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HOUSE BILL NO. 2879

Offered January 21, 2005

A *BILL to amend and reenact §§ 22.1-279.3:1, 22.1-279.6, and 22.1-279.8 of the Code of Virginia, relating to prevention of bullying and establishing guidelines for video monitoring in schools.*

 Patron—Marshall, R.G.

 Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-279.3:1, 22.1-279.6, and 22.1-279.8 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery ~~which~~ *that* results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students; *however, a copy of a concise description of the procedure for filing a juvenile petition and the process for contacting the local law-enforcement agency required by subsection F shall be attached to the notice to the parents.*

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement

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59 agency any incident described in clause (i) of subsection A.

60 *Further, except as may otherwise be required by federal law, regulation, or jurisprudence, the*
61 *principal shall also immediately report any act enumerated in clauses (ii) through (viii) of subsection A*
62 *that may constitute a criminal offense to the parents of any minor student who is responsible for or is*
63 *the object of such act. A copy of the concise description of the procedure for filing a juvenile petition*
64 *and for contacting the local law-enforcement agency required by subsection F shall be attached to the*
65 *report.*

66 E. *Notwithstanding the reporting required by subsection D, the principal shall notify the parents of*
67 *any minor student who is taken into the custody of or questioned by law-enforcement officers. No minor*
68 *student shall be questioned by a law-enforcement officer or be asked to give consent to a waiver of any*
69 *rights unless a parent, guardian, or lawyer representing the student is present.*

70 F. A statement providing a procedure and the purpose for the requirements of this section shall be
71 included in school board policies required by § 22.1-253.13:7, *including a concise description of the*
72 *procedure for filing a juvenile petition and for contacting the local law-enforcement agency to which*
73 *reports are submitted hereunder.*

74 The Board of Education shall promulgate regulations to implement this section, including, but not
75 limited to, establishing reporting dates and report formats.

76 FG. For the purposes of this section, "parent" or "parents" means any parent, guardian or other
77 person having control or charge of a child.

78 GH. This section shall not be construed to diminish the authority of the Board of Education or to
79 diminish the Governor's authority to coordinate and provide policy direction on official communications
80 between the Commonwealth and the United States government.

81 § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school
82 board regulations.

83 A. The Board of Education shall establish guidelines and develop model policies for codes of student
84 conduct to aid local school boards in the implementation of such policies. The guidelines and model
85 policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use
86 of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and
87 expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for
88 such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards,
89 consistent with state, federal and case laws, for school board policies on alcohol and drugs, hazing,
90 vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional
91 injury of others, self-defense, and dissemination of such policies to students, their parents, and school
92 personnel; ~~and~~ (iii) *procedures to prevent, prohibit, and control bullying, harassment, and intimidation;*
93 *and (iv) standards for in-service training of school personnel in and examples of the appropriate*
94 *management of student conduct and student offenses in violation of school board policies that shall*
95 *include notice of the presumption of innocence. The Board of Education shall also establish guidelines*
96 *for the use of video cameras in schools to monitor students, where appropriate, including in the course*
97 *of any police interview.*

98 In accordance with the most recent enunciation of constitutional principles by the Supreme Court of
99 the United States of America, the Board's standards for school board policies on alcohol and drugs and
100 search and seizure shall include guidance for procedures relating to voluntary and mandatory drug
101 testing in schools, including, but not limited to, which groups may be tested, use of test results,
102 confidentiality of test information, privacy considerations, consent to the testing, need to know, and
103 release of the test results to the appropriate school authority.

104 In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum
105 procedures that the school board may prescribe.

106 B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the
107 requirements of this section, regulations on codes of student conduct that are consistent with, but may be
108 more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes
109 of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially
110 review the model student conduct code to incorporate discipline options and alternatives to preserve a
111 safe, nondisruptive environment for effective teaching and learning.

112 Each school board shall include, in its code of student conduct, prohibitions against *bullying,*
113 *harassment, intimidation, hazing, and profane or obscene language or conduct.* School boards shall also
114 cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing
115 and imposes a Class 1 misdemeanor penalty for violations, i.e., confinement in jail for not more than 12
116 months and a fine of not more than \$2,500, either or both.

