

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Senate Bill No. 9

(By Senators Palumbo, Jenkins, Miller, Cookman, Laird and
Fitzsimmons)

[Introduced January 8, 2014; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL 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; requiring the
creation of the Sexual Assault Forensic Examination
Commission; setting forth its powers and responsibilities;
setting forth its membership; requiring county prosecutors to
convene and chair local sexual assault forensic examination
boards; and authorizing rulemaking.

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:

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

2 **§15-9B-1. Sexual Assault Forensic Examination Commission.**

3 (a) The Governor's Committee on Crime, Delinquency and
4 Correction shall create the Sexual Assault Forensic Examination
5 Commission to establish mandatory state-wide protocols for
6 conducting sexual assault forensic examinations, including
7 designating locations and providers to perform forensic
8 examinations, establishing minimum qualifications and procedures
9 for performing forensic examinations and establishing protocols to
10 assure the proper collection of evidence. As used in this article,
11 the word "commission" means the "Sexual Assault Forensic
12 Examination Commission." The purpose of the commission is to
13 establish and manage a state-wide system to facilitate the timely
14 and efficient collection of forensic evidence. The commission
15 shall be chaired by the Director of the Division of Justice and
16 Community Service, and will consist of the following:

17 Persons representing the following agencies or organizations:

- 18 (1) The West Virginia Prosecuting Attorney's Association;
19 (2) The West Virginia Association of Counties;
20 (3) Bureau of Public Health;
21 (4) The State Police Crime Laboratory;
22 (5) The West Virginia Child Advocacy Network;
23 (6) The West Virginia Hospital Association; and

1 (7) The West Virginia Foundation for Rape and Information
2 Services;

3 If any of the representative organizations listed do not
4 continue to exist, the director may select a person from a similar
5 organization.

6 The director is further authorized to appoint the following
7 additional members of the commission, as follows:

8 (1) An emergency room physician;

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

10 (3) A sexual assault nurse examiner;

11 (4) A law-enforcement officer with experience with sexual
12 assault investigations; and

13 (5) A healthcare provider with pediatric and child abuse
14 expertise.

15 (b) Members of the commission shall be paid the same expense
16 reimbursement paid to members of the Legislature for their interim
17 duties, as recommended by the Citizens Legislative Compensation
18 Commission and authorized by law, for each day or portion of a day
19 engaged in the discharge of official duties.

20 **§15-9B-2. Powers and duties of the commission.**

21 (a) The commission shall authorize the creation and oversee
22 local boards established pursuant to section three of this article
23 and shall approve local plans for each area of the state on a

1 county or regional basis. If the commission deems necessary, it may
2 add or remove a county or portion thereof from a region to assure
3 that all areas of the state are included in an appropriate local
4 plan. Upon the failure of any county or local region to propose a
5 plan, the commission may implement a plan for that county or
6 region.

7 (b) The commission may authorize minimum training requirements
8 for providers conducting exams and establish a basic standard of
9 care for victims of sexual assault. The commission shall facilitate
10 the recruitment and retention of qualified health care providers,
11 that are properly qualified to conduct forensic examinations. The
12 commission shall work with county and regional boards to identify
13 areas of greatest need and develop and implement recruitment and
14 retention programs to help facilitate the effective collection of
15 evidence.

16 (c) The commission may adopt necessary and reasonable
17 requirements relating to establishment of a state-wide training and
18 forensic examination system, including, but not limited to,
19 assisting exam providers receive training and support services;
20 advocating the fair and reasonable reimbursement to exam providers,
21 and to facilitate transportation services for victims to get to and
22 from designated exam locations.

23 (d) Once a plan is approved by the commission, it can only be

1 amended or otherwise altered as provided by rules of the
2 commission. Designated facilities and organizations providing
3 services in the plan may not withdraw from participation without
4 commission authorization. If there is a change of circumstances,
5 that would require a change in a county or regional plan, the
6 members of the local board and the state commission shall be
7 notified. The local board shall meet as soon as possible to
8 implement an alternative plan to ensure continuity of services in
9 the county or region. The local board shall submit a revised plan
10 for approval by the commission as soon as is practicable.

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

14 **§15-9B-3. Local Sexual Assault Forensic Examination Boards.**

15 Each county prosecutor, or his or her designee, shall convene
16 a Sexual Assault Forensic Examination Board, or may as an
17 alternative, convene and chair the sexual assault response team in
18 the county to act as the Sexual Assault Forensic Examination Board.
19 If a regional board is authorized, all county prosecutors from the
20 designated area shall be members of the board. The prosecutors
21 shall assure that each board be proportionally representative of
22 the designated region. Each board may vary in membership, but
23 should include representatives from local health care facilities,

1 local law enforcement, multidisciplinary investigative team, county
2 and municipal governments and victims advocates. Each county or
3 regional board shall develop a local plan and protocols for the
4 area, which will address, at a minimum, the following:

5 (1) Identify facilities that are appropriate for receipt and
6 treatment of sexual assault victims;

7 (2) Assess and designate physicians or nurses, or both, in the
8 area qualified to conduct forensic examinations;

9 (3) Evaluate the needs and available resources of the area to
10 facilitate and encourage twenty-four hour, seven day a week
11 coverage;

12 (4) If availability of services are limited, or the remoteness
13 of the region causes lack of adequate examination facilities or
14 personnel, the local boards may designate local government or other
15 resources to provide appropriate transport of victims to facilities
16 where the victim can receive a timely and appropriate forensic
17 examination; and

18 (5) Develop an alternative plan in case there is a change in
19 circumstances to ensure continuity of service.

NOTE: The purpose of this bill is to establish a state-wide system for sexual assault forensic examination services. The bill creates a state commission and local boards that are authorized to establish an examination plan for sexual assault victims. The bill provides timely examinations and other services to assist victims

with support services and effective evidence collection. The bill authorizes rule-making.

This article is new; therefore, strike-throughs and underscoring have been omitted.