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HOUSE BILL NO. 2631

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 16.1-330.1 and 22.1-288.2 of the Code of Virginia, relating to student education records.

 Patron—Reid

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-330.1 and 22.1-288.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition; disclosure of information; penalty.

A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i) adjudicated delinquent or convicted of murder or attempted murder, armed robbery, any felony sexual assault or malicious wounding, or a felony violation of a gang-related crime pursuant to Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, or (ii) convicted at least three times for offenses which would be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or adjudications shall include only those for offenses occurring after July 1, 1993. However, any Serious or Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be deemed to have been established pursuant to this article and, notwithstanding the limitations of this subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed to state care pursuant to § 16.1-278.8 (14) or § 16.1-285.1 may continue to be supervised by SHOCAP until their twenty-first birthday.

B. The Serious or Habitual Offender Comprehensive Action Program (SHOCAP) is a multidisciplinary interagency case management and information sharing system which enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts. Each SHOCAP shall supervise serious or habitual juvenile offenders in the community as well as those under probation or parole supervision and enhance current conduct control, supervision and treatment efforts to provide a more coordinated public safety approach to serious juvenile crime, increase the opportunity for success with juvenile offenders and assist in the development of early intervention strategies.

C. Any county or city in the Commonwealth may by action of its governing body establish a SHOCAP committee. The committee shall consist of representatives from local law enforcement, schools, attorneys for the Commonwealth, juvenile court services, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice. Any county or city which establishes a SHOCAP committee shall, within 45 days of such action, notify the Department of Criminal Justice Services. The Department shall issue statewide SHOCAP guidelines and provide technical assistance to local jurisdictions on implementation of SHOCAP.

D. Each SHOCAP committee shall share among its members and with other SHOCAP committees otherwise confidential information on identified serious or habitual juvenile offenders. Every person, including members of the SHOCAP committee, who is to receive confidential information pursuant to this article shall maintain the confidentiality of that information.

All records and reports concerning serious or habitual juvenile offenders made available to members of a SHOCAP committee and all records and reports identifying an individual offender which are generated by the committee from such reports shall be confidential and shall not be disclosed, except as specifically authorized by this article or other applicable law. Disclosure of the information may be made to other staff from member agencies as authorized by the SHOCAP committee for the furtherance of case management, community supervision, conduct control and locating of the offender for the application and coordination of appropriate services. Staff from the member agencies who receive such information will be governed by the confidentiality provisions of this article. The staff from the member agencies who will qualify to have access to the SHOCAP information shall be limited to those individuals who provide direct services to the offender or who provide community conduct control and supervision to the offender.

Notwithstanding any other provision of law, school personnel are authorized to disclose identifying

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59 *information from a student's scholastic record for the purpose of furthering the ability of the juvenile*
60 *justice system to effectively serve the student prior to adjudication. Such disclosure may be made to*
61 *members of the SHOCAP committee and the staff of member agencies. Prior to the disclosure of any*
62 *such education records, the persons to whom the records are to be disclosed shall certify in writing to*
63 *the school officials that the information will not be disclosed to any other party, except as provided*
64 *under state law, without the prior written consent of the parent of the student.*

65 The provisions of this article authorizing information sharing between and among SHOCAP
66 committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11
67 of this title governing dissemination of court and law-enforcement records concerning juveniles, ~~(ii)~~
68 ~~Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii)~~ (ii)
69 Title 37.2 and any regulations enacted pursuant thereto governing access to juvenile mental health
70 records, and ~~(iv)~~ (iii) Title 63.2 and any regulations enacted pursuant thereto governing access to records
71 concerning treatments or services provided to a juvenile.

72 E. It shall be unlawful for any staff person from a member agency to disclose or to knowingly
73 permit, assist or encourage the unauthorized release of any identifying information contained in any
74 reports or records received or generated by a SHOCAP committee. A violation of this subsection shall
75 be punishable as a Class 3 misdemeanor.

76 § 22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement
77 information.

78 A. A division superintendent shall disseminate the notice or information regarding an adjudication of
79 delinquency or conviction for an offense listed in subsection G of § 16.1-260, contained in a notice
80 received by him pursuant to § 16.1-305.1 to school personnel responsible for the management of student
81 records and to other relevant school personnel, including, but not limited to, the principal of the school
82 in which the student is enrolled. The principal shall further disseminate such information to licensed
83 instructional personnel and other school personnel who (i) provide direct educational or support services
84 to the student and (ii) have a legitimate educational interest in such information.

85 B. A parent, guardian or other person having control or charge of a student in a public school and,
86 with consent of a parent or in compliance with a court order, the court in which the disposition was
87 rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon
88 which the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260
89 was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to
90 review, and to request an amendment of, the student's scholastic record, in accordance with regulations
91 of the Board of Education governing the management of scholastic records.

92 Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of
93 § 16.1-260 received by a superintendent, and information contained in the notice, which is not a
94 disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any
95 others to whom he disseminates it, separately from all other records concerning the student. However, if
96 the school administrators or the school board takes disciplinary action against a student based upon an
97 incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in
98 subsection G of § 16.1-260, the notice shall become a part of the student's disciplinary record.

99 C. When a superintendent receives notice of the filing of a petition from the intake officer in
100 accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction
101 with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide
102 information regarding the student's educational and attendance status to the intake officer or court
103 services unit, as the case may be. *In addition, school personnel are authorized to disclose identifying*
104 *information from a student's scholastic record for the purpose of furthering the ability of the juvenile*
105 *justice system to effectively serve the student prior to adjudication in accordance with § 16.1-330.1.*
106 Whenever a division superintendent receives notice of a student's commitment to the Department of
107 Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment
108 plan as provided in § 16.1-293.