117 *School board policies relating to bullying, harassment, and intimidation shall include, but need not*
118 *be limited to, a definition, consistent with the definition provided in this subsection, of bullying,*
119 *intimidation, and harassment; a clear statement prohibiting such actions on school property or at*
120 *school-sponsored events; a procedure for reporting incidents; strategies for protecting any person who*

121 is the object of such actions; training for teachers, administrators, and other personnel on the
122 prevention and control of bullying, harassment, and intimidation; and a process for educating students
123 on bullying, harassment, and intimidation.

124 For the purposes of this section, "bullying, harassment, and intimidation" means any intentional
125 gesture, threat, verbal or physical act, or written statement that (i) harms a student, (ii) damages a
126 student's property, or (iii) places a student in reasonable fear of death or bodily injury.

127 A school board may regulate the use or possession of beepers or other portable communications
128 devices and laser pointers by students on school property or attending school functions or activities and
129 establish disciplinary procedures pursuant to this article to which students violating such regulations will
130 be subject.

131 Further, a school board may establish guidelines for the use of video cameras in schools to monitor
132 students, where appropriate, including in the course of any police interview.

133 Nothing herein shall be construed to require any school board to adopt policies requiring or
134 encouraging any drug testing in schools. However, a school board may, in its discretion, require or
135 encourage drug testing in accordance with the Board of Education's guidelines and model student
136 conduct policies required by subsection A and the Board's guidelines for student searches required by
137 § 22.1-279.7.

138 C. The Board of Education shall establish standards to ensure compliance with the federal Improving
139 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
140 § 22.1-277.07.

141 This subsection shall not be construed to diminish the authority of the Board of Education or to
142 diminish the Governor's authority to coordinate and provide policy direction on official communications
143 between the Commonwealth and the United States government.

144 § 22.1-279.8. School safety audits and school crisis and emergency management plans required.

145 A. For the purposes of this section, unless the context requires otherwise:

146 "School crisis and emergency management plan" means the essential procedures, operations, and
147 assignments required to prevent, manage, and respond to a critical event or emergency, including natural
148 disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water,
149 communications or shelter; bus or other accidents; medical emergencies; student or staff member deaths;
150 explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous
151 substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of
152 a student; hostage situations; violence on school property or at school activities; incidents involving acts
153 of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities.

154 "School safety audit" means a written assessment of the safety conditions in each public school to (i)
155 identify and, if necessary, develop solutions for physical safety concerns, including building security
156 issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property
157 or at school-sponsored events. Solutions and responses shall include recommendations for structural
158 adjustments, changes in school safety procedures, and revisions to the school board's standards for
159 student conduct.

160 B. The Superintendent of Public Instruction shall develop a list of items to be reviewed and
161 evaluated in the school safety audits required by this section. Each local school board shall require all
162 schools under its supervisory control to annually conduct school safety audits as defined in this section
163 and consistent with such list.

164 The results of such school safety audits shall be made public within 90 days of completion. The
165 local school board shall retain authority to withhold or limit the release of any security plans and
166 specific vulnerability assessment components as provided in subdivision 7 of § 2.2-3705.2. Each school
167 shall maintain a copy of the school safety audit, which may exclude such security plans and
168 vulnerability assessment components, within the office of the school principal and shall make a copy of
169 such report available for review upon written request.

170 Each school shall submit a copy of its school safety audit to the relevant school division
171 superintendent. The division superintendent shall collate and submit all such school safety audits to the
172 Virginia Center for School Safety.

173 C. The school board may establish a school safety audit committee to consist of representatives of
174 parents, teachers, local law-enforcement agencies, judicial and public safety personnel, and the
175 community at large. The school safety audit committee shall evaluate, in accordance with the directions
176 of the local school board, the safety of each school and submit a plan for improving school safety at a
177 public meeting of the local school board.

178 D. Each school board shall ensure that every school that it supervises shall develop a written school
179 crisis and emergency management plan, consistent with the definition provided in this section. The
180 Department of Education and the Virginia Center for School Safety shall provide technical assistance to
181 the school divisions of the Commonwealth in the development of the school crisis and emergency

182 management plans.

183 Upon consultation with local school boards, division superintendents, the Virginia Center for School
184 Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may
185 revise as it deems necessary, a model school crisis and emergency management plan for the purpose of
186 assisting the public schools in Virginia in developing viable, effective crisis and emergency management
187 plans. Such model shall set forth ~~recommended effective~~ *required* procedures, *including mandatory*
188 *periodic drills*, and means by which parents can *effectively* contact the relevant school or school division
189 regarding the location and safety of their school children and by which school officials ~~may~~ *shall*
190 contact parents, with parental approval, during a critical event or emergency.