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**HOUSE BILL NO. 1242**

Offered January 9, 2008

Prefiled January 9, 2008

*A BILL to amend and reenact §§ 22.1-296.4, 22.1-307, and 63.2-1505 of the Code of Virginia, relating to complaints of physical or sexual abuse against certain school employees.*

Patrons—Bell, Albo, Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Gilbert, Lingamfelter, Massie, Merricks, Morgan, Poindexter and Sherwood

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-296.4, 22.1-307, and 63.2-1505 of the Code of Virginia are amended and reenacted as follows:**

§ 22.1-296.4. Child abuse and neglect data required.

A. On and after July 1, 1997, every school board shall require, as a condition of employment, that any applicant who is offered or accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515. *In the case of an applicant from another state, the school board shall take reasonable steps to determine whether the applicant is the subject of a founded complaint of child abuse and neglect in such state.* The school board shall ensure that all such searches are requested in conformance with the regulations of the Board of Social Services. The applicant may be required to pay the cost of the search at the discretion of the school board. From such funds as may be available for this purpose, however, the school board may pay for the search.

The Department of Social Services shall respond to such request by the school board in cases where there is no match within the central registry regarding applicants for employment within ten business days of receipt of such request. In cases where there is a match within the central registry regarding applicants for employment, the Department of Social Services shall respond to such request by the school board within thirty business days of receipt of such request. The response may be by first-class mail or facsimile transmission.

B. *If the response obtained pursuant to Subsection A indicates that the applicant is the subject of a founded case of physical or sexual abuse of a child, such applicant shall be denied employment.*

C. If an applicant is denied employment because of information appearing on his record in the registry, the school board shall provide a copy of the information obtained from the registry to the applicant. The information provided to the school board by the Department of Social Services shall be confidential and shall not be disseminated by the school board.

§ 22.1-307. Dismissal, etc., of teacher; grounds.

A. Teachers may be dismissed or placed on probation for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude or other good and just cause. *A teacher shall be dismissed for a founded complaint of physical or sexual abuse of a child, pursuant to § 63.2-1505.* No teacher shall be dismissed or placed on probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by the school board.

B. For the purposes of this article, "incompetency" may be construed to include, but shall not be limited to, consistent failure to meet the endorsement requirements for the position or performance that is documented through evaluation to be consistently less than satisfactory.

§ 63.2-1505. Investigations by local departments.

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
5. Whether abuse or neglect has occurred;
6. If abuse or neglect has occurred, who abused or neglected the child; and
7. A finding of either founded or unfounded based on the facts collected during the investigation.

58 B. If the local department responds to the report or complaint by conducting an investigation, the  
59 local department shall:

60 1. Make immediate investigation and, if the report or complaint was based upon one of the factors  
61 specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to  
62 § 16.1-241.3;

63 2. Complete a report and transmit it forthwith to the Department, except that no such report shall be  
64 transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in  
65 subsection B of § 63.2-1509 and the mother sought substance abuse counseling or treatment prior to the  
66 child's birth;

67 3. Consult with the family to arrange for necessary protective and rehabilitative services to be  
68 provided to the child and his family;

69 4. Petition the court for services deemed necessary including, but not limited to, removal of the child  
70 or his siblings from their home;

71 5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a  
72 report to such effect to the Department and to the person who is the subject of the investigation.  
73 However, upon written justification by the local department, such determination may be extended, not to  
74 exceed a total of 60 days. If through the exercise of reasonable diligence the local department is unable  
75 to find the child who is the subject of the report, the time the child cannot be found shall not be  
76 computed as part of the 45-day or 60-day period and documentation of such reasonable diligence shall  
77 be placed in the record; and

78 6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant  
79 and parent or guardian and the person responsible for the care of the child in those cases where such  
80 person was suspected of abuse or neglect.

81 7. *If a report of abuse or neglect involving sexual abuse of a child is founded, and the subject of the*  
82 *report is a full-time, part-time, permanent or temporary employee of a school board located within the*  
83 *Commonwealth, notify that school board of the founded complaint.*

84 C. Each local board may obtain and consider, in accordance with regulations adopted by the Board,  
85 statewide criminal history record information from the Central Criminal Records Exchange and results of  
86 a search of the child abuse and neglect central registry of any individual who is the subject of a child  
87 abuse or neglect investigation conducted under this section when there is evidence of child abuse or  
88 neglect and the local board is evaluating the safety of the home and whether removal will protect a  
89 child from harm. The local board also may obtain such a criminal records or registry search on all adult  
90 household members residing in the home where the individual who is the subject of the investigation  
91 resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with  
92 such removal, a court may admit such information as evidence. Where the individual who is the subject  
93 of such information contests its accuracy through testimony under oath in hearing before the court, no  
94 court shall receive or consider the contested criminal history record information without certified copies  
95 of conviction. Further dissemination of the information provided to the local board is prohibited, except  
96 as authorized by law.