

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 573

An Act to amend and reenact §§ 16.1-241.2, 16.1-263, 22.1-263, and 22.1-279.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.1, relating to compulsory school attendance enforcement; parental responsibility; use of contempt power summons; penalty.

[H 1326]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241.2, 16.1-263, 22.1-263, and 22.1-279.3 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 9 of Chapter 11 of Title 16.1 a section numbered 16.1-290.1 as follows:

§ 16.1-241.2. Proceedings against certain parents.

A. Upon the failure of a parent to comply with the provisions of § 22.1-279.3, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of § 22.1-279.3, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student ~~and~~, maintaining order, *or ensuring the child's school attendance*, and to discuss improvement of the child's behavior ~~and~~, *school attendance, or educational progress*, it may order the parent to so meet; or

2. If the court finds that the parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F of § 22.1-279.3, or upon the student receiving a second suspension or being expelled, it may order (i) the student or his parent to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, *including, but not limited to, extended day programs and summer school or other education programs and counseling*, or (ii) the student or his parent to be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent; in addition, the court may order the parent to pay a civil penalty not to exceed \$500.

The court ~~shall not~~ *may* use its contempt power to enforce any order entered under this section.

B. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court or its successor in interest in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior *and school attendance* of students as described in subdivision 2 of subsection G of § 22.1-279.3. Upon the failure to pay any civil penalties imposed by this section and § 22.1-279.3, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

C. For the purposes of this section and § 22.1-279.3, "parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

§ 16.1-263. Summonses.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the juvenile, if the juvenile is twelve or more years of age, and another to at least one parent, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not a parent of the juvenile in question, a parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

Any such summons shall be deemed a mandate of the court, and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment for contempt. Upon the failure of any person to appear as ordered in the summons, the court shall immediately issue an order for such person to show cause why he should not be held in contempt.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, at least one parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for support and treatment of the juvenile pursuant to § 16.1-290. Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to

time, date and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing a parent or parents, guardian or other custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

D. A party, other than the juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that (i) the identity of a parent or guardian is not reasonably ascertainable or (ii) in cases in which it is alleged that a juvenile has committed a delinquent act, crime, status offense or traffic infraction or is in need of services or supervision, the location, or in the case of a parent or guardian located outside of the Commonwealth the location or mailing address, of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. In cases referred to in clause (ii), an affidavit of a law-enforcement officer or juvenile probation officer that the location of a parent or guardian is not reasonably ascertainable shall be sufficient evidence of this fact, provided that there is no other evidence before the court which would refute the affidavit.

§ 16.1-290.1. Payment for court-ordered counseling, treatment or programs.

The court shall order the participant in any treatment, counseling or other program for the rehabilitation of a minor child or his family to pay as much of the applicable fee for participation as such person is able to pay. A finding of guilt shall not be required for the court so to order payment.

§ 22.1-263. Violation constitutes misdemeanor.

Any person violating the provisions of either § 22.1-254, except for clause (ii) of subsection A, §§ 22.1-255, 22.1-258, ~~or~~ § 22.1-267, *or the parental responsibility provisions relating to compulsory school attendance included in § 22.1-279.3*, shall be guilty of a Class 3 misdemeanor. Upon a finding that a person knowingly and willfully violated any provision of § 22.1-254, except for clause (ii) of subsection A, or any provision of §§ 22.1-255, 22.1-258, or § 22.1-267 and that such person has been convicted previously of a violation of any provision of § 22.1-254, except for clause (ii) of subsection A, or any provision of §§ 22.1-255, 22.1-258 or § 22.1-267, such person shall be guilty of a Class 2 misdemeanor.

§ 22.1-279.3. Parental responsibility and involvement requirements.

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and *compulsory school attendance* in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section ~~and~~; (ii) a copy of the school board's standards of student conduct; *and (iii) a copy of the compulsory school attendance law.* These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct ~~and~~, the notice of the requirements of this section, *and the compulsory school attendance law.* Each school shall maintain records of such signed statements.

D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, *to ensure the student's compliance with compulsory school attendance law*, and to discuss improvement of the child's behavior, *school attendance*, and educational progress.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal may notify the parents of any student who violates a school board policy *or the compulsory school attendance requirements* when such violation could result in the student's suspension *or the filing of a court petition*, whether or not the school administration has imposed such disciplinary action *or filed a petition*. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior *and ensuring compulsory school attendance compliance*; ~~and~~ (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; *and (iv) that a petition with the juvenile and domestic relations court may be filed under certain circumstances*

to declare the student a child in need of supervision.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior *or school attendance*, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or

2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order ~~(i)~~ the student or his parent, or both, to participate in such programs or such treatment, *including, but not limited to, extended day programs, summer school, other educational programs and counseling*, as the court deems appropriate to improve the student's behavior, ~~including~~ *or school attendance*. *The order may also require participation in a* parenting, counseling or a mentoring program, as appropriate or ~~(ii)~~ *that* the student or his parent, or both, ~~to~~ *shall* be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed \$500.

H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

I. All references in this section to the juvenile and domestic relations court shall be also deemed to mean any successor in interest of such court.