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HOUSE BILL NO. 1126

Offered January 13, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-269.3, relating to protection of witness identity.*

Patron—Ramadan

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 19.2-269.3 as follows:****§ 19.2-269.3. Protection of witness identity.**

A. *If the attorney for the Commonwealth determines that it is necessary to protect the identity of a witness in a criminal case, the attorney for the Commonwealth may, at any time prior to trial, file a motion requesting that a witness be permitted to testify wearing a disguise designed to conceal the witness's identity, using a pseudonym, or both.*

B. *The attorney for the Commonwealth shall cause to be served on counsel of record for the defendant a copy of such motion. If the defendant objects to the motion, such objection shall be filed within 10 days after being served with a copy of the motion. If no timely objection to the motion is made by the defendant, the defendant shall be deemed to have waived any such objection. If the defendant makes a timely objection, the court shall hold an in camera hearing on the motion.*

C. *In determining whether to grant the motion, the court shall consider (i) whether protection of the identity of the witness is necessary to further an important public policy, including the protection of state or national security interests, the protection of identities of police informants or undercover officers or agents, or concerns for the life or safety of the witness, and (ii) whether the reliability of the evidence presented by the witness whose identity would be protected is otherwise assured as determined by the extent that the elements of the defendant's right to confront the witness are satisfied. Such elements are (a) the physical presence of the witness, (b) that the witness testifies under oath, (c) that the witness is subject to cross-examination, and (d) that the demeanor of the witness is observable by the defendant and the trier of fact. If the court grants the motion, the court shall make findings on the record or written findings of the basis for its decision under clauses (i) and (ii).*

INTRODUCED

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