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SENATE BILL NO. 633

Senate Amendments in [] — February 12, 2002

A BILL to amend and reenact § 19.2-270.5 of the Code of Virginia, relating to DNA testing.

Patron Prior to Engrossment—Senator Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-270.5 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-270.5. DNA profile admissible in criminal proceeding.

In any criminal proceeding, DNA (deoxyribonucleic acid) testing shall be deemed to be a reliable scientific technique and the evidence of a DNA profile comparison may be admitted to prove or disprove the identity of any person. This section shall not otherwise limit the introduction of any relevant evidence bearing upon any question at issue before the court, including the accuracy and reliability of the procedures employed in the collection and analysis of a particular DNA sample. The court shall, regardless of the results of the DNA analysis, if any, consider such other relevant evidence of the identity of the accused as shall be admissible in evidence.

At least twenty-one days prior to commencement of the proceeding in which the results of a DNA analysis will be offered as evidence, the party intending to offer the evidence shall notify the opposing party, in writing, of the intent to offer the analysis and shall provide or make available copies of the profiles and the report or statement to be introduced. In the event that such notice is not given, and the person proffers such evidence, then the court may in its discretion either allow the opposing party a continuance or, under appropriate circumstances, bar the person from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under § 19.2-243. If the opposing party intends to object to the admissibility of such evidence he shall give written notice of that fact and the basis for his objections at least ten days prior to commencement of the proceedings.

[~~No~~ *Except as otherwise provided by law, no*] blood sample submitted to the Division of Forensic Science for analysis and use as provided in this section and no results of the analysis performed shall be included in the DNA data bank established by the Division pursuant to § 19.2-310.5 [~~or otherwise used in any way with identifying information on the person whose sample was submitted. This section shall not prevent a legally acquired blood sample from being used by law-enforcement officials for comparison with evidence obtained from other, unsolved crimes. .~~]

ENGROSSED

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