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HOUSE BILL NO. 953

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Delegate Iaquinto)

A BILL to amend the Code of Virginia by adding sections numbered 18.2-67.9:1 and 18.2-67.9:2, relating to videotaped statements as evidence for certain crimes against children.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 18.2-67.9:1 and 18.2-67.9:2 as follows:

§ 18.2-67.9:1. Use of videotaped statements of complaining witnesses as evidence.

A. In any criminal proceeding involving alleged abuse or neglect of a child pursuant to this article or Article 4 (§ 18.2-362 et seq.) of Chapter 8, a recording of a statement of the alleged victim of the offense, made prior to the proceeding, may be admitted, subject to other rules governing the admissibility of evidence, if the court determines that:

1. The alleged victim is 12 years of age or younger at the time the statement is made;

2. The recording has both a visual and an oral component, and every person appearing in, and every voice recorded on, the tape is identified;

3. The recording is on videotape or was recorded by other electronic means capable of making an accurate recording;

4. The recording has not been altered, except as may be directed by the court;

5. No attorney for any party to the proceeding was present when the statement was made;

6. The person conducting the interview of the alleged victim was a social worker as defined in § 54.1-3700, or a qualified forensic interviewer as defined in § 18.2-67.9:2;

7. All persons participating in or witnessing the interview are available to testify or be cross-examined at the proceeding when the recording is offered; and

8. The alleged victim testifies regarding the circumstances of the offense at the proceeding, either in person or by means of closed-circuit television.

B. Following the testimony of the alleged victim, either party may seek to introduce the recording. The alleged victim shall be subject to cross-examination.

C. A recorded statement may not be admitted under this section unless the proponent of the recording notifies the adverse party of his intent to offer the recording at least 30 days prior to the proceeding and the adverse party is given sufficient and timely opportunity to view the recording and make objections before it is shown at the proceeding. In the event that the defendant is a juvenile, the notice shall be provided at least 15 days prior to the proceeding.

D. Nothing in this section shall prevent either party from presenting otherwise admissible evidence.

§ 18.2-67.9:2. Forensic interviewer of children; qualification.

A. In order to serve as a qualified forensic interviewer of children, a person shall:

1. Possess a relevant educational and experiential background, evidenced by a college degree or work experience in a field related to sociology, social work, education, criminal justice, nursing, psychology, or counseling;

2. Complete a minimum of 25 hours of training in interviewing traumatized children; and

3. Demonstrate knowledge, through coursework, professional training, or experience, of investigations of child abuse and neglect, as well as knowledge of child development.

B. In order to remain qualified, a forensic interviewer shall complete a minimum of 20 hours of additional training every two years.

C. A forensic interviewer of children shall furnish to the court satisfactory evidence of his qualifications.