

H. B. 108

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

[By Request of the Executive]

[Introduced March 14, 2014]

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; creating the Sexual Assault Forensic Examination Commission; setting forth its membership; authorizing certain additional members; requiring the commission to establish mandatory statewide protocols for conducting sexual assault forensic examinations; setting forth other powers and responsibilities of the commission; authorizing rule-making; requiring county prosecutors to convene and chair local Sexual Assault Forensic Examination Boards; authorizing counties to combine to form regional boards; and setting forth minimum requirements for local plans developed by county or regional boards.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §15-9B-1, §15-9B-2 and
2 §15-9B-3, all to read as follows:

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

4 **§15-9B-1. Sexual Assault Forensic Examination Commission.**

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

10 As used in this article, the word "commission" means the "Sexual
11 Assault Forensic Examination Commission."

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

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

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

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

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

23 (5) A representative from the membership of the West Virginia
24 Child Advocacy Network;

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

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

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

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

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

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

14 (1) An emergency room physician;

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

16 (3) A sexual assault nurse examiner;

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

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

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

22 (e) The commission shall establish mandatory statewide
23 protocols for conducting sexual assault forensic examinations,
24 including designating locations and providers to perform forensic

1 examinations, establishing minimum qualifications and procedures
2 for performing forensic examinations and establishing protocols to
3 assure the proper collection of evidence.

4 **§15-9B-2. Powers and duties of the commission.**

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

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

22 (c) The commission shall approve local plans for each area of
23 the state on a county or regional basis. If the commission deems
24 necessary, it may add or remove a county or portion thereof from a

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

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

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

16 **§15-9B-3. Local Sexual Assault Forensic Examination Boards.**

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

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

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

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

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

18 (4) Develop an alternative plan in case there is a change in
19 circumstances to ensure continuity of service.

NOTE: The purpose of this bill is establish a regulatory system for sexual assault forensic examinations.

§15-9B-1, §15-9B-2 and §15-9B-3 are new; therefore, they have been completely underscored.