

2008 SESSION

HOUSE SUBSTITUTE

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HOUSE BILL NO. 1043

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 8, 2008)

(Patrons Prior to Substitute—Delegates Watts and Sherwood [HB 1488])

A BILL to amend and reenact § 19.2-9.1 of the Code of Virginia, relating to use of polygraph on sex offense victims.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-9.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-9.1. Written notice required for complaining witness who is requested to take polygraph test.

¶ A. For offenses not specified in subsection B, if a complaining witness is requested to submit to a polygraph examination during the course of a criminal investigation, such witness shall be informed in writing prior to the examination that (i) the examination is voluntary, (ii) the results thereof are inadmissible as evidence and (iii) the agreement of the complaining witness to submit thereto shall not be the sole condition for initiating or continuing the criminal investigation.

B. No law-enforcement officer, attorney for the Commonwealth, or other government official shall ask or require a victim of an alleged sex offense to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an offense. The refusal of a victim to submit to such an examination shall not prevent the investigation, charging, or prosecution of the offense.

C. A "sex offense," for the purposes of this section shall mean any offense set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

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