

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 597

An Act to amend and reenact §§ 22.1-258 and 22.1-261 of the Code of Virginia, relating to school attendance officers; notification of student nonattendance.

[S 196]

Approved April 11, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-258 and 22.1-261 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent *or his designee* shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by *either the school principal or his designee, the attendance officer*, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee *or the attendance officer* shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, ~~by the attendance officer~~ to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The *school principal or his designee or the attendance officer*, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent an additional day after direct contact with the pupil's parent and the attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence, *either the school principal or his designee or the attendance officer* shall schedule a conference within ~~ten~~ 10 school days with the pupil, his parent, and school personnel, which conference may include other community service providers, to resolve issues related to the pupil's nonattendance. The conference shall be held no later than ~~fifteen~~ 15 school days after the sixth absence. Upon the next absence by such pupil without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall notify the attendance officer or the division superintendent *or his designee*, as the case may be, who shall enforce the provisions of this article by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

The attendance officer or the division superintendent *or his designee* shall check the reports submitted pursuant to subsection A of § 22.1-260 with the last school census and with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent *or his designee* shall, within five days after

receiving all reports