

H. B. 2583

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

[Introduced February 21, 2013; referred to the
Committee on Health and Human Resources then the
Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 9B. SEXUAL ASSAULT EXAMINATION NETWORK.

§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 consists of the following members:

14 (1) A representative of state prosecutors;

15 (2) A representative of county governments;

16 (3) A representative of the State Health Department;

17 (4) A forensic expert from the State Police crime lab;

18 (5) A law-enforcement officer with knowledge of sexual assault
19 investigation;

20 (6) A sexual assault nurse examiner;

21 (7) An emergency room physician;

22 (8) A victims advocate;

23 (9) A representative of a state organization representing
24 hospitals;

1 (10) A representative of the West Virginia Foundation for Rape
2 Information and Services, or other similar state organization
3 dedicated to facilitating expansion of services to victims of
4 sexual assaults; and

5 (11) The Director of the Division of Justice and Community
6 Service who shall serve as chair of the commission.

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

12 **§15-9B-2. Powers and duties of the commission.**

13 (a) The commission shall authorize the creation and oversee
14 local boards established pursuant to section three of this article
15 and shall approve local plans for each area of the state on a
16 county or regional basis. If the commission deems necessary, it may
17 add or remove a county or portion thereof from a region to assure
18 that all areas of the state are included in an appropriate local
19 plan. Upon the failure of any county or local region to propose a
20 plan, the commission may implement a plan for that county or
21 region.

22 (b) The commission may authorize minimum training requirements
23 for providers conducting exams and establish a basic standard of
24 care for victims of sexual assault. The commission shall facilitate

1 the recruitment and retention of qualified health care providers,
2 including nurses and physicians that are properly qualified to
3 conduct forensic examinations. The commission shall work with
4 county and regional boards to identify areas of greatest need and
5 develop and implement recruitment and retention programs to help
6 facilitate the effective collection of evidence.

7 (c) The commission is further authorized to adopt necessary
8 and reasonable requirements relating to establishment of a
9 state-wide training and forensic examination system, including, but
10 not limited to, assisting exam providers receive training and
11 support services; advocating the fair and reasonable reimbursement
12 to exam providers, and to facilitate transportation services for
13 victims to get to and from designated exam locations.

14 (d) Once a plan is approved by the commission, it can only be
15 amended or otherwise altered as provided by rules of the
16 commission. Designated facilities and organizations providing
17 services in the plan may not withdraw without commission
18 authorization, and unauthorized withdrawal by a facility from the
19 plan is a violation of a licensing condition pursuant to article
20 five-b, chapter sixteen of this code.

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

24 **§15-9B-3. Local Sexual Assault Forensic Examination Boards.**

1 Each county prosecutor shall convene and chair a Sexual
2 Assault Forensic Examination Board, or may as an alternative,
3 request the commission to designate a multicounty or regional
4 Sexual Assault Response Board for the county as part of a regional
5 board. If a regional board is authorized, all county prosecutors
6 from the designated area shall be members of the board. The
7 prosecutors shall assure that each board be proportionally
8 representative of the designated region. Each board may vary in
9 membership, but should include representatives from local health
10 care facilities, law enforcement, county and municipal governments
11 and victims advocates. Each county or regional board shall develop
12 a local plan and protocols for the area, which will address, at a
13 minimum, the following:

14 (1) Identify hospitals and other facilities that are
15 appropriate for receipt and treatment of sexual assault victims;

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

18 (3) Evaluate the needs and available resources of the area to
19 facilitate and encourage twenty-four hour, seven day a week basis;
20 and

21 (4) If availability of services are limited, or the remoteness
22 of the region causes lack of adequate examination facilities or
23 personnel, the local boards may designate local government or other
24 resources to provide appropriate transport of victims to facilities

1 where the victim can receive a timely and appropriate forensic
2 examination.

NOTE: The purpose of this bill is to establish a state-wide system for sexual assault forensic examination services. The bill creates a state commission and local boards that are authorized to establish an examination plan for sexual assault victims. The bill provides timely examinations and other services to assist victims with support services and effective evidence collection. The bill authorizes rule-making.

This article is new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Joint Judiciary Committee.