

11103475D

SENATE BILL NO. 1184

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 19.2-187 and 19.2-187.01 of the Code of Virginia, relating to certificates of analysis.

Patron—Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-187 and 19.2-187.01 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-187. Admission into evidence of certain certificates of analysis.

In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of this title, a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, the Forensic Document Laboratory of the U.S. Department of Homeland Security, or the United States U.S. Secret Service Laboratory.

In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it.

For the purposes of this section and §§ 19.2-187.01, 19.2-187.1, and 19.2-187.2, the term "certificate of analysis" includes reports of analysis and results of laboratory examination.

§ 19.2-187.01. Certificate of analysis as evidence of chain of custody of material described therein.

A report of analysis duly attested by the person performing such analysis or examination in any laboratory operated by (i) the Division of Consolidated Laboratory Services, the Department of Forensic Science or any of its regional laboratories, or by any laboratory authorized by such Division or Department to conduct such analysis or examination; (ii) the Federal Bureau of Investigation; (iii) the federal Bureau of Alcohol, Tobacco and Firearms; (iv) the Naval Criminal Investigative Service; (v) the

INTRODUCED

SB1184

59 federal Drug Enforcement Administration; (vi) the Postal Inspection Service; (vii) the United States U.S.
60 Secret Service; *or (viii) the Forensic Document Laboratory of the U.S. Department of Homeland*
61 *Security* shall be prima facie evidence in a criminal or civil proceeding as to the custody of the material
62 described therein from the time such material is received by an authorized agent of such laboratory until
63 such material is released subsequent to such analysis or examination. Any such certificate of analysis
64 purporting to be signed by any such person shall be admissible as evidence in such hearing or trial
65 without any proof of the seal or signature or of the official character of the person whose name is
66 signed to it. The signature of the person who received the material for the laboratory on the request for
67 laboratory examination form shall be deemed prima facie evidence that the person receiving the material
68 was an authorized agent and that such receipt constitutes proper receipt by the laboratory for purposes of
69 this section.