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HOUSE BILL NO. 347

Offered January 11, 2006

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A BILL to amend and reenact §§ 22.1-223, 22.1-254, and 22.1-254.2 of the Code of Virginia, relating to the General Educational Development program.

Patrons—Hamilton, Athey, Callahan, Dudley, Gear, Kilgore, Landes and Lingamfelter

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-223, 22.1-254, and 22.1-254.2 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-223. Definitions.

As used in this article:

"Adult basic education" means education for adults that enables them to express themselves orally and in writing, read, access information and resources, make decisions, act independently and interact with others, and continue lifelong learning to cope with and compete successfully in a global economy.

"Adult education program" means an instructional program below the college credit level provided by public schools for persons over the age of compulsory school attendance specified in § 22.1-254 who are not enrolled in the regular public school program, including adult basic education, credit programs, cultural adult education, external diploma programs, general adult education, and general educational development programs.

"Credit program" means a program of academic courses that are available to adults to enable them to complete the regular requirements for a high school diploma.

"Cultural adult education" means English for speakers of other languages (ESOL), the preparation of foreign-born adults for participation in American life or for becoming American citizens, and other educational services for foreign-born adults.

"External diploma program" means a program in which adults who did not complete high school may earn a high school diploma by demonstrating with 100 percent mastery the 65 competencies established and validated by the American Council on Education.

"General adult education" means academic, cultural, and avocational instruction that may be obtained through programs other than high school credit programs, a general educational development (GED) program, or an external diploma program (EDP).

"General educational development program" means a program of preparation and instruction for adults who did not complete high school ~~and~~, for ~~youth students~~ who have been granted permission by the ~~division~~ superintendent of the school ~~division~~ in which they are ~~or were last~~ enrolled to take the test for the general educational development certificate, ~~and for those who have been ordered by a court to participate in the program.~~

§ 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 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 pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten 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.

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

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

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

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

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

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

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

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

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

95 a. Career guidance counseling;

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

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

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

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

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

109 E. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et
110 seq.) of Chapter 14 of this title and upon a finding that a school-age child has been (i) charged with an
111 offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons,
112 alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that
113 resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to
114 the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended
115 pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or
116 § 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program
117 as provided in § 22.1-209.1:2 or § 22.1-277.2:1.

118 F. Whenever a court orders any pupil into an alternative education program, *including a program of*
119 *general educational development*, offered in the public schools, the local school board of the school
120 division in which the program is offered shall determine the appropriate alternative education placement

of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

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

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or 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. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

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

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

1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;

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

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

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

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

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

§ 22.1-254.2. Testing for general educational development; eligibility; guidelines.

A. The Board of Education shall establish a program of testing for general educational development (GED) through which persons may earn a high school equivalency certificate or a diploma as provided in subsection F of § 22.1-253.13:4. The following persons may participate in the testing program:

1. Persons who are at least 18 years of age and not enrolled in public school or not otherwise meeting the school attendance requirements set forth in § 22.1-254;

2. Persons 16 years of age or older who have been instructed by their parents in their home pursuant to § 22.1-254.1 and who have completed such home school instruction;

3. Persons who have been excused from school attendance pursuant to subsections B and C of § 22.1-254;

4. Persons for whom an individual student alternative education plan has been granted pursuant to subsection D of § 22.1-254; and

5. Persons 16 through 18 years of age who are housed in adult correctional facilities and who are actively pursuing a GED certificate but who are not enrolled in an individual student alternative education plan pursuant to subsection D of § 22.1-254;

6. *Persons 16 years of age or older who have been expelled from school pursuant to §§ 22.1-277.06 through 22.1-277.08; and*

7. *Persons required by court order to participate in the testing program.*

Under no circumstances shall persons under the age of 16 be eligible for the testing program.

B. From such funds as may be appropriated for this purpose, local school boards shall implement programs of preparation and testing for general educational development consistent with guidelines to be developed by the Board of Education. Such guidelines shall include a provision that allows preparatory and testing programs to be offered jointly by two or more school boards.