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**HOUSE BILL NO. 2363**

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-268.3, relating to hearsay exception regarding admissibility of prior inconsistent statements in criminal cases.*

Patron—Gilbert

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 19.2-268.3 as follows:**

*§ 19.2-268.3. Admissibility of prior inconsistent statements.*

*In all criminal cases, evidence of a statement made by a witness is not made inadmissible by the hearsay rule if the statement is inconsistent with his testimony at the hearing or trial, the witness is subject to cross-examination concerning the statement, and the statement:*

*1. Was made under oath at a trial, hearing, or other proceeding or narrates, describes, or the statement explains an event or condition of which the witness had personal knowledge; and*

*2. Is proved to have been written or signed by the witness or the witness acknowledged under oath the making of the statement either in his testimony at the hearing or trial in which the admission into evidence of the prior statement is being sought; or the statement is proved to have been accurately recorded by a tape recorder, videotape recording, or any other similar electronic means of sound recording.*

*Nothing in this section shall render a prior inconsistent statement inadmissible for purposes of impeachment because such statement was not recorded or otherwise fails to meet the criteria set forth herein.*

INTRODUCED

HB2363