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HOUSE BILL NO. 953

Offered January 9, 2008
Prefiled January 8, 2008

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

Patrons—Iaquinto, Athey, Carrico, Cole, Cosgrove, Lohr, Massie, Merricks, Saxman, Sherwood and Watts

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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 18.2-67.9:1 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 of this title, 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 requirements of subsection B are met and 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 in the interview room when the statement was made;

6. The person conducting the interview of the alleged victim was a mental health professional or mental service provider as defined in § 54.1-2400.1, or a social worker as defined in § 54.1-3700;

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

8. The alleged victim testifies 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, subject to the judge's discretion that the interview was administered in conformity with accepted professional standards of practice for interviews of child victims.

C. The recorded statement may be introduced for evidentiary purposes but may not be introduced as independent evidence of a crime.

D. 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 10 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. The attorney for the Commonwealth must disclose to the defendant the existence of any such recording and all exculpatory information contained therein.