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HOUSE BILL NO. 2066

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact § 16.1-247.1 of the Code of Virginia, relating to custodial interrogation of a child; statement of leniency.

Patron—Glass

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-247.1 of the Code of Virginia is amended and reenacted as follows:****§ 16.1-247.1. Custodial interrogation of a child; parental notification and contact; statement of leniency.**

A. Prior to any custodial interrogation of a child by a law-enforcement officer who has arrested such child pursuant to subsection C, C1, or D of § 16.1-246, the child's parent, guardian, or legal custodian shall be notified of his arrest and the child shall have contact with his parent, guardian, or legal custodian. The notification and contact required by this subsection may be in person, electronically, by telephone, or by video conference.

B. Notwithstanding the provisions of subsection A, a custodial interrogation may be conducted if (i) the child's parent, guardian, or legal custodian is a codefendant in the alleged offense; (ii) the child's parent, guardian, or legal custodian has been arrested for, has been charged with, or is being investigated for a crime against the child; (iii) if, after every reasonable effort has been made to comply with subsection A, the child's parent, guardian, or legal custodian cannot be located or refuses contact with the child; or (iv) if the law-enforcement officer conducting the custodial interrogation reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the law-enforcement officer's questions are limited to those that are reasonably necessary to obtain such information.

C. *Should any statement of leniency or release be made to a child prior to or during the interrogation of such child by a law-enforcement officer, it shall create a rebuttable presumption that the statement was not knowingly and voluntarily made. The Commonwealth may rebut this presumption by clear and convincing evidence that the statement was knowingly and voluntarily made. As used in this subsection, "statement of leniency or release" means any statement regarding (i) the types or number of charges; (ii) the length of custody; (iii) any condition of release; (iv) contact with such child's parent, guardian, or legal custodian; or (v) any other promise, condition, or fact, or any other factor that a court finds to have swayed the will of the child.*

INTRODUCED

HB2066