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SENATE BILL NO. 341

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 13, 1994)

(Patron Prior to Substitute—Senator Benedetti)

A BILL to amend and reenact §§ 19.2-11.1 and 19.2-265.01 of the Code of Virginia, relating to assistance for juvenile victims and witnesses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-11.1 and 19.2-265.01 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-11.1. Establishment of crime victim-witness assistance programs; funding; minimum standards.

Any local governmental body which establishes, operates and maintains a crime victim and witness assistance program, whose funding is provided in whole or part by grants administered by the Department of Criminal Justice Services pursuant to § 9-173.3, shall observe the following guidelines:

1. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, prosecution or defense efforts, they shall be provided with information as to the level of protection available and be assisted in obtaining this protection from the appropriate authorities.

2. Victims shall be informed of financial assistance and social services available as a result of being a victim of a crime, including information on how to apply for assistance and services.

3. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation.

4. Victims shall be assisted, to the extent possible, in having any stolen property held by law-enforcement agencies for evidentiary purposes returned promptly.

5. Victims and witnesses shall be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

6. Victims and witnesses shall receive prompt advance notification, whenever possible, of judicial proceedings relating to their case.

7. Victims shall be assisted in seeking restitution in accordance with the laws of the Commonwealth where the offense results in damage, loss, or destruction of the property of the victim of the offense or in cases resulting in bodily injury or death to the victim.

8. Victims and witnesses shall be expeditiously notified by appropriate personnel of any changes in court dates.

9. Victims of crime shall be notified of alternatives available regarding the use of victim impact statements at sentencing and victim input in the parole process.

10. Victims and witnesses who are under the age of eighteen shall be entitled to have another person who is not a witness and who is chosen by the juvenile present at any judicial proceeding in which the juvenile must testify.

§ 19.2-265.01. Victims, certain members of the family and support persons not to be excluded.

In the trial of every criminal case, whether in a circuit or district court, any minor victim, his parents or guardians, and the parents and spouse of a homicide victim, may remain in the courtroom during the trial. In any case involving a minor victim, a person chosen by the minor may also be present in the courtroom during any proceedings in addition to or in lieu of the minor's parent or guardian unless the court finds that the presence of the person chosen would not be in the best interests of the minor.

However, if either the attorney for the Commonwealth or any defendant represents to the court that he intends to call any such person as a material witness, the court shall exclude that person from the trial.