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.
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.

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

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

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

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

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

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

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

(6) The President of the West Virginia Hospital Association, or his or her designee;
(7) A representative from the membership of the West Virginia Foundation for Rape and Information Services;

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

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

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

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

(1) An emergency room physician;

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

(3) A sexual assault nurse examiner;

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

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

(6) A director of a child advocacy center.

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

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

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

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

(d) Once a plan is approved by the commission, it can only be amended or otherwise altered as provided by the rules authorized pursuant to subsection (e) of this section. Designated facilities and organizations providing services shall give the commission thirty days advance notice of their intent to withdraw from the plan. If there is a change of circumstances
that would require a change in a county or regional plan, the members of the local board and the state commission shall be notified.

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

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

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

1. Identifying facilities that are appropriate for receipt and treatment of sexual assault victims;

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

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

(b) If availability of services are limited, or the remoteness of the region causes lack of adequate examination facilities or
personnel, the local boards may designate local government or other resources to provide appropriate transport of victims to facilities where the victim can receive a timely and appropriate forensic examination.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

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

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:48 AM