

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 72

SENATORS WOELFEL, STOLLINGS, AND BALDWIN, *original sponsors*

[Passed March 5, 2019; in effect 90 days from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights;
3 declaring additional rights bestowed upon sexual assault survivors regarding medical
4 forensic examinations, sexual assault evidence collection kits, and other similar topics;
5 clarifying the right of a victim to be accompanied by a personal representative during
6 certain proceedings; requiring sexual assault victims be informed or notified of certain
7 rights; incorporating other rights contained in code; and defining terms.

Be it enacted by the Legislature of West Virginia:

PREAMBLE: This act shall be known as Hazel's Law.

ARTICLE 11A. VICTIM PROTECTION ACT.

§61-11A-9. Sexual Assault Victims' Bill of Rights.

1 (a) In addition to those rights afforded victims of crime by other provisions of this code, a
2 sexual assault victim has the following rights:

3 (1) The right to a personal representative of the victim's choice to accompany him or her
4 to a hospital or other health care facility and to attend proceedings concerning the alleged assault,
5 including police interviews and court proceedings: *Provided*, That nothing in this subsection shall
6 be construed to violate established forensic interview protocols;

7 (2) The right to receive a forensic medical examination consistent with the provisions of
8 §61-8B-1(12) of this code conducted by a qualified medical provider in accordance with best
9 practices, taking into consideration the age of the victim and circumstances of the offense;

10 (3) The right to have a sexual assault evidence collection kit tested and preserved by the
11 investigating law-enforcement agency;

12 (4) The right to be informed by the investigating law-enforcement agency of any results of
13 the forensic medical examination, if such disclosure would not impede or compromise an ongoing
14 investigation;

15 (5) The right to be informed in writing of the policies governing the forensic medical
16 examination and preservation of evidence obtained from the examination;

17 (6) The right to receive, upon his or her written request, notification by United States mail,
18 restricted delivery, to his or her last known address, from the custodian of the evidence obtained
19 from the forensic medical examination no fewer than 60 days prior to the date of the intended
20 destruction or disposal of the evidence: *Provided*, That notice to a victim which meets the
21 requirements of this subdivision, whether received by the addressee or not, meets all notice
22 requirements imposed by this section;

23 (7) The right, upon his or her written request, to have the evidence obtained from the
24 forensic medical examination preserved for an additional period not to exceed 10 years; and

25 (8) The right to be informed of the rights afforded a victim pursuant to this section.

26 (b) As used in this section, "sexual assault" means any sexual act proscribed by §61-8-1
27 *et seq.*, §61-8B-1 *et seq.*, and §61-8D-1 *et seq.* of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor