



DNA Databank: Expansion of Misdemeanor Crimes

Study Highlights

January 2018

The Crime Commission voted unanimously to expand the number of misdemeanor crimes requiring a DNA sample submission upon conviction:

- Assault & battery (§ 18.2-57)
- Domestic assault & battery (§ 18.2-57.2)
- Trespassing (§ 18.2-119)
- Petit larceny (§ 18.2-96)
- Destruction of property (§ 18.2-137)
- Obstruction of justice (§ 18.2-460)
- Conceal merchandise/alter price tags (§ 18.2-103)

The Crime Commission also voted unanimously to require fingerprinting upon conviction for trespassing and disorderly conduct.

HB 1264 and 1266 and SB 565 and 566 were introduced during the 2018 Session of the General Assembly.

Nearly 70% of individuals convicted of a violent felony or certain burglary offense in 2016 had at least one prior misdemeanor conviction.

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<http://vscc.virginia.gov>

vsccinfo@vscc.virginia.gov

What are the study findings?

The Crime Commission received a letter from Speaker Howell and Delegates Toscano and Landes as a result of HJR711 requesting an examination of whether additional misdemeanors should be added to § 19.2-310.2, which requires adults to submit a DNA sample upon conviction for certain misdemeanor offenses. This statute currently requires that a DNA sample be submitted for 14 misdemeanors upon conviction. Staff identified 7 additional misdemeanor crimes most associated with violent felonies and certain burglary offenses that could be beneficial to add to this statute.

During the study, detailed prospective and retrospective analyses were completed. These analyses identified 7 misdemeanor crimes most associated with violent felonies and certain burglary offenses for a subset of offenders.

- Assault and battery convictions had the most compelling relationship with the violent felonies/certain burglary convictions in both analyses.
- Domestic assault and battery, trespassing, petit larceny, and destruction of property were also strongly associated in both analyses.
- Obstruction of justice and concealing merchandise/altering price tags showed a stronger association in the prospective analysis than the retrospective analysis.

Both data analyses can only be generalized to convictions in the stated time periods, rather than actual rates of offending, arrests, or charges.

Staff also discovered that trespassing and disorderly conduct convictions do not consistently appear on defendants' criminal histories because fingerprints are not specifically required for these two crimes. The Crime Commission unanimously endorsed both legislative recommendations as well as an administrative recommendation that DFS update their current training materials and provide adequate notice to law enforcement of any additional changes to the law before they become effective.

What are the benefits of including these 7 misdemeanors?

Adding these offenses will increase the number of samples in the DNA Databank, which in turn could lead to more investigations being aided, crimes solved, and innocent persons exonerated.

How many new DNA samples will be collected?

Based upon a review of conviction data, it is estimated that approximately 16,390 actual new samples will be entered by DFS annually.

Do any other states collect DNA for misdemeanor convictions?

Forty-two states and the District of Columbia collect DNA for certain sexual misdemeanor convictions. Twenty-six states, including Virginia, collect DNA for limited non-sexual misdemeanor convictions. Three states (New York, Utah, Wisconsin) collect DNA for large classes of misdemeanor offenses.