

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 593

BY SENATORS PLYMALE, WOELFEL, HAMILTON, RUCKER,

WOODRUM, TAKUBO, AND BEACH

[Introduced February 08, 2022; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend and reenact §15-2B-3 of the Code of West Virginia, 1931, as amended, relating
2 to expanding the definition of “criminal justice agency” to include the Forensic Analysis
3 Laboratory at Marshall University for access and participation in the West Virginia DNA
4 database for certain specified purposes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2B. DNA DATA.

§15-2B-3. Definitions.

1 As used in this article:

2 (1) “CODIS” means the Federal Bureau of Investigation's Combined DNA Index System
3 that allows the storage and exchange of DNA records submitted by federal, state and local
4 forensic DNA laboratories. The term “CODIS” includes the National DNA Index System
5 administered and operated by the Federal Bureau of Investigation.

6 (2) “Conviction” includes convictions by a jury or court, guilty plea, or plea of nolo
7 contendere.

8 (3) “Criminal justice agency” means an agency or institution of a federal, state or local
9 government, other than the office of public defender, which performs as part of its principal
10 function, relating to the apprehension, investigation, prosecution, adjudication, incarceration,
11 supervision or rehabilitation of criminal offenders. The West Virginia State Police establishes the
12 Forensic Analysis Laboratory of the Marshall University Forensic Science Center as a criminal
13 justice agency for the purpose of participation in the WV DNA Database with access only to the
14 Missing Persons, Relatives of Missing Persons, and Unidentified Human Remains databases as
15 part of the work performed for the National Missing and Unidentified Persons System (NamUs).

16 (4) “Division” means the West Virginia State Police.”

17 (5) “DNA” means deoxyribonucleic acid. DNA is located in the nucleus of cells and
18 provides an individual's personal genetic blueprint. DNA encodes genetic information that is the
19 basis of human heredity and forensic identification.

20 (6) "DNA record" means DNA identification information stored in any state DNA database
21 pursuant to this article. The DNA record is the result obtained from DNA typing tests. The DNA
22 record is comprised of the characteristics of a DNA sample which are of value in establishing the
23 identity of individuals. The results of all DNA identification tests on an individual's DNA sample
24 are also included as a "DNA record".

25 (7) "DNA sample" means a tissue, fluid or other bodily sample, suitable for testing,
26 provided pursuant to this article or submitted to the division laboratory for analysis pursuant to a
27 criminal investigation.

28 (8) "FBI" means the Federal Bureau of Investigation.

29 (9) "Interim plan" means the plan used currently by the Federal Bureau of Investigation for
30 Partial Match Protocol and to be adopted under the management rules of this article.

31 (10) "Management rules" means the rules promulgated by the West Virginia State Police
32 that define all policy and procedures in the administration of this article.

33 (11) "Partial match" means that two DNA profiles, while not an exact match, share a
34 sufficient number of characteristics to indicate the possibility of a biological relationship.

35 (12) "Qualifying offense" means any felony offense as described in section six [§15-2B-6]
36 of this article or any offense requiring a person to register as a sex offender under this code or
37 the federal law. For the purpose of this article, a person found not guilty of a qualifying offense by
38 reason of insanity or mental disease or defect shall be required to provide a DNA sample in
39 accordance with this article.

40 (13) "Registering Agency" means the West Virginia State Police.

41 (14) "State DNA database" means all DNA identification records included in the system
42 administered by the West Virginia State Police.

43 (15) "State DNA databank" means the repository of DNA samples collected under the
44 provisions of this article.

NOTE: The purpose of this bill is to permit the Marshall University Forensic Laboratory to be classified as a criminal justice agency in order to get access to the WV DNA databases related to Missing Persons, Relatives of Missing Persons, and Unidentified Human Remains databases.

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