

079029303

HOUSE BILL NO. 2932

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 22.1-3.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-18.2, relating to proof of immigration status.

Patrons—Miller, J.H. and Frederick

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-3.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-18.2 as follows:

§ 22.1-3.1. Birth certificates required upon admission; required notice to the local law-enforcement agency; proof of immigration status.

A. Except as otherwise provided in this subsection, no pupil shall be admitted for the first time to any public school in any school division in this Commonwealth unless the person enrolling the pupil shall present, upon admission, a certified copy of the pupil's birth record. The principal or his designee shall record the official state birth number from the pupil's birth record into the pupil's permanent school record. If a certified copy of the pupil's birth record cannot be obtained, the person so enrolling the pupil shall (i) submit an affidavit setting forth the pupil's age and explaining the inability to present a certified copy of the birth record, or (ii) *other proof of actual citizenship or immigration status under federal law*. If the school division cannot ascertain a child's age because of the lack of a birth certificate, the child shall nonetheless be admitted into the public schools if the division superintendent determines that the person submitting the affidavit presents information sufficient to estimate with reasonable certainty the age of such child.

Additionally, if upon review of the child's birth certificate, affidavit, or other immigration documents, it is determined that the child was born outside the United States, a parent, as defined in § 22.1-1, of the child shall present to the school within 30 days of the date of the child's enrollment, evidence of the actual citizenship or immigration status of the child's parent under federal law.

However, if the student seeking enrollment is a homeless child or youth as defined in § 22.1-3, the school shall immediately enroll such student, even if such student is unable to produce the records required for enrollment, and shall immediately contact the school last attended by the student to obtain relevant academic and other records, and shall comply with the provisions of the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.), including immediately referring the parent of the student or the youth to the local school division liaison, as described in the federal Act, who shall assist in obtaining the necessary records for enrollment.

B. Upon the failure of any person enrolling a pupil to present a certified copy of the pupil's birth record, the principal of the school in which the pupil is being enrolled or his designee shall immediately notify the local law-enforcement agency. The notice to the local law-enforcement agency shall include copies of the submitted proof of the pupil's identity and age and the affidavit explaining the inability to produce a certified copy of the birth record.

C. Within 14 days after enrolling a transferred pupil, the principal of the school in which the pupil has been enrolled or his designee shall request that the principal or his designee of the school in which the pupil was previously enrolled submit documentation that a certified copy of the pupil's birth record was presented upon the pupil's initial enrollment.

D. Principals and their designees shall be immune from any civil or criminal liability in connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate or failure to give such notice as required by this section.

E. Each school shall submit an annual report to the Board of Education listing all of the information obtained regarding immigration status, pursuant to subsection A. Disclosure of personal student information shall be unlawful except for purposes permitted pursuant to 8 U.S.C. 1373 of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended. A school may not prohibit any child from enrolling because of the failure of a parent, as defined in § 22.1-1, to comply with the immigration status requirement; however, the school shall report the names and addresses of all such persons to the Board of Education, which shall maintain a comprehensive list containing the names and addresses of those failing to comply, for inspection by law-enforcement officers and federal immigration officers for any lawful purpose.

INTRODUCED

HB2932

59 § 22.1-18.2. *Annual report on enrollment data.*

60 *The Board of Education shall submit an annual report to the Secretary of Education on the impact*
61 *of the quality of education provided to children who are lawful residents of Virginia because of the*
62 *enrollment of children who are not lawfully present in the United States. The report shall provide data,*
63 *aggregated by school, on the number of citizens and noncitizens by immigration classification,*
64 *participating in the English as a Second Language Programs.*