



# **Determining Whether A DNA Data Bank Sample Is Required**

**Issued June 29, 2022**

# Samples Are Required from:



- Adults convicted of any felony or certain misdemeanor offenses
- 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
- Adults arrested for any violent felony and for certain burglary offenses
- Individuals registered with the Virginia Sex Offender and Crimes Against Minors Registry
- Individuals ordered to provide a sample by a circuit court pursuant to a lawful plea agreement (copy of agreement must be sent with sample)

# Convicted Adult Offenders - § 19.2-310.2



Samples are required after conviction is final from an adult convicted of any felony or any of the following misdemeanors or any misdemeanor violation of a local ordinance that is similar to any of the following misdemeanors:

|               |  |
|---------------|--|
| § 16.1-253.2  | Violation of a protective order  |
| § 18.2-57     | Assault and battery  |
| § 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   |
| § 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 mouth of child with lascivious intent                   |
| § 18.2-387    | Indecent exposure  |
| § 18.2-387.1  | Obscene sexual display   |
| § 18.2-460(E) | Resisting arrest; fleeing a law enforcement officer                    |

# Qualifying Felony Arrests



You will not be required to verify if 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 DBSATS shows no DNA sample in Data Bank”
- You must specify on any qualifying arrest warrant whether you took a buccal sample for this arrest or if a sample was previously taken by checking the appropriate box
- Collect sample during booking process
- A complete list of qualifying felony arrests can be found here:

<https://www.dfs.virginia.gov/laboratory-forensic-services/dna-databank/resources/>

# Conviction and Sentencing Required Before Sample Collection



## Deferred Dispositions

- A sample should NOT be collected from any adult or juvenile convicted or adjudicated delinquent where the disposition is deferred or the qualifying offense is taken under advisement
- A conviction (and sentencing) is required before the sample is taken

## Sentencing Order Required

- A conviction order is not final until sentencing is complete – a DNA sample should NOT be collected until sentencing has occurred



# Before Collecting Buccal Sample

- Virginia law requires you to verify that a sample has not previously been taken from the subject by accessing the “DNA Data Bank SAmple Tracking System (DBSATS)” application:

[dnaprelog.dfs.virginia.gov](http://dnaprelog.dfs.virginia.gov)

- DBSATS login credentials may be obtained from your Agency Site Administrator

# Checking LIDS DNA Sample Tracking Application



- Conduct a search using the subject's name, social security number or SID
  - Use name, SSN, SID and any aliases if no match is found for subject from your initial search
- If a match is made, verify that other identifying information is correct
- If a match is verified, you should NOT take an additional sample



# DNA Data Bank Resources

<http://www.dfs.virginia.gov>

## DNA Data Bank Hours:

Monday – Friday 8:00 a.m. – 5:00 p.m.

Phone: 804-786-3789

Fax: 804-786-9985

Email: [dnadatabank@dfs.virginia.gov](mailto:dnadatabank@dfs.virginia.gov)