

COLLECTING BUCCAL DNA SAMPLES FOR VIRGINIA'S DNA DATA BANK

Changes Effective July 1, 2018

Effective July 1, 2018, Code § 19.2-310.2 was amended to add two more misdemeanor offenses to the list of offenses requiring an adult to provide a DNA sample upon conviction.

DETERMINING WHETHER A SAMPLE IS REQUIRED

Before collecting any sample, you must first determine whether a sample is required. Samples are required from: 1) adults convicted of any felony or certain misdemeanor offenses; 2) adults arrested for any violent felony and for certain burglary offenses; 3) juveniles, 14 or older at the time of the offense, convicted or adjudicated delinquent of any offense that would be a felony if committed by an adult; 4) individuals registered with the Virginia Sex Offender and Crimes Against Minors Registry; and 5) individuals ordered to provide a sample by a circuit court pursuant to a lawful plea agreement.

Convicted Adult Offenders – § 19.2-310.2

A buccal sample shall be collected from **an adult convicted of any felony offense or any of the following specified misdemeanors:**

- § 16.1-253.2 – violation of a protective order
- § 18.2-57 – assault and battery (**Added effective July 1, 2018**)
- § 18.2-60.3 – stalking
- § 18.2-60.4 – violation of a stalking protective order
- § 18.2-67.4 – sexual battery
- § 18.2-67.4:1 – infected sexual battery
- § 18.2-67.4:2 – sexual abuse of a child under 15 years of age
- § 18.2-67.5 – attempted sexual battery
- § 18.2-102 – unauthorized use of animal, aircraft, vehicle or boat
- § 18.2-119 – trespass (**Added effective July 1, 2018**)
- § 18.2-121 – unlawful entry of property of another for purpose of damaging it, etc.
- § 18.2-130 – peeping or spying into dwelling or enclosure
- § 18.2-370.6 – penetration of the mouth of a child with lascivious intent
- § 18.2-387 – indecent exposure
- § 18.2-387.1 – obscene sexual display
- § 18.2-460(E) – resisting arrest; fleeing from a law enforcement officer

Arrestees (Adults only) – § 19.2-310.2:1

A buccal sample shall be collected from an adult arrested for any violent felony or for certain burglary offenses. You will not be required to verify an offense is a qualifying one. Language will automatically be printed on the warrant any time a qualifying arrestee offense is charged, directing that you “take buccal sample if LIDS shows no DNA sample in Data Bank.”

You must specify on any qualifying arrestee warrant whether you took a buccal sample for this arrest or if a sample was previously taken by checking the appropriate box.

The sample must be collected during the booking process.

Juvenile Offenders – § 16.1-299.1

A buccal sample shall be collected from a juvenile, 14 or older at the time of the offense, convicted of a felony or adjudicated delinquent of an offense that would be a felony if committed by an adult.

PLEASE NOTE:

- **Deferred Dispositions:** A DNA sample should not be collected from any adult or juvenile offender convicted or adjudicated delinquent where the disposition for the offense is deferred or the qualifying offense is taken under advisement. A conviction is required before the sample is taken.
- **Sentencing Order Required:** A conviction order is not final until sentencing is complete, and a DNA sample should not be collected until sentencing has occurred.

VERIFYING A SAMPLE HAS NOT PREVIOUSLY BEEN TAKEN – REQUIRED PRIOR TO COLLECTION

Virginia law requires persons collecting DNA samples to verify whether a sample was previously collected from a person by checking the LIDS DNA Sample Tracking application prior to collecting the sample. The application is available on the State Compensation Board's website at:

<http://www.scb.virginia.gov/DNA/dnalogin.cfm>. **If the LIDS application indicates that a sample has already been taken from the subject, you should not take an additional sample.**

To access the LIDS DNA Sample Tracking application, you will be required to enter your user ID (agency ORI number) and password (agency VCIN mnemonic). You may conduct a search using the subject's name or Social Security Number (use Name, SSN and any aliases if no match is found for subject from your initial search). If a match is made, please verify that other identifying information is correct. If a match is verified, the subject is already in the Data Bank, and you should **not** collect a sample.

USING BUCCAL SAMPLE COLLECTION KIT

If you determine that a sample is required from the person after checking the LIDS DNA Sample Tracking Application, you may open the Buccal DNA Collection Kit. Remove all contents from the kit envelope, and **read all instructions before proceeding**. The instructions in the kit detail each step to collect and submit the buccal sample to the Department of Forensic Science.

Completing the Storage Envelope Submission Form

Before collecting the sample, you must complete the storage envelope submission form in all capital letters using a black or blue ballpoint pen. Print legibly and only enter one character in each box. If, in completing the form, you make a mistake, simply strike through the mistake and write the correct information above it. Unless it is otherwise specified, all information requested on the form is required for each sample collected. The form must be returned to the Department of Forensic Science. Do NOT detach the form from the storage envelope.

PLEASE NOTE:

- **Must Specify Reason Sample Collected (Arrestee, Convicted Felon or Convicted Misdemeanant).** You must check the appropriate box to indicate if the person sampled is an Arrestee, a Convicted Felon or a Convicted Misdemeanant. If using an older collection kit that does not include a "Convicted Misdemeanor" box, please check the "Other" box and note "Misdemeanor conviction" beside it. If the "Other" box is selected, you must specify the reason for sample collection (e.g. misdemeanor conviction, sex offender, plea agreement).
- **Must Specify Qualifying Offense Code Section for Arrestees and Misdemeanor Convictions.** For Arrestees, the qualifying offense Code section on the arrest warrant must be specified, and for misdemeanor convictions, the Code section for the misdemeanor offense must be included. In completing this field, one character should be included in each box on the form (periods, dashes, colons and parentheses should be listed separately in their own boxes).

After Sample Collection

DNA sample must air dry inside the storage envelope – do not return collector to the plastic wrapper.

PLEASE NOTE:

- **Arrestee samples:** a copy of the arrest warrant for the qualifying offense must be included.
- **Plea Agreement samples:** a copy of the plea agreement must be included.
- **Buccal samples MUST be returned within 15 days of collection.** Storage envelopes may be placed into a shipping envelope (not provided), and mailed using the self-addressed mailing label provided, or returned by hand to the nearest Department of Forensic Science laboratory.

Contact Information for Questions

- LIDS DNA Sample Tracking application – contact the Compensation Board at (804) 786-0786
- DNA sampling or Buccal DNA Collection Kit information – contact the Data Bank at (804) 786-3789