

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2539

(By Delegates Frazier, Miley, Brown, Caputo,
Ellem, Hamilton, Longstreth, Moore and Sobonya)



Passed March 12, 2011

In Effect Ninety Days From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2539

(BY DELEGATES FRAZIER, MILEY, BROWN, CAPUTO,
ELLEM, HAMILTON, LONGSTRETH, MOORE AND SOBONYA)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §15-2B-3 and §15-2B-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia State Police to enter into agreements with the Marshall University Forensic Science Center; and adding and amending definitions.

Be it enacted by the Legislature of West Virginia:

That §15-2B-3 and §15-2B-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2B. DNA DATA.

§15-2B-3. Definitions.

1 As used in this article:

2 (1) “CODIS” means the Federal Bureau of
3 Investigation’s Combined DNA Index System that allows the
4 storage and exchange of DNA records submitted by federal,
5 state and local forensic DNA laboratories. The term
6 “CODIS” includes the National DNA Index System
7 administered and operated by the Federal Bureau of
8 Investigation.

9 (2) “Conviction” includes convictions by a jury or court,
10 guilty plea, or plea of nolo contendere.

11 (3) “Criminal justice agency” means an agency or
12 institution of a federal, state or local government, other than
13 the office of public defender, which performs as part of its
14 principal function, relating to the apprehension, investigation,
15 prosecution, adjudication, incarceration, supervision or
16 rehabilitation of criminal offenders.

17 (4) “Division” means the West Virginia State Police.

18 (5) “DNA” means deoxyribonucleic acid. DNA is
19 located in the nucleus of cells and provides an individual’s
20 personal genetic blueprint. DNA encodes genetic
21 information that is the basis of human heredity and forensic
22 identification.

23 (6) “DNA record” means DNA identification information
24 stored in any state DNA database pursuant to this article.
25 The DNA record is the result obtained from DNA typing
26 tests. The DNA record is comprised of the characteristics of
27 a DNA sample which are of value in establishing the identity
28 of individuals. The results of all DNA identification tests on
29 an individual’s DNA sample are also included as a “DNA
30 record”.

31 (7) “DNA sample” means a tissue, fluid or other bodily
32 sample, suitable for testing, provided pursuant to this article
33 or submitted to the division laboratory for analysis pursuant
34 to a criminal investigation.

35 (8) “FBI” means the Federal Bureau of Investigation.

36 (9) “Interim plan” means the plan used currently by the
37 Federal Bureau of Investigation for Partial Match Protocol
38 and to be adopted under the management rules of this article.

39 (10) “Management rules” means the rules promulgated
40 by the West Virginia State Police that define all policy and
41 procedures in the administration of this article.

42 (11) “Partial match” means that two DNA profiles, while
43 not an exact match, share a sufficient number of
44 characteristics to indicate the possibility of a biological
45 relationship.

46 (12) “Qualifying offense” means any felony offense as
47 described in section six of this article or any offense requiring
48 a person to register as a sex offender under this code or the
49 federal law. For the purpose of this article, a person found
50 not guilty of a qualifying offense by reason of insanity or
51 mental disease or defect shall be required to provide a DNA
52 sample in accordance with this article.

53 (13) “Registering Agency” means the West Virginia State
54 Police.

55 (14) “State DNA database” means all DNA identification
56 records included in the system administered by the West
57 Virginia State Police.

58 (15) “State DNA databank” means the repository of DNA
59 samples collected under the provisions of this article.

§15-2B-5. Authority of division to enter into cooperative agreements.

1 The division may enter into cooperative agreements with
2 public or private agencies or entities to provide a service or
3 facility associated with the administration of the DNA
4 database and databank. In the event the division enters into
5 any agreements for the purposes of (1) testing of offender
6 samples for CODIS; (2) criminal paternity cases; or (3)
7 identification of human remains for the Office of Chief
8 Medical Examiner using nuclear DNA technology, the
9 division is authorized to only enter into such agreements with
10 the Marshall University Forensic Science Center.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor