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HOUSE BILL NO. 2879

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 2, 2005)

(Patron Prior to Substitute—Delegate Marshall, R. G.)

A *BILL to amend and reenact §§ 22.1-208.01, 22.1-279.3:1, and 22.1-279.6 of the Code of Virginia, relating to school board policies relating to bullying, harassment, and intimidation.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-208.01, 22.1-279.3:1, and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs, a character education program in its schools. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy, *and the inappropriateness of bullying, as defined in the Student Conduct Policy Guidelines adopted by the Board of Education pursuant to § 22.1-279.6*; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning.

This provision is intended to educate students regarding those core civic values and virtues which are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 7.1-26, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. To assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools, the Board of Education shall also establish, within the Department of Education, the Commonwealth Character Initiative. The Board shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Board may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Board of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs.

§ 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, *or stalking of any person as described in § 18.2-60.3*, 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

60 activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any
61 illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as
62 defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs,
63 as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii)
64 any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or
65 involving school property or school buses; or (viii) the arrest of any student for an incident occurring on
66 a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

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

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

83 The principal or his designee shall also notify the parent of any student involved in an incident
84 required pursuant to this section to be reported, regardless of whether disciplinary action is taken against
85 such student or the nature of the disciplinary action. Such notice shall relate to only the relevant
86 student's involvement and shall not include information concerning other students.

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

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

96 *Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall*
97 *also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may*
98 *constitute a criminal offense to the parents of any minor student who is the specific object of such act.*
99 *Further, the principal shall report that the incident has been reported to local law enforcement as*
100 *required by law and that the parents may contact local law enforcement for further information, if they*
101 *so desire.*

102 E. A statement providing a procedure and the purpose for the requirements of this section shall be
103 included in school board policies required by § 22.1-253.13:7.

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

106 F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person
107 having control or charge of a child.

108 G. This section shall not be construed to diminish the authority of the Board of Education or to
109 diminish the Governor's authority to coordinate and provide policy direction on official communications
110 between the Commonwealth and the United States government.

111 § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school
112 board regulations.

113 A. The Board of Education shall establish guidelines and develop model policies for codes of student
114 conduct to aid local school boards in the implementation of such policies. The guidelines and model
115 policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use
116 of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and
117 expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for
118 such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards,
119 consistent with state, federal and case laws, for school board policies on alcohol and drugs, hazing,
120 vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional
121 injury of others, self-defense, *bullying*, and dissemination of such policies to students, their parents, and

122 school personnel; and (iii) standards for in-service training of school personnel in and examples of the
123 appropriate management of student conduct and student offenses in violation of school board policies.

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

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

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

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

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

147 Nothing herein shall be construed to require any school board to adopt policies requiring or
148 encouraging any drug testing in schools. However, a school board may, in its discretion, require or
149 encourage drug testing in accordance with the Board of Education's guidelines and model student
150 conduct policies required by subsection A and the Board's guidelines for student searches required by
151 § 22.1-279.7.

152 C. The Board of Education shall establish standards to ensure compliance with the federal Improving
153 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
154 § 22.1-277.07.

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