

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3109

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Pyles

[Introduced February 12, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §15-2F-1, §15-2F-2 and §15-2F-3, all relating to implementing the Statewide
3 Sexual Assault Evidence Collection Kit Tracking System; requiring reports; requiring a
4 working group be formed; and requiring rule-making.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2F. STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT
TRACKING SYSTEM.**

§15-2F-1. Statewide Sexual Assault Evidence Collection Kit Tracking System.

1 (a) Legislative Intent. – The Legislature finds that the preservation and testing of sexual
2 assault evidence collection kits (“kit”) are important to public safety. Timely testing is vital to solve
3 cases, punish offenders, bring justice to victims, and prevent future crimes. It is the intent of the
4 Legislature that every sexual assault evidence collection kit in West Virginia be tested. Sexual
5 assault victims deserve no less.

6 (b) Establishment of system. – There is established in the State Crime Laboratory the
7 Statewide Sexual Assault Evidence Collection Kit Tracking System (the system). All sexual
8 assault evidence collection kits purchased or distributed on or after July 1, 2019, shall be trackable
9 and shall comply with the requirements of the system. The Director of the State Police Crime
10 Laboratory (director) shall implement protocols and administer the system. The Superintendent
11 of the State Police (superintendent) shall adopt rules, guidelines, and sanctions, for agencies
12 required to participate in the system under this section. The director shall ensure that the system
13 protects victim information against disclosure to nonparticipating agencies. Except as otherwise
14 required for reporting under subsection (f) of this section, information maintained in the system is
15 confidential and not a public record as defined.

16 (c) Required participation. – All medical providers, law-enforcement agencies, forensic
17 laboratories, or other persons or entities having custody or use of any sexual assault evidence

18 collection kit in the state shall participate in the system and comply with the established protocols,
19 rules, and guidelines. A participating entity shall be permitted to access the entity's tracking
20 information through the system.

21 (d) *Victim's access to view status of kit.* – It is the policy of the state to ensure that a victim
22 of sexual assault or attempted sexual assault is able to track the location of the sexual assault
23 evidence collection kit used to conduct the victim's forensic medical examination and that the
24 victim is also able to determine whether forensic testing of the kit has been completed.

25 (e) *Tracking of previously untested kits.* – The director shall implement protocols and the
26 superintendent shall adopt rules and guidelines to ensure that previously untested sexual assault
27 evidence collection kits are trackable and are entered into the system. Any law-enforcement
28 agency, medical provider, or forensic laboratory that has in its custody a previously untested
29 sexual assault evidence collection kit used for a forensic medical examination shall comply with
30 the established protocols, rules, and guidelines with respect to all untested kits. For purposes of
31 this subsection, a “previously untested sexual assault evidence collection kit” means any kit that
32 has not undergone forensic testing. To the extent practicable, and consistent with protecting victim
33 confidentiality for unreported sexual assaults, a law-enforcement agency having custody of a kit
34 governed by this subsection shall take reasonable measures to provide appropriate tracking
35 information to the affected victim.

36 (f) *Annual report to the Legislature.* – Beginning October 1, 2020, and annually thereafter,
37 the director shall report to the Joint Committee on Government and Finance the following
38 information for the previous fiscal year:

39 (1) The number of tracking-enabled kits shipped to medical facilities or medical providers.

40 (2) The number of tracking-enabled kits used by medical facilities or medical providers to
41 conduct forensic medical examinations of sexual assault or attempted sexual assault victims.

42 (3) Of the tracking-enabled kits used by medical facilities or medical providers to conduct

43 forensic medical examinations, the number of kits for which a sexual assault has been reported
44 to law enforcement, sorted by law-enforcement agency.

45 (4) Of the tracking-enabled kits generated for reported cases, the number of kits submitted
46 to a laboratory for forensic testing.

47 (5) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which
48 forensic testing has been completed.

49 (6) The number of tracking-enabled kits for which a sexual assault has not been reported,
50 including the total submitted to local law enforcement and the total submitted to the State Police.

51 (7) Information regarding efforts to track and test previously untested kits described in
52 subsection (e) of this section.

§15-2F-2. Working group.

1 (a) The Superintendent of the State Police shall convene a working group to make
2 recommendations regarding the testing priority of untested sexual assault kits. The working group
3 shall include representatives from law enforcement, victims' advocates, prosecutors, and criminal
4 defense attorneys.

5 (b) The working group shall develop findings and recommendations including a strategic
6 plan to: (1) Establish the order of priority for testing kits; (2) test all of the kits that can be tested;
7 (3) direct the preservation of all kits; and (4) develop statewide protocols to test sexual assault
8 evidence collection kits in the future.

9 (c) The working group shall adopt a statewide protocol for testing future sexual assault
10 evidence collection kits. The working group shall also make findings and recommendations to the
11 superintendent and the director with respect to developing the protocols, rules, and guidelines for
12 the system. The superintendent shall submit the findings and recommendations of the working
13 group to the Joint Committee on Government and Finance by December 1, 2019.

§15-2F-3. Rule-making.

1 The Superintendent of the State Police shall propose rules for legislative approval in
2 accordance with §29A-3-1 et seq., of this code, to implement this article.

NOTE: The purpose of this bill is to implement the Statewide Sexual Assault Evidence Collection Kit Tracking System. The bill requires reports. The bill requires a working group be formed. The bill requires rule-making.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.