

RULE REVIEW

Division of Criminal Justice Services

Pursuant to § 207 of the State Administrative Procedure Act, the Division of Criminal Justice Services hereby gives notice that the Division has concluded its review of rules which must be reviewed in calendar year 2010.

I.D. number: CJS-10-05-00001

Description of subject matter: Accreditation program for public forensic laboratories; amendment of 9 NYCRR section 6190.5(b).

Need for the rule: Section 6190.5 requires a forensic laboratory accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) to undergo an interim audit midway through the ASCLD/LAB five-year re-accreditation cycle. ASCLD/LAB offers two accreditation programs known as the International program and the Legacy program. Unlike the Legacy program, a laboratory accredited under the International program must undergo annual surveillance visits. The Commission on Forensic Science determined that these annual surveillance visits meet the intent of the interim audit requirement for laboratories accredited under the Legacy program and such laboratories need not conduct the interim audit. This rule clarifies that laboratories accredited under the International program need not undergo an interim audit.

Legal basis of the rule: Executive Law § § 837(13) and 995-b(1).

This rule is being continued without modification because it continues to address an important accreditation requirement. The Division is not aware of any problems or deficiencies with the rule. A summary of this rule was published in the State Register. The Division did not receive any public comments regarding this rule.

I.D. number: CJS-17-00-00006

Description of subject matter: Accreditation program for public forensic laboratories; amendment of 9 NYCRR Part 6190.

Need for the rule: Executive Law § 995-b(1) requires minimum standards and a program of accreditation for all forensic laboratories in New York State. This rule established a process for forensic laboratories to maintain their New York State accreditation, which would have expired on July 1, 2000 under the regulatory framework in place at the time.

Legal basis of the rule: Executive Law § 995-b(1).

This rule is being continued without modification because it continues to address an important accreditation requirement. The Division is not aware of any problems or deficiencies with the rule. A summary of this rule was published in the State Register. The Division did not receive any public comments regarding this rule.

I.D. number: CJS-17-00-00005

Description of subject matter: Peace officer registry; amendment of 9 NYCRR Part 6056.

Need for the rule: Executive Law § 845-a(4) requires the Division to establish and maintain a central state registry of peace officers and to empower the Division to promulgate rules and regulations governing the registry. The purpose of this rule was to ease reporting mandates by eliminating the requirement that peace officer employers

submit fingerprints of peace officers and report each peace officer's personal address and other related information with their submissions to the registry. The rule also changed references to the obsolete "Bureau for Municipal Police" to the Division of Criminal Justice Services.

Legal basis of the rule: Executive Law § 845-a(4).

This rule is being continued without modification because it allows the Division to implement Executive Law § 845-a(4) while providing flexibility to ease reporting mandates. The Division is not aware of any problems or deficiencies with the rule. A summary of this rule was published in the State Register. The Division did not receive any public comments regarding this rule.

I.D. number: CJS-18-00-00022

Description of subject matter: Notification of designated offenders; amendment of 9 NYCRR sections 6191.1 and 6191.3.

Need for the rule: Executive Law § 995-c(4) requires the Division to promulgate rules and regulations governing the procedures for notifying designated offenders of their requirement to provide a DNA sample for inclusion in the State DNA databank. This rule added references to designated offenders in the custody of the Office of Children and Family Services and the Division of Parole, who were previously omitted from the provisions of the rule. It also changed the specific requirement of providing a sample of "blood" to providing a "sample appropriate for DNA testing," thereby conforming the rule with statutory amendments to section 995-c(3) of the Executive Law. The rule also amended the definition of "designated offender" by referencing the definition of designated offender found in Executive Law section 995(7), thus eliminating the need to amend the regulation every time the statutory definition of designated offender was amended.

Legal basis of the rule: Executive Law § 995-c(4).

This rule is being continued without modification because it continues to provide a policy and framework for the operation of the State DNA Databank. The Division is not aware of any problems or deficiencies with the rule. A summary of this rule was published in the State Register. The Division did not receive any public comments regarding this rule.

I.D. number: CJS-06-00-00007

Description of subject matter: DNA databank; amendment of 9 NYCRR Part 6192 and addition of 9 NYCRR Part 6193.

Need for the rule: Executive Law § 995-c(1) empowers the commissioner of the Division of Criminal Justice Services to promulgate a rule governing the establishment of the State DNA identification index. This rule made various changes to the regulation initially promulgated by the commissioner in order to clarify and re-codify provisions.

Legal basis of the rule: Executive Law § 995-c(1).

This rule is being continued without modification because it continues to provide a policy and framework for the operation of the State DNA Databank. The Division is not aware of any problems or deficiencies with the rule. A summary of this rule was published in the

State Register. The Division did not receive any public comments regarding this rule.