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HOUSE BILL NO. 314**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 12, 2010)

(Patron Prior to Substitute—Delegate McClellan)

A BILL to amend and reenact § 19.2-310.5 of the Code of Virginia, relating to DNA data bank.

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-310.5 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-310.5. DNA data bank.

A. It shall be the duty of the Department to receive ~~blood, saliva or tissue~~ samples of *human biological evidence* and to analyze, classify, and file the results of DNA identification characteristics profiles of ~~blood, saliva or tissue~~ samples of *human biological evidence* submitted pursuant to § 19.2-310.2 or 19.2-310.2:1 and to make such information available as provided in this section. The results of an analysis and comparison of the identification characteristics from two or more blood, saliva, *body fluid* or tissue samples shall be made available directly to federal, state and local law-enforcement officers upon request made in furtherance of an official investigation of any criminal offense, *or to an accused or his attorney pursuant to § 9.1-1104*. The Department shall confirm whether or not there is a DNA profile on file for a specific individual if a federal, state or local law-enforcement officer requests that information in furtherance of an official investigation of any criminal offense. ~~A request may be made by personal contact, mail, or electronic means.~~ The name of the requestor and the purpose for which the information is requested shall be maintained on file with the Department.

~~Upon his request, a copy of the request for search shall be furnished to any person identified and charged with an offense as the result of a search of information in the data bank.~~

B. The Department shall adopt regulations governing (i) the methods of obtaining information from the data bank in accordance with this section and (ii) procedures for verification of the identity and authority of the requestor. The Department shall specify the positions in that agency which require regular access to the data bank and samples submitted as a necessary function of the job.

C. The Department shall create a separate statistical data base comprised of DNA profiles of blood, saliva or tissue samples of persons whose identity is unknown. Nothing in this section or § 19.2-310.6 shall prohibit the Department from sharing or otherwise disseminating the information in the statistical data base with law-enforcement or criminal justice agencies within or without the Commonwealth.

D. The Department may charge a reasonable fee to search and provide a comparative analysis of DNA profiles in the data bank to any authorized law-enforcement agency outside of the Commonwealth.

HOUSE SUBSTITUTE

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