

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2583**

4 (By Delegates Fleischauer, Miley, Hunt,  
5 Longstreth, Pino, Ellem, Overington, Moore,  
6 Poore, Sobonya and Frich)

7 (Originating in the House Committee on the Judiciary)

8 [March 21, 2013]

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §15-9B-1, §15-9B-2  
12 and §15-9B-3, all relating to establishing a regulatory system  
13 for sexual assault forensic examinations; requiring the  
14 creation of the Sexual Assault Forensic Examination  
15 Commission; setting forth its powers and responsibilities;  
16 setting forth its membership; requiring county prosecutors to  
17 convene and chair local Sexual Assault Forensic Examination  
18 Boards; and authorizing rule-making.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended  
21 by adding thereto a new article, designated §15-9B-1, §15-9B-2 and  
22 §15-9B-3, all to read as follows:

23 **ARTICLE 9B. SEXUAL ASSAULT EXAMINATION NETWORK.**

24 **§15-9B-1. Sexual Assault Forensic Examination Commission.**

1       (a) The Governor's Committee on Crime, Delinquency and  
2 Correction shall create the Sexual Assault Forensic Examination  
3 Commission to establish mandatory state-wide protocols for  
4 conducting sexual assault forensic examinations, including  
5 designating locations and providers to perform forensic  
6 examinations, establishing minimum qualifications and procedures  
7 for performing forensic examinations and establishing protocols to  
8 assure the proper collection of evidence. As used in this article,  
9 the word "commission" means the "Sexual Assault Forensic  
10 Examination Commission."     The purpose of the commission is to  
11 establish and manage a state-wide system to facilitate the timely  
12 and efficient collection of forensic evidence. The commission  
13 which shall be chaired by the director of the Division of Justice  
14 and Community Service, and will consist the following:

15       Persons representing the following agencies or organizations:

16       (1) The West Virginia Prosecuting Attorney's Association;

17       (2) The West Virginia Association of Counties;

18       (3) Bureau of Public Health;

19       (4) The State Police Crime Laboratory;

20       (5) The West Virginia Child Advocacy Network;

21       (6) The West Virginia Hospital Association;

22       (7) The West Virginia Foundation for Rape and Information  
23 Services; and

24       (8) The West Virginia Child Advocacy Network.

1 If any of the representative organizations listed do not  
2 continue to exist, the Director may select a person from a similar  
3 organization.

4 The Director is further authorized to appoint the following  
5 additional members of the commission, as follows:

6 (1) An emergency room physician;

7 (2) A victim advocate from a rape crisis center;

8 (3) A sexual assault nurse examiner;

9 (4) A law enforcement officer with experience with sexual  
10 assault investigations; and

11 (5) A healthcare provider with pediatric and child abuse  
12 expertise.

13 (b) Members of the commission shall be paid the same expense  
14 reimbursement paid to members of the Legislature for their interim  
15 duties, as recommended by the Citizens Legislative Compensation  
16 Commission and authorized by law, for each day or portion of a day  
17 engaged in the discharge of official duties.

18 **§15-9B-2. Powers and duties of the commission.**

19 (a) The commission shall authorize the creation and oversee  
20 local boards established pursuant to section three of this article  
21 and shall approve local plans for each area of the state on a  
22 county or regional basis. If the commission deems necessary, it may  
23 add or remove a county or portion thereof from a region to assure  
24 that all areas of the state are included in an appropriate local

1 plan. Upon the failure of any county or local region to propose a  
2 plan, the commission may implement a plan for that county or  
3 region.

4 (b) The commission may authorize minimum training requirements  
5 for providers conducting exams and establish a basic standard of  
6 care for victims of sexual assault. The commission shall facilitate  
7 the recruitment and retention of qualified health care providers,  
8 that are properly qualified to conduct forensic examinations. The  
9 commission shall work with county and regional boards to identify  
10 areas of greatest need and develop and implement recruitment and  
11 retention programs to help facilitate the effective collection of  
12 evidence.

13 (c) The commission may adopt necessary and reasonable  
14 requirements relating to establishment of a state-wide training and  
15 forensic examination system, including, but not limited to,  
16 assisting exam providers receive training and support services;  
17 advocating the fair and reasonable reimbursement to exam providers,  
18 and to facilitate transportation services for victims to get to and  
19 from designated exam locations.

20 (d) Once a plan is approved by the commission, it can only be  
21 amended or otherwise altered as provided by rules of the  
22 commission. Designated facilities and organizations providing  
23 services in the plan may not withdraw from participation without  
24 commission authorization. If there is a change of circumstances,

1 that would require a change in a county or regional plan, the  
2 members of the local board and the state commission shall be  
3 notified. The local board shall meet as soon as possible to  
4 implement an alternative plan to ensure continuity of services in  
5 the county or region. The local board shall submit a revised plan  
6 for approval by the commission as soon as is practicable.

7 (e) The commission may propose rules for legislative approval,  
8 in accordance with article three, chapter twenty-nine-a of this  
9 code, necessary to implement this article.

10 **§15-9B-3. Local Sexual Assault Forensic Examination Boards.**

11 Each county prosecutor, or his or her designee, shall convene  
12 a Sexual Assault Forensic Examination Board, or may as an  
13 alternative, convene and chair the sexual assault response team in  
14 the county to act as the Sexual Assault Forensic Examination Board.  
15 If a regional board is authorized, all county prosecutors from the  
16 designated area shall be members of the board. The prosecutors  
17 shall assure that each board be proportionally representative of  
18 the designated region. Each board may vary in membership, but  
19 should include representatives from local health care facilities,  
20 local law enforcement, multi-disciplinary investigative team,  
21 county and municipal governments and victims advocates. Each  
22 county or regional board shall develop a local plan and protocols  
23 for the area, which will address, at a minimum, the following:

24 (1) Identify facilities that are appropriate for receipt and

1 treatment of sexual assault victims;

2 (2) Assess and designate physicians or nurses, or both, in the  
3 area qualified to conduct forensic examinations;

4 (3) Evaluate the needs and available resources of the area to  
5 facilitate and encourage twenty-four hour, seven day a week  
6 coverage; and

7 (4) If availability of services are limited, or the remoteness  
8 of the region causes lack of adequate examination facilities or  
9 personnel, the local boards may designate local government or other  
10 resources to provide appropriate transport of victims to facilities  
11 where the victim can receive a timely and appropriate forensic  
12 examination.

13 (5) Develop an alternative plan in case there is a change in  
14 circumstances to ensure continuity of service.