

SENATE BILL NO. 746

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Senator Surovell)

A BILL to amend the Code of Virginia by adding a section numbered 19.2-268.4, relating to the prohibition of deceptive tactics during the custodial interrogation of a minor.

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. Prohibition of deceptive tactics during the custodial interrogation of a minor.

A. For purposes of this section:

"Custodial interrogation" means any interview conducted by a law-enforcement officer associated with an investigatory detention or an arrest during which the law-enforcement officer takes actions or asks questions that are reasonably likely to elicit responses from the person that could incriminate him.

"Deception" means the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law-enforcement officer to a subject of custodial interrogation.

"Minor" means a person who is younger than 18 years of age.

"Place of detention" means a police station, sheriff's office, jail, detention center, or other similar facility in which suspects may be detained.

B. Any communication made by a minor as a result of a custodial interrogation conducted at a place of detention on or after July 1, 2022, shall be presumed to be inadmissible as evidence against such minor making such statement in any adjudication of delinquency or criminal proceeding for an act that if committed by an adult would be a criminal offense if, during the custodial interrogation, a law-enforcement officer knowingly engages in deception.

C. The presumption of inadmissibility for such statement of a minor when such statement is procured through the knowing use of deception during a custodial interrogation at a place of detention

27 may be overcome if the statement was voluntarily given. The Commonwealth shall bear the burden of
28 proving that such a statement was voluntary by a preponderance of the evidence, based on the totality of
29 the circumstances.

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