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SENATE BILL NO. 348

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Armstrong
on March 7, 2000)

(Patron Prior to Substitute—Senator Mims)

A BILL to amend and reenact §§ 16.1-302.1 and 19.2-265.01 of the Code of Virginia, relating to right of victim to attend court proceedings.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-302.1 and 19.2-265.01 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-302.1. Right of victim or representative to attend certain proceedings; notice of hearings.

During proceedings involving petitions or warrants alleging that a juvenile is delinquent, including proceedings on appeal, a victim may remain in the courtroom *and shall not be excluded unless the court determines in its discretion, that the presence of the victim would impair the conduct of a fair trial.* In any such case involving a minor victim, the court may permit an adult chosen by the minor victim to be present in the courtroom during the proceedings in addition to or in lieu of the minor's parent or guardian.

However, if either the attorney for the Commonwealth or any defendant represents to the court that he intends to call as a material witness a victim or any adult chosen by a minor victim, the court, on motion, shall exclude that person from the proceedings.

The attorney for the Commonwealth shall give prior notice of any such proceedings and changes in the scheduling thereof to any known victim and to any known adult chosen in accordance with this section by a minor victim at the address or telephone number, or both, provided in writing by such persons.

§ 19.2-265.01. Victims, certain members of the family and support persons not to be excluded.

During the trial of every criminal case and in all court proceedings attendant to trial, whether before, during or after trial, including any proceedings occurring after an appeal by the defendant or the Commonwealth, at which attendance by the defendant is permitted, whether in a circuit or district court, any victim as defined in § 19.2-11.01 may remain in the courtroom and shall not be excluded unless the court determines, in its discretion, the presence of the victim would ~~substantially~~ impair the conduct of a fair trial. In any case involving a minor victim, the court may permit an adult chosen by the minor to be present in the courtroom during any proceedings in addition to or in lieu of the minor's parent or guardian.

The attorney for the Commonwealth shall give prior notice when practicable of such trial and attendant proceedings and changes in the scheduling thereof to any known victim and to any known adult chosen in accordance with this section by a minor victim, at the address or telephone number, or both, provided in writing by such person.