WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2539

(By Delegates Frazier, Miley, Brown, Caputo, Ellem, Hamilton, Longstreth, Moore and Sobonya)

Passed March 12, 2011

In Effect Ninety Days From Passage
AN ACT to amend and reenact §15-2B-3 and §15-2B-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia State Police to enter into agreements with the Marshall University Forensic Science Center; and adding and amending definitions.

Be it enacted by the Legislature of West Virginia:

That §15-2B-3 and §15-2B-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2B. DNA DATA.

As used in this article:

(1) "CODIS" means the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state and local forensic DNA laboratories. The term "CODIS" includes the National DNA Index System administered and operated by the Federal Bureau of Investigation.

(2) "Conviction" includes convictions by a jury or court, guilty plea, or plea of nolo contendere.

(3) "Criminal justice agency" means an agency or institution of a federal, state or local government, other than the office of public defender, which performs as part of its principal function, relating to the apprehension, investigation, prosecution, adjudication, incarceration, supervision or rehabilitation of criminal offenders.

(4) "Division" means the West Virginia State Police.

(5) "DNA" means deoxyribonucleic acid. DNA is located in the nucleus of cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.

(6) "DNA record" means DNA identification information stored in any state DNA database pursuant to this article. The DNA record is the result obtained from DNA typing tests. The DNA record is comprised of the characteristics of a DNA sample which are of value in establishing the identity of individuals. The results of all DNA identification tests on an individual's DNA sample are also included as a "DNA record".
(7) "DNA sample" means a tissue, fluid or other bodily sample, suitable for testing, provided pursuant to this article or submitted to the division laboratory for analysis pursuant to a criminal investigation.

(8) "FBI" means the Federal Bureau of Investigation.

(9) "Interim plan" means the plan used currently by the Federal Bureau of Investigation for Partial Match Protocol and to be adopted under the management rules of this article.

(10) "Management rules" means the rules promulgated by the West Virginia State Police that define all policy and procedures in the administration of this article.

(11) "Partial match" means that two DNA profiles, while not an exact match, share a sufficient number of characteristics to indicate the possibility of a biological relationship.

(12) "Qualifying offense" means any felony offense as described in section six of this article or any offense requiring a person to register as a sex offender under this code or the federal law. For the purpose of this article, a person found not guilty of a qualifying offense by reason of insanity or mental disease or defect shall be required to provide a DNA sample in accordance with this article.

(13) "Registering Agency" means the West Virginia State Police.

(14) "State DNA database" means all DNA identification records included in the system administered by the West Virginia State Police.
(15) "State DNA databank" means the repository of DNA samples collected under the provisions of this article.

§15-2B-5. Authority of division to enter into cooperative agreements.

The division may enter into cooperative agreements with public or private agencies or entities to provide a service or facility associated with the administration of the DNA database and databank. In the event the division enters into any agreements for the purposes of (1) testing of offender samples for CODIS; (2) criminal paternity cases; or (3) identification of human remains for the Office of Chief Medical Examiner using nuclear DNA technology, the division is authorized to only enter into such agreements with the Marshall University Forensic Science Center.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Michael T. Fernandez  
Chairman, House Committee

Paul F. Miller  
Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Nancy J. Dye  
Clerk of the House of Delegates

Darrell B. Steinberg  
Clerk of the Senate

Mike E. Bush  
Speaker of the House of Delegates

Pro Tem  
Acting President of the Senate

The within bill is approved this the 30th day of March, 2011.

Earl Ray Tomblin  
Governor