

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 39**

**FISCAL  
NOTE**

BY SENATORS WOELFEL, BALDWIN, PLYMALE, AND BEACH

[Introduced January 10, 2018; 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 section,  
2 designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights;  
3 declaring additional rights bestowed upon sexual assault survivors regarding medical  
4 forensic examinations, sexual assault evidence collection kits and other similar topics;  
5 clarifying the right of a victim to be accompanied by a personal representative during  
6 certain proceedings; requiring certain people be informed or notified of certain rights;  
7 incorporating other rights contained in code; and defining terms.

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

**ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.**

**§61-11A-9. Sexual Assault Victims' Bill of Rights.**

1 (a) In addition to those rights afforded victims of crime by other provisions of this code, a  
2 sexual assault victim has the following rights:

3 (1) The right to a personal representative of victim's choice to accompany him or her to a  
4 hospital or other health care facility and to attend proceedings concerning the alleged assault,  
5 including police and prosecution interviews and court proceedings;

6 (2) The right to receive a forensic medical examination consistent with the provisions of  
7 §61-8B-16;

8 (3) The right to have a sexual assault evidence collection kit tested and preserved by the  
9 investigating law-enforcement agency;

10 (4) The right to be informed by the investigating law-enforcement agency of any results of  
11 the forensic medical examination, if such disclosure would not impede or compromise an ongoing  
12 investigation;

13 (5) The right to be informed in writing of policies governing the forensic medical  
14 examination and preservation of evidence obtained therefrom;

15 (6) The right to receive, upon his or her written request, notification by United States mail,  
16 restricted delivery, to his or her last known address, from the custodian of the evidence obtained

17 from the forensic medical examination no fewer than sixty days prior to the date of the intended  
 18 destruction or disposal thereof: *Provided*, That notice to a victim which meets the requirements of  
 19 this subdivision, whether received by the addressee or not, meets all notice requirements imposed  
 20 hereby;

21 (7) The right, upon his or her written request, to have the evidence obtained from the  
 22 forensic medical examination preserved for an additional period not to exceed ten years; and

23 (8) The right to be informed of the rights afforded a victim pursuant to this section.

24 (b) As used in this section:

25 (1) "Appropriate consent" means the consent of the victim with respect to the testimony of  
 26 an adult victim and a sexual assault victim advocate or trained volunteer of a rape crisis center  
 27 when the victim is an adult;

28 (2) "Sexual assault" means any sexual act proscribed by article eight-b of this chapter;

29 (3) "Sexual assault victim advocate" means any employee of a rape crisis center whose  
 30 primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault  
 31 or sexual battery; and

32 (4) "Trained volunteer" means a person who volunteers at a rape crisis center, and who  
 33 has completed no fewer than forty hours of training in assisting victims of sexual violence and  
 34 related topics provided by the rape crisis center, and who is supervised by members of the staff  
 35 of the rape crisis center.

NOTE: The purpose of this bill is to create the sexual assault survivors' bill of rights.

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