

1 **H. B. 4236**

2
3 (By Delegates Fleischauer, Campbell, Pino,
4 Longstreth, Ellem, L. Phillips, Hunt, Poore,
5 Sobonya, Moore and Storch)

6 [Introduced January 21, 2014; referred to the
7 Committee on Health and Human Resources then the
8 Judiciary.]

**FISCAL
NOTE**

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, manage and monitor a state-wide system to facilitate the
12 timely and efficient collection of forensic evidence. The
13 commission shall be chaired by the director of the Division of
14 Justice 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; and

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

24 If any of the representative organizations listed do not

1 continue to exist, the director may select a person from a similar
2 organization.

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

5 (1) An emergency room physician;

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

7 (3) A sexual assault nurse examiner;

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

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

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

17 **§15-9B-2. Powers and duties of the commission.**

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

1 plan, the commission may implement a plan for that county or
2 region.

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

12 (c) The commission may adopt necessary and reasonable
13 requirements relating to establishment of a state-wide training and
14 forensic examination system, including, but not limited to,
15 developing a data collection system to monitor adherence to
16 established standards, assisting exam providers receive training
17 and support services; advocating the fair and reasonable
18 reimbursement to exam providers, and to facilitate transportation
19 services for victims to get to and 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, multidisciplinary investigative teams,
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;
- 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; and
- 13 (5) Develop an alternative plan in case there is a change in
14 circumstances to ensure continuity of service.

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.