

1 **ENROLLED**

2 **H. B. 108**

3
4 (By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

5 [By Request of the Executive]

6
7 [Passed March 14, 2014; in effect ninety days from passage.]

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9
10 AN ACT 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; creating the Sexual
14 Assault Forensic Examination Commission; setting forth its
15 membership; authorizing certain additional members; requiring
16 the commission to establish mandatory statewide protocols for
17 conducting sexual assault forensic examinations; setting forth
18 other powers and responsibilities of the commission;
19 authorizing rule-making; requiring county prosecutors to
20 convene and chair local Sexual Assault Forensic Examination
21 Boards; authorizing counties to combine to form regional
22 boards; and setting forth minimum requirements for local plans
23 developed by county or regional boards.

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

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

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

5 **§15-9B-1. Sexual Assault Forensic Examination Commission.**

6 (a) There is hereby created within the Governor's Committee on
7 Crime, Delinquency and Correction the Sexual Assault Forensic
8 Examination Commission. The purpose of the commission is to
9 establish, manage and monitor a statewide system to facilitate the
10 timely and efficient collection of forensic evidence in sexual
11 assault cases. As used in this article, the word "commission" means
12 the Sexual Assault Forensic Examination Commission.

13 (b) The commission shall be chaired by the director of the
14 Division of Justice and Community Service. Membership on the
15 commission shall consist of the following:

16 (1) A representative chosen from the membership of the West
17 Virginia Prosecuting Attorneys Association;

18 (2) A representative chosen from the membership of the West
19 Virginia Association of Counties;

20 (3) The Commissioner of the Bureau for Public Health, or his
21 or her designee;

22 (4) A representative from the State Police Forensic
23 Laboratory;

24 (5) A representative from the membership of the West Virginia

1 Child Advocacy Network;

2 (6) The President of the West Virginia Hospital Association,
3 or his or her designee;

4 (7) A representative from the membership of the West Virginia
5 Foundation for Rape and Information Services;

6 (8) A representative of the West Virginia University Forensic
7 and Investigative Sciences Program; and

8 (9) A representative of the Marshall University Forensic
9 Science Center.

10 (c) If any of the representative organizations listed in
11 subsection b) of this section cease to exist, the director may
12 select a person from a similar organization.

13 (d) The director may appoint the following additional members
14 of the commission, as needed:

15 (1) An emergency room physician;

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

17 (3) A sexual assault nurse examiner;

18 (4) A law-enforcement officer with experience in sexual
19 assault investigations;

20 (5) A health care provider with pediatric and child abuse
21 expertise; and

22 (6) A director of a child advocacy center.

23 (e) The commission shall establish mandatory statewide
24 protocols for conducting sexual assault forensic examinations,

1 including designating locations and providers to perform forensic
2 examinations, establishing minimum qualifications and procedures
3 for performing forensic examinations and establishing protocols to
4 assure the proper collection of evidence.

5 **§15-9B-2. Powers and duties of the commission.**

6 (a) The commission shall facilitate the recruitment and
7 retention of qualified health care providers that are properly
8 qualified to conduct forensic examinations. The commission shall
9 work with county and regional officials to identify areas of
10 greatest need and develop and implement recruitment and retention
11 programs to help facilitate the effective collection of evidence.

12 (b) The commission shall authorize minimum training
13 requirements for providers conducting exams and establish a basic
14 standard of care for victims of sexual assault. The commission may
15 adopt necessary and reasonable requirements relating to
16 establishment of a statewide training and forensic examination
17 system, including, but not limited to, developing a data collection
18 system to monitor adherence to established standards, assisting
19 exam providers to receive training and support services, advocating
20 the fair and reasonable reimbursement to exam providers and
21 facilitating transportation services for victims to get to and from
22 designated exam locations.

23 (c) The commission shall approve local plans for each area of
24 the state on a county or regional basis. If the commission deems it

1 necessary, it may add or remove a county or portion thereof from a
2 region to assure that all areas of the state are included in an
3 appropriate local plan. Upon the failure of any county or local
4 region to propose a plan, the commission may implement a plan for
5 that county or region.

6 (d) Once a plan is approved by the commission, it can only be
7 amended or otherwise altered as provided by the rules authorized
8 pursuant to subsection (e) of this section. Designated facilities
9 and organizations providing services shall give the commission
10 thirty days advance notice of their intent to withdraw from the
11 plan. If there is a change of circumstances that would require a
12 change in a county or regional plan, the members of the local board
13 and the state commission shall be notified.

14 (e) The commission may propose rules for legislative approval,
15 in accordance with article three, chapter twenty-nine-a of this
16 code, as are necessary to implement this article.

17 **§15-9B-3. Local Sexual Assault Forensic Examination Boards.**

18 (a) Each county prosecutor, or his or her designee, shall
19 convene a Sexual Assault Forensic Examination Board, or may, as an
20 alternative, convene and chair the sexual assault response team in
21 the county to act as the Sexual Assault Forensic Examination Board.
22 If a regional board is authorized, all county prosecutors from the
23 designated area shall be members of the board. The prosecutors
24 shall assure that each board be proportionally representative of

1 the designated region. Each board may vary in membership, but
2 should include representatives from local health care facilities,
3 local law enforcement, multidisciplinary investigative teams,
4 county and municipal governments and victims advocates. Each
5 county or regional board shall develop a local plan and protocols
6 for the area, which will address, at a minimum, the following:

7 (1) Identifying facilities that are appropriate for receipt
8 and treatment of sexual assault victims;

9 (2) Evaluating the needs and available resources of the area,
10 including the number of qualified physicians or nurses, or both, to
11 facilitate and encourage 24-hour, seven-day-a-week coverage; and

12 (3) Developing an alternative plan in case there is a change
13 in circumstances to ensure continuity of service.

14 (b) If availability of services are limited, or the remoteness
15 of the region causes lack of adequate examination facilities or
16 personnel, the local boards may designate local government or other
17 resources to provide appropriate transport of victims to facilities
18 where the victim can receive a timely and appropriate forensic
19 examination.