

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 30<sup>th</sup> day of September, 2016.*

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective immediately.

Amend Rule 2:615 to read as follows:

**Rule 2:615. Exclusion of Witnesses (Rule 2:615(a) derived from Code §§ 8.01-375, 19.2-184, and 19.2-265.1; Rule 2:615(b) derived from Code § 8.01-375; and Rule 2:615(c) derived from Code § 19.2-265.1).**

(a) The court, in a civil or criminal case, may on its own motion and shall on the motion of any party, require the exclusion of every witness including, but not limited to, police officers or other investigators. The court may also order that each excluded witness be kept separate from all other witnesses. But each named party who is an individual, one officer or agent of each party which is a corporation, limited liability entity or association, an attorney alleged in a habeas corpus proceeding to have acted ineffectively, and in an unlawful detainer action filed in general district court, a managing agent as defined in § 55-248.4 shall be exempt from the exclusion as a matter of right.

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Add Rule 2:803.1 to read as follows:

**Rule 2:803.1. Statements by Child Describing Acts Relating to Offense Against Children (Derived from Code § 19.2-268.3).**

(a) Proof of an out-of-court statement made by a child who is under 13 years of age at the time of trial or hearing, and who is the alleged victim of an offense against children as provided in Code § 19.2-268.3(A), which statement describes any act directed against the child relating to

such alleged offense, shall not be excluded as hearsay under Rule 2:802 if both of the following apply:

(1) The court finds, in a hearing conducted prior to a trial, that the time, content, and totality of circumstances surrounding the statement provide sufficient indicia of reliability so as to render it inherently trustworthy. In determining such trustworthiness, the court may consider, among other things, the following factors:

- (i) The child's personal knowledge of the event;
- (ii) The age, maturity, and mental state of the child;
- (iii) The credibility of the person testifying about the statement;
- (iv) Any apparent motive the child may have to falsify or distort the event, including bias or coercion;
- (v) Whether the child was suffering pain or distress when making the statement; and
- (vi) Whether extrinsic evidence exists to show the defendant's opportunity to commit the act; and

(2) The child:

- (i) Testifies; or
- (ii) Is declared by the court to be unavailable as a witness; provided, however, that if the child has been declared unavailable, such statement may be admitted pursuant to this section only if there is corroborative evidence of the act relating to an alleged offense against children.

(b) At least 14 days prior to the commencement of the proceeding in which a statement will be offered as evidence, the party intending to offer the statement shall notify the opposing party, in writing, of the intent to offer the statement and shall provide or make available copies of the statement to be introduced.

(c) This provision shall not be construed to limit the admission of any statement offered under any other hearsay exception or applicable rule of evidence.

Amend Rule 7C:3 to read as follows:

**Rule 7C:3. The Complaint, Warrant, Summons and Capias.**

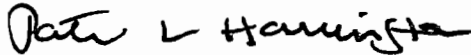
\* \* \*

(c) A separate warrant, summons or capias shall be issued for each charge, except as provided in §§ 33.2-503, 46.2-819.1, 46.2-819.3, and 46.2-819.3:1.

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A Copy,

Teste:



Clerk