



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORENSIC SCIENCE

OFFICE OF THE DIRECTOR
A Nationally Accredited Laboratory

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NOTICE OF DFS POLICY CHANGE

To: All Agencies Served by the Department of Forensic Science (DFS) Laboratories

From: Linda C. Jackson, Director 

Date: June 23, 2020

RE: REINSTITUTION OF THE DFS POLICY REQUIRING A COURT ORDER FOR ANALYSIS IN SIMPLE POSSESSION OF MARIJUANA CASES

On January 24, 2020, DFS notified its customers (“Notice”) of the validation and implementation of its semi-quantitative method for *Cannabis sativa* plant material in all four of its laboratories. As part of that Notice, DFS rescinded its policy implemented in 2014, which required a court order for analysis before any plant material could be submitted to DFS in simple possession cases. Since the January Notice, the General Assembly passed and Governor Northam signed into law HB972 and SB2 (Acts of the Assembly Chapters 1285 and 1286), which decriminalize the simple possession of marijuana for adults and provide a civil penalty of no more than \$25. Under the new law, there is a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use.

For simple possession offenses occurring after July 1, 2020, DFS will be reinstating its policy requiring a court order under Virginia Code § 19.2-188.1(B) before plant material suspected to be marijuana can be submitted to DFS for analysis. As previously required, the court order must be submitted by law enforcement with the Request for Laboratory Examination (RFLE) and the plant material for testing. Court orders will not be required for cases involving juveniles or possession with intent to distribute. Law enforcement officers should note that the suspect is a juvenile or that the offense is possession with intent to distribute on the RFLE at submission.

As indicated in its Policy Notice dated May 23, 2019, DFS is not able to quantify the THC concentration of residues and is unable to distinguish whether any cannabinoids identified in residues are hemp-derived or marijuana-derived. Accordingly, residues should not be submitted for analysis unless drugs other than marijuana are suspected. In addition, DFS remains unable to distinguish between hemp-derived and marijuana-derived edibles.

For questions, please contact the Controlled Substances Section Supervisor at the DFS Laboratory that provides service to your agency:

- Central (Richmond) – John Przybylski – 804.588.4154
- Eastern (Norfolk) – Brian Meinweiser – 757.355.5958
- Northern (Manassas) – Jeana Rodenas – 703.334.9736
- Western (Roanoke) – Chris Bryant – 540.283.5927