

COMMITTEE SUBSTITUTE

FOR

H. B. 2539

(BY DELEGATES FRAZIER, MILEY, BROWN, CAPUTO,
ELLEM, HAMILTON, LONGSTRETH, MOORE AND SOBONYA)

(Originating in the Committee on the Judiciary)
[January 25, 2011]

A BILL 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.

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.

§15-2B-3. Definitions.

1 As used in this article the following terms mean:

2 (a) “CODIS” means the Combined DNA Index System,
3 the national DNA database, established and funded by the
4 FBI, and developed specifically to enable public forensic
5 DNA laboratories to create searchable DNA databases of
6 authorized DNA profiles.

7 ~~(a)~~ (b) “DNA” means deoxyribonucleic acid. DNA is
8 located in the nucleus of cells and provides an individual’s
9 personal genetic blueprint. DNA encodes genetic information
10 that is the basis of human heredity and forensic identification.

11 ~~(b)~~ (c) “DNA record” means DNA identification
12 information stored in any state DNA database pursuant to
13 this article. The DNA record is the result obtained from DNA
14 typing tests. The DNA record is comprised of the
15 characteristics of a DNA sample which are of value in
16 establishing the identity of individuals. The results of all

17 DNA identification tests on an individual’s DNA sample are
18 also included as a “DNA record”.

19 ~~(c)~~ (d) “DNA sample” means a tissue, fluid or other
20 bodily sample suitable for testing, provided pursuant to this
21 article or submitted to the division laboratory for analysis
22 pursuant to a criminal investigation.

23 ~~(d)~~ (e) “Division” means the West Virginia State Police.

24 ~~(d)~~ (f) “FBI” means the Federal Bureau of Investigation.

25 ~~(e)~~ (g) “State DNA database” means all DNA
26 identification records included in the system administered by
27 the West Virginia State Police.

28 ~~(f)~~ (h) “State DNA databank” means the repository of
29 DNA samples collected under the provisions of this article.

30 ~~(g)~~ “Division” means the West Virginia state police.

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

1 The division may enter into cooperative agreements with
2 public or private agencies or entities to provide ~~any~~ a service
3 or facility associated with the administration of the DNA

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