

1997 SESSION

INTRODUCED

971304825

SENATE BILL NO. 878

Offered January 15, 1997

A *BILL to amend the Code of Virginia by adding in Article 4 of Chapter 27 of Title 9 a section numbered 9-196.13, relating to independent examination of DNA evidence.*

Patrons—Howell, Colgan, Gartlan, Lucas, Stolle, Ticer, Waddell and Whipple; Delegates: Almand, Brickley, Callahan, Cunningham, Darner, Davies, Deeds, Dillard, Hull, Jones, J.C., McEachin, Melvin, Moore, Plum, Puller, Scott, Watts and Woodrum

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 27 of Title 9 a section numbered 9-196.13 as follows:

§ 9-196.13. *Independent examination of forensic DNA evidence.*

Whenever feasible, unused, untested portions of forensic DNA samples shall be sealed by the person performing the DNA test or another person at his direction and returned to the enforcement agency which submitted the case.

Any independent analysis of the unused, untested portion shall not be performed on behalf of the accused unless an analysis of the Division's sample fails to exclude the accused as a suspect. The failure of the accused to offer the results of the independent analysis into evidence shall not be evidence against the accused and shall not be subject to any comment by the Commonwealth at the trial of the case, except in rebuttal.

Any independent analysis of unused, untested portions of forensic DNA samples conducted pursuant to a request by the accused must be performed by a laboratory which is in demonstrated compliance with the standards promulgated by the Federal Bureau of Investigation DNA Advisory Board.

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