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HOUSE BILL NO. 417

House Amendments in [] — February 9, 1994

A BILL to amend and reenact § 18.2-268.7 of the Code of Virginia, relating to certificates of analysis.

Patrons—Albo, Callahan, Cox, Crouch, Dillard, Dudley, Ingram, Jones, J.C., Katzen, Kilgore, Marshall, May, McClure, McDonnell, Mims, Nelms, Rollison, Ruff, Scott and Watkins; Senators: Barry and Woods

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-268.7 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-268.7. Transmission of blood test results; use as evidence.

Upon receipt of a blood sample forwarded to the Division for analysis pursuant to § 18.2-268.6, the Division shall have it examined for its alcohol or drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided by the Division and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug content. The Director shall remove the withdrawal certificate from the vial, attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached. The certificate of analysis with the withdrawal certificate shall be returned to the clerk of the court in which the charge will be heard. The vial and blood sample shall be destroyed after completion of the analysis. A similar certificate of analysis, with the withdrawal certificate from the independent laboratory which analyzes the second blood sample on behalf of the accused, shall be returned to the clerk of the court in which the charge will be heard. The blood sample shall be destroyed after completion of the analysis by the independent laboratory.

When a blood sample taken in accordance with the provisions of §§ 18.2-268.2 through 18.2-268.6 is forwarded for analysis to the Division, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court, in any criminal or civil proceeding, as evidence of the facts therein stated and of the results of such analysis. On motion of the accused, the certificate prepared for the second sample shall be admissible in evidence when attested by the pathologist or by the supervisor of the approved laboratory.

Upon request of the person whose blood or breath was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties ~~under the provisions of § 2.1-20.01:2~~ [*to an employee of the Division of Forensic Science*] .

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ENGROSSED

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