act audit grants following their authorization period, on December 31, 2018.

The Violence Against Women Act (VAWA)

- Amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize appropriations for FY2014-FY2018 for grants to: (1) combat violent crime against women (STOP grants); and (2) encourage governmental entities to implement policies, training programs, and best practices for recognizing, investigating, and prosecuting instances of domestic violence and violent sex crimes.

- Amends VAWA to extend through FY2018 grant programs to: (1) assist states, Indian tribes, and U.S. territories to establish, maintain, and expand rape crisis centers and other programs to assist victims of sexual assault; and (2) assist victims of domestic violence and other sexual assault crimes in rural areas.
- Amends the Public Health Service Act to: (1) include tribal or territorial sexual assault coalitions in the grant program for rape prevention and education, and (2) extend through FY2018 the authorization of appropriations for grants for rape prevention and education programs conducted by rape crisis centers. Establishes a minimum allocation of grant funding for states, the District of Columbia, Puerto Rico, and each U.S. territory.
- Amends the Violence Against Women and Department of Justice Reauthorization Act of 2005 to authorize appropriations for FY2014-FY2018 for grants from the Centers for Disease Control and Prevention (CDC) to academic institutions and organizations to conduct research that examines best practices for reducing and preventing violence against women and children.
- Amends the Public Health Service Act to reauthorize, revise, and consolidate grant programs that address domestic violence, dating violence, sexual assault, and stalking.
- Amends VAWA to extend through FY2018 the authorization of appropriations for the grant program to establish and operate a national resource center on workplace responses to assist victims of domestic and sexual violence.
- Amends the Immigration and Nationality Act to: (1) expand the definition of nonimmigrant U-visa (victims of certain crimes) to include victims of stalking; (2) make a child of an alien who was a self-petitioner under VAWA eligible for lawful permanent resident status under such alien's petition; (3) exclude from the public charge bar to admission an alien who is a VAWA self-petitioner, a U-visa applicant, or a battered spouse or child; (4) extend the conditions under which the hardship waiver of the two-year waiting period for permanent resident status may be granted to a battered alien spouse; and (5) expand the scope of criminal-related information that must be disclosed by a U.S. citizen petitioning for a nonimmigrant K-visa (alien fiancée or fiancé);
- Amends the Omnibus Crime Control and Safe Streets Act of 1968 to: (1) include sex trafficking as a target of the grants to Indian tribal governments to combat violent crime against Indian women, and (2) expand the purposes for which the Attorney General may award domestic violence and sexual assault prevention grants to Indian tribal coalitions.