

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2539**

4
5 (By Delegates Frazier, Miley, Brown, Caputo,
6 Ellem, Hamilton, Longstreth, Moore and Sobonya)

7 (Originating in the Committee on the Judiciary)

8 [January 25, 2011]

9
10 A BILL to amend and reenact §15-2B-3 and §15-2B-5 of the Code of
11 West Virginia, 1931, as amended, all relating to authorizing
12 the West Virginia State Police to enter into agreements with
13 the Marshall University Forensic Science Center.

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

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

17 **ARTICLE 2B. DNA DATA.**

18 **§15-2B-3. Definitions.**

19 As used in this article the following terms mean:

20 (a) "CODIS" means the Combined DNA Index System, the national
21 DNA database, established and funded by the FBI, and developed
22 specifically to enable public forensic DNA laboratories to create
23 searchable DNA databases of authorized DNA profiles.

24 ~~(a)~~ (b) "DNA" means deoxyribonucleic acid. DNA is located in
25 the nucleus of cells and provides an individual's personal genetic
26 blueprint. DNA encodes genetic information that is the basis of

1 human heredity and forensic identification.

2 ~~(b)~~ (c) "DNA record" means DNA identification information
3 stored in any state DNA database pursuant to this article. The DNA
4 record is the result obtained from DNA typing tests. The DNA
5 record is comprised of the characteristics of a DNA sample which
6 are of value in establishing the identity of individuals. The
7 results of all DNA identification tests on an individual's DNA
8 sample are also included as a "DNA record".

9 ~~(c)~~ (d) "DNA sample" means a tissue, fluid or other bodily
10 sample suitable for testing, provided pursuant to this article or
11 submitted to the division laboratory for analysis pursuant to a
12 criminal investigation.

13 ~~(d)~~ (e) "Division" means the West Virginia State Police.

14 ~~(d)~~ (f) "FBI" means the Federal Bureau of Investigation.

15 ~~(e)~~ (g) "State DNA database" means all DNA identification
16 records included in the system administered by the West Virginia
17 State Police.

18 ~~(f)~~ (h) "State DNA databank" means the repository of DNA
19 samples collected under the provisions of this article.

20 ~~(g) "Division" means the West Virginia state police.~~

21 **§15-2B-5. Authority of division to enter into cooperative**
22 **agreements.**

23 The division may enter into cooperative agreements with public
24 or private agencies or entities to provide ~~any~~ a service or
25 facility associated with the administration of the DNA database and
26 databank. ~~Provided, That the division is authorized only to~~

1 ~~contract services and/or facilities for DNA typing, testing and~~
2 ~~research with Marshall University.~~ In the event the division
3 enters into any agreements for the purposes of (1) testing of
4 offender samples for CODIS; (2) criminal paternity cases; or (3)
5 identification of human remains for the Office of Chief Medical
6 Examiner using nuclear DNA technology, the division is authorized
7 to only enter into such agreements with the Marshall University
8 Forensic Science Center.