

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2838

BY DELEGATES S. BROWN, SHOTT, FLEISCHAUER,

SUMMERS, LOVEJOY, AND KESSINGER

[Introduced February 4, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §55-7-32; and to amend and reenact §62-6-8 of said code, all relating to a
 3 court ordered examination.

Be it enacted by the Legislature of West Virginia:

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Prohibition on court order examinations.

1 A judge may not order a plaintiff to undergo a vaginal, anal or body cavity examination
 2 without consent of the plaintiff.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 6. MISCELLANEOUS PROVISIONS CONCERNING CRIMINAL PROCEDURES.

§62-6-8. Alleged victim of sexual offense.

1 (a) No law-enforcement officer, prosecutor or any other government official may ask or
 2 require the adult, youth or child victim of an alleged sexual offense, as set forth in the provisions
 3 of §61-8-6, §61-12-6, §61-8D-5, and §61-8B-1 *et seq.*, of this code or any other sexual offense
 4 as defined under state or local law, to submit to a polygraph examination or other truth-testing
 5 examination as a condition for proceeding with the investigation of the alleged offense. No law-
 6 enforcement officer, prosecutor or any other government official may refuse to proceed with an
 7 investigation, warrant, indictment, information or prosecution of the alleged offense because the
 8 alleged victim refused to submit to such an examination.

9 (b) A judge may not order a victim of an alleged sexual offense, as set forth in the
 10 provisions of §61-8-6, §61-12-6, §61-8D-5, and §61-8B-1 *et seq.*, of this code or any other sexual
 11 offense as provided in this code to undergo an additional vaginal, anal or body cavity examination
 12 without the consent of the alleged victim.

NOTE: The purpose of this bill is to prohibit a court from ordering certain physical examinations of a victim or plaintiff.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.