

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 638

An Act to amend and reenact §§ 9.1-1101 and 19.2-310.5 of the Code of Virginia, relating to the Department of Forensic Science; powers and duties.

[S 1103]

Approved March 26, 2011

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-1101 and 19.2-310.5 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-1101. Powers and duties of the Department.

A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department; *the head of any private police department that has been designated as a criminal justice agency by the Department of Criminal Justice Services as defined by § 9.1-101*; or any state agency in any criminal matter. The Department shall provide such services to any federal investigatory agency within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath.

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

§ 19.2-310.5. DNA data bank.

A. It shall be the duty of the Department to receive samples of human biological evidence and to analyze, classify, and file the results of DNA identification characteristics profiles of 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 samples of human biological evidence shall be made available directly to *duly authorized members of federal, state and local law-enforcement officers agencies or private police departments that have been designated as criminal justice agencies by the Department of Criminal Justice Services as defined by § 9.1-101* 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. The name of the requestor and the purpose for which the information is requested shall be maintained on file with the Department.

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 samples of human biological evidence 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.