



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Linda C. Jackson, Director
Department of Forensic Science

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: August 3, 2015

SUBJECT: Regulations Relating to DNA Data Bank Information to the
Virginia Department of Corrections and the Department of Juvenile
Justice - 6VAC40-60-50

In response to a request from the Department of Forensic Science, I have reviewed the proposed regulation, 6 VAC 40-60-50, relating to DNA Data Bank Information to the Virginia Department of Corrections and the Department of Juvenile Justice. Virginia Code § 19.2-310.2(F) provides that the Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-903 has been received by the Department of Forensic Science. Virginia Code § 19.2-310.5(B) provides that the Department shall adopt regulations governing (i) the methods of obtaining information from the data bank in accordance with this section and (ii) procedures for verification of the identity and authority of the requestor. Virginia Code § 9.1-1110(A)(1) requires the Forensic Science Board to adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of Virginia Code § 19.2-310.5. Upon review of the aforesaid regulations, I find the proposed regulation to be constitutional, consistent with the statutory authority granted by Virginia Code § 19.2-310.5 of the Code of Virginia, and in conformity with existing statutory provisions. The proposed change to the regulation is exempted from the Administrative Process Act, pursuant to § 2.2-4006(A)(4)(a) as the change is necessary to conform to changes in Virginia statutory law.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this

communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.