

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 445

An Act to amend and reenact § 19.2-310.2:1 of the Code of Virginia, relating to DNA sampling for certain attempted felonies.

[H 776]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-310.2:1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-310.2:1. Saliva or tissue sample required for DNA analysis after arrest for a violent felony.

Every person arrested for *the commission or attempted commission of* a violent felony as defined in § 19.2-297.1 or a violation *or attempt to commit a violation* of §§ 18.2-89, 18.2-90, 18.2-91, or § 18.2-92, shall have a sample of his saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. After a determination by a magistrate or a grand jury that probable cause exists for the arrest, a sample shall be taken prior to the person's release from custody. The analysis shall be performed by the Division of Forensic Science or other entity designated by the Division. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Division in a DNA data bank and shall be made available as provided in § 19.2-310.5.

The clerk of the court shall notify the Division of final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, the Division shall destroy the sample and all records thereof, provided there is no other pending qualifying warrant or capias for an arrest or felony conviction that would otherwise require that the sample remain in the data bank.