

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 19.2-10.4, relating to subpoena*
3 *duces tecum; attorney-issued subpoena duces tecum; criminal cases.*

4 [S 801]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 19.2-10.4 as follows:**8 **§ 19.2-10.4. Subpoena duces tecum; attorney-issued subpoena duces tecum.**

9 *In any criminal case a subpoena duces tecum may be issued by the attorney of record who is an*
10 *active member of the Virginia State Bar at the time of issuance, as an officer of the court. Any such*
11 *subpoena duces tecum shall be on a form approved by the Executive Secretary of the Supreme Court,*
12 *signed by the attorney of record as if a pleading, and shall include the attorney's address. A copy of the*
13 *signed subpoena duces tecum, together with the attorney's certificate of service pursuant to Rule 1:12,*
14 *shall be mailed or delivered to the adverse party and to the clerk's office of the court in which the case*
15 *is pending on the day of issuance by the attorney. The law governing subpoenas duces tecum issued*
16 *pursuant to Rule 3A:12(b) shall apply. A sheriff shall not be required to serve an attorney-issued*
17 *subpoena duces tecum that is not issued at least five business days prior to the date production of*
18 *evidence is desired. When an attorney transmits one or more subpoenas duces tecum to a sheriff to be*
19 *served in his jurisdiction, the provisions in § 8.01-407 regarding such transmittals shall apply.*

20 *If the time for compliance with a subpoena duces tecum issued by an attorney is less than 14 days*
21 *after service of the subpoena, the person to whom it is directed may serve upon the party issuing the*
22 *subpoena a written objection setting forth any grounds upon which such production, inspection, or*
23 *testing should not be required. If objection is made, the party on whose behalf the subpoena duces*
24 *tecum was issued and served shall not be entitled to the requested production, inspection, or testing,*
25 *except pursuant to an order of the court, but may, upon notice to the person to whom the subpoena was*
26 *directed, move for an order to compel production, inspection, or testing. Upon such timely motion, the*
27 *court may quash, modify, or sustain the subpoena duces tecum.*

28 *Subpoenas duces tecum for medical records issued by an attorney shall be subject to the provisions*
29 *of §§ 8.01-413 and 32.1-127.1:03, except that no separate fee for issuance shall be imposed.*

ENROLLED

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