

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

House Bill 3111

DELEGATE S. BROWN

[Introduced February 12, 2019; Referred
to the Committee on Health and Human Resources
then the Judiciary.]

FISCAL
NOTE

1 A BILL 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:

ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

§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;

6 (2) The right to receive a forensic medical examination consistent with the provisions of
7 §61-8B-1(12) of this code;

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

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

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

15 (6) The right to receive, upon his or her written request, notification by United States mail,
16 restricted delivery, to his or her last known address, from the custodian of the evidence obtained

17 from the forensic medical examination no fewer than 60 days prior to the date of the intended
18 destruction or disposal of the evidence: *Provided*, That notice to a victim which meets the
19 requirements of this subdivision, whether received by the addressee or not, meets all notice
20 requirements imposed by this section;

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

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

24 (b) As used in this section, "sexual assault" means:

25 (1) Any sexual act proscribed by §61-8-1 *et seq.*, §61-8B-1 *et seq.*, and §61-8D-1 *et seq.*,
26 of this code; and

27 (2) The act of initiating or continuing an act of vaginal intercourse after consent has been
28 withdrawn and the withdrawal of consent was communicated in a way that a reasonable person
29 would understand to constitute withdrawal of consent.

NOTE: The purpose of this bill is to establish a Sexual Assault Victims' Bill of Rights and to include in the definition of sexual assault continuation of vaginal intercourse after consent has been withdrawn.

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