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HOUSE BILL NO. 622

Offered January 12, 2022

Prefiled January 11, 2022

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

Patron—Hudson

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; advisement of rights.

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, (i) 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 and (ii) the child and, if no attorney is present and none of the exceptions to the notification requirement in subsection B apply, the child's parent, guardian, or legal custodian shall be advised that (a) the child has a right to remain silent; (b) any statement the child makes can and may be used against the child; (c) the child has a right to an attorney and that one will be appointed for the child if the child is not represented and wants representation; and (d) the child has a right to have his parent, guardian, custodian, or attorney present during any questioning. The notification and contact required by this subsection clause (i) may be in person, electronically, by telephone, or by video conference.

B. Notwithstanding the provisions of clause (i) 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. If a child indicates in any manner and at any stage of questioning during a custodial interrogation that he does not wish to be questioned further, the law-enforcement officer shall cease questioning.

D. Before admitting into evidence any statement made by a child during a custodial interrogation, the court shall find that the child knowingly, intelligently, and voluntarily waived his rights. No admission or confession made by a child younger than 16 years of age during a custodial interrogation may be admitted into evidence unless such admission or confession was made in the presence of the child's parent, guardian, custodian, or attorney.

INTRODUCED

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