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HOUSE BILL NO. 480

Offered January 14, 2004

Prefiled January 13, 2004

A BILL to amend and reenact § 22.1-254.1 of the Code of Virginia, relating to testing of home-schooled children.

 Patron—Black

 Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-254.1 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.

A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday may elect to provide home instruction in lieu of school attendance if he (i) holds a baccalaureate degree in any subject from an accredited institution of higher education; or (ii) is a teacher of qualifications prescribed by the Board of Education; or (iii) has enrolled the child or children in a correspondence course approved by the Superintendent of Public Instruction; or (iv) provides a program of study or curriculum which, in the judgment of the division superintendent, includes the standards of learning objectives adopted by the Board of Education for language arts and mathematics and provides evidence that the parent is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum to be followed for the coming year and evidence of having met one of the criteria for providing home instruction as required by subsection A of this section. Effective July 1, 2000, parents electing to provide home instruction shall provide such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall comply with the requirements of this section within thirty days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on a battery of achievement tests which have been approved by the Board of Education for use in the public schools or (ii) an evaluation or assessment which, in the judgment of the division superintendent, indicates that the child is achieving an adequate level of educational growth and progress.

A student who receives home instruction, upon the written request of a parent, shall be permitted to take any or all of the battery of achievement tests that have been approved by the Board of Education for use in the public schools, including the Preliminary Scholastic Aptitude Test (PSAT) and Advanced Placement tests, onsite at a public school serving the area of the school division in which he resides, or at another public school nearest to his residence in the school division, if the examinations do not require one proctor for each child. The student shall take the same achievement tests, on the same scheduled testing dates, and under the same testing conditions as required of public school students. The tests shall be scored together with the tests of other students in the public schools in the manner prescribed by the school board. Such student shall be eligible to take any or all of the battery of achievement tests without charge; however, a school board may assess a charge for the administration of Advanced Placement tests in the amount charged to students enrolled in the public schools.

No parent or other nonschool personnel shall be permitted in the testing area during the administration of any such tests.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A of this section and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one

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59 probationary year. If the remediation plan and evidence are not accepted or the required evidence of
60 progress is not provided by August 1 following the probationary year, home instruction shall cease and
61 the parent shall make other arrangements for the education of the child which comply with § 22.1-254.
62 The requirements of subsection C shall not apply to children who are under the age of six as of
63 September 30 of the school year.

64 D. For purposes of this section, "parent" means the biological parent or adoptive parent, guardian or
65 other person having control or charge of a child.

66 Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school
67 attendance by reason of bona fide religious training or belief pursuant to § 22.1-254 B 1.

68 E. Any party aggrieved by a decision of the division superintendent may appeal his decision within
69 thirty days to an independent hearing officer. The independent hearing officer shall be chosen from the
70 list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements
71 of children with disabilities. The costs of the hearing shall be apportioned among the parties by the
72 hearing officer in a manner consistent with his findings.