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HOUSE BILL NO. 2066
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)
(Patron Prior to Substitute--Delegate Glass)

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.

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.

26 C. If a child confesses to any criminal offense during a custodial interrogation, the prosecution
27 shall provide notice to the court and defense counsel of the intent to introduce such confession no less
28 than 10 days prior to trial. The judge shall hold a hearing to review the facts and circumstances surrounding
29 the confession, and such hearing may be held prior to or on the day of trial. If a statement of leniency or
30 release be made to such child prior to or during the interrogation of such child by a law-enforcement
31 officer or should any law-enforcement officer knowingly provide false information regarding evidence in
32 the case in an attempt to elicit a confession, it shall create a rebuttable presumption that the child's
33 confession was not knowingly and voluntarily made. The Commonwealth may rebut this presumption by
34 clear and convincing evidence that the confession was knowingly and voluntarily made. As used in this
35 subsection, "statement of leniency or release" means any statement regarding (i) the types or number of
36 charges; (ii) the length of custody; (iii) any condition of release; (iv) contact with such child's parent,
37 guardian, or legal custodian; or (v) any other promise, condition, or fact, or any other factor, that a court
38 finds to have swayed the will of the child.

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