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SENATE BILL NO. 1076

Offered January 9, 2019

Prefiled December 13, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-268.4, relating to admissibility of prior inconsistent statements in a criminal case.*

Patron—Howell

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 19.2-268.4 as follows:****§ 19.2-268.4. Admissibility of prior inconsistent statements.**

In all criminal cases, evidence of a statement made by a witness is admissible for the truth of the matter asserted if the statement is inconsistent with his testimony at the hearing or trial, the witness is subject to cross-examination concerning the statement by the party against whom it is being offered, and the statement:

1. Was made by the witness under oath at a trial, hearing, or other proceeding; or

2. Narrates, describes, or explains an event or condition of which the witness had personal knowledge and (i) the statement is proved to have been written or signed by the witness; (ii) the witness acknowledges under oath the making of the statement in his testimony at the hearing or trial in which the admission into evidence of the prior statement is being sought; or (iii) the statement is proved to have been accurately recorded by use of an audio recorder, a video/audio recorder, 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

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