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## SENATE BILL NO. 1290

Offered January 20, 2005

A *BILL to amend and reenact § 22.1-254 of the Code of Virginia, relating to compulsory school attendance.*

\_\_\_\_\_  
Patron—Hanger

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Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-254 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before ~~September 30~~ *July 31* of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational prekindergarten program, including a Head Start program, or in a private, denominational or parochial educational prekindergarten program.

Instruction in the home of a child or children by the parent, guardian or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. However, the requirements of this section shall (a) be satisfied for those persons 16 through 18 years of age who are housed in adult correctional facilities when such persons are actively pursuing a general educational development (GED) certificate but are not enrolled in an individual student alternative education plan pursuant to subsection D and (b) not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological, or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; and

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at

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59 such school.

60 D. Local school boards may allow the requirements of subsection A of this section to be met under  
61 the following conditions:

62 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's  
63 parents, and the principal or his designee of the school in which the student is enrolled in which an  
64 individual student alternative education plan shall be developed in conformity with guidelines prescribed  
65 by the Board, which plan must include:

66 a. Career guidance counseling;

67 b. Mandatory enrollment and attendance in a general educational development preparatory program or  
68 other alternative education program approved by the local school board with attendance requirements  
69 that provide for reporting of student attendance by the chief administrator of such GED preparatory  
70 program or approved alternative education program to such principal or his designee;

71 c. Counseling on the economic impact of failing to complete high school; and

72 d. Procedures for reenrollment to comply with the requirements of subsection A of this section.

73 A student for whom an individual student alternative education plan has been granted pursuant to this  
74 subsection and who fails to comply with the conditions of such plan shall be in violation of the  
75 compulsory school attendance law, and the division superintendent or attendance officer of the school  
76 division in which such student was last enrolled shall seek immediate compliance with the compulsory  
77 school attendance law as set forth in this article.

78 Students enrolled with an individual student alternative education plan shall be counted in the  
79 average daily membership of the school division.

80 E. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et  
81 seq.) of Chapter 14 of this title and upon a finding that a school-age child has been (i) charged with an  
82 offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons,  
83 alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that  
84 resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to  
85 the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended  
86 pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or  
87 § 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program  
88 as provided in § 22.1-209.1:2 or § 22.1-277.2:1.

89 F. Whenever a court orders any pupil into an alternative education program offered in the public  
90 schools, the local school board of the school division in which the program is offered shall determine  
91 the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the  
92 public schools it supervises or resides within its school division.

93 The juvenile and domestic relations district court of the county or city in which a pupil resides or in  
94 which charges are pending against a pupil, or any court in which charges are pending against a pupil,  
95 may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in  
96 injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any  
97 offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend  
98 an alternative education program, including, but not limited to, night school, adult education, or any  
99 other education program designed to offer instruction to students for whom the regular program of  
100 instruction may be inappropriate.

101 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or  
102 exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2.  
103 As used in this subsection, the term "charged" means that a petition or warrant has been filed or is  
104 pending against a pupil.

105 G. Within one calendar month of the opening of school, each school board shall send to the parents  
106 or guardian of each student enrolled in the division a copy of the compulsory school attendance law and  
107 the enforcement procedures and policies established by the school board.

108 H. The provisions of this article shall not apply to:

109 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

110 2. Children whose immunizations against communicable diseases have not been completed as  
111 provided in § 22.1-271.2;

112 3. Children under 10 years of age who live more than two miles from a public school unless public  
113 transportation is provided within one mile of the place where such children live;

114 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public  
115 school unless public transportation is provided within 1.5 miles of the place where such children live;  
116 and

117 5. Children excused pursuant to subsections B and C of this section.

118 Further, any child who will not have reached his sixth birthday on or before September 30 of each  
119 school year whose parent or guardian notifies the appropriate school board that he does not wish the  
120 child to attend school until the following year because the child, in the opinion of the parent or

121 guardian, is not mentally, physically or emotionally prepared to attend school, may delay the child's  
122 attendance for one year.

123 The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined  
124 from the child's residence to the entrance to the school grounds or to the school bus stop nearest the  
125 entrance to the residence of such children by the nearest practical routes which are usable for walking or  
126 riding. Disease shall be established by the certificate of a reputable practicing physician in accordance  
127 with regulations adopted by the Board of Education.

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