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2014 MAR 31 P 8:09  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

**House Bill No. 108**

(By Mr. Speaker, (Mr. Miley)  
and Delegate Armstead)  
(By Request of the Executive)



Passed March 14, 2014

In effect ninety days from passage.

HB108

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**E N R O L L E D**

**H. B. 108**

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(BY MR. SPEAKER, (MR. MILEY)  
AND DELEGATE ARMSTEAD)  
[By Request of the Executive]

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

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

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

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

9 (b) The commission shall be chaired by the director of the  
10 Division of Justice and Community Service. Membership on the  
11 commission shall consist of the following:

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

14 (2) A representative chosen from the membership of the  
15 West Virginia Association of Counties;

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

18 (4) A representative from the State Police Forensic  
19 Laboratory;

20 (5) A representative from the membership of the West  
21 Virginia Child Advocacy Network;

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

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

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

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

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

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

35 (1) An emergency room physician;

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

37 (3) A sexual assault nurse examiner;

38 (4) A law-enforcement officer with experience in sexual  
39 assault investigations;

40 (5) A health care provider with pediatric and child abuse  
41 expertise; and

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

43 (e) The commission shall establish mandatory statewide  
44 protocols for conducting sexual assault forensic examinations,  
45 including designating locations and providers to perform  
46 forensic examinations, establishing minimum qualifications and  
47 procedures for performing forensic examinations and  
48 establishing protocols to assure the proper collection of  
49 evidence.

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

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

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

20 (c) The commission shall approve local plans for each area  
21 of the state on a county or regional basis. If the commission  
22 deems it necessary, it may add or remove a county or portion  
23 thereof from a region to assure that all areas of the state are  
24 included in an appropriate local plan. Upon the failure of any  
25 county or local region to propose a plan, the commission may  
26 implement a plan for that county or region.

27 (d) Once a plan is approved by the commission, it can only  
28 be amended or otherwise altered as provided by the rules  
29 authorized pursuant to subsection (e) of this section. Designated  
30 facilities and organizations providing services shall give the  
31 commission thirty days advance notice of their intent to  
32 withdraw from the plan. If there is a change of circumstances

33 that would require a change in a county or regional plan, the  
34 members of the local board and the state commission shall be  
35 notified.

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

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

1 (a) Each county prosecutor, or his or her designee, shall  
2 convene a Sexual Assault Forensic Examination Board, or may,  
3 as an alternative, convene and chair the sexual assault response  
4 team in the county to act as the Sexual Assault Forensic  
5 Examination Board. If a regional board is authorized, all county  
6 prosecutors from the designated area shall be members of the  
7 board. The prosecutors shall assure that each board be  
8 proportionally representative of the designated region. Each  
9 board may vary in membership, but should include  
10 representatives from local health care facilities, local law  
11 enforcement, multidisciplinary investigative teams, county and  
12 municipal governments and victims advocates. Each county or  
13 regional board shall develop a local plan and protocols for the  
14 area, which will address, at a minimum, the following:

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

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

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

23 (b) If availability of services are limited, or the remoteness  
24 of the region causes lack of adequate examination facilities or

25 personnel, the local boards may designate local government or  
26 other resources to provide appropriate transport of victims to  
27 facilities where the victim can receive a timely and appropriate  
28 forensic examination.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Jonny Wells*  
 Chairman, House Committee

*[Signature]*  
 Member ~~Chairman~~, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Suzanne S. Sord*  
 Clerk of the House of Delegates

*Joseph W. Minard*  
 Clerk of the Senate

*[Signature]*  
 Speaker of the House of Delegates

*[Signature]*  
 President of the Senate

The within *is approved* this the *31st*  
 day of *March*, 2014.

*Carl Ray Tomblin*  
 Governor



PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:48 AM