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SENATE BILL NO. 644

Senate Amendments in [] - February 9, 2018

A BILL to amend and reenact § 19.2-310.2:1 of the Code of Virginia, relating to DNA analysis after arrest.

Patron Prior to Engrossment—Senator McPike

Referred to Committee for Courts of Justice**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.**

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 § 18.2-31, 18.2-89, 18.2-90, 18.2-91, ~~or~~ 18.2-92, 18.2-387, or 18.2-387.1 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 Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department 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 Department 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 Department 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.

2. That the provisions of this act shall apply only to persons convicted on or after July 1, 2018.

[3. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2018 by the General Assembly that becomes law.]

ENGROSSED

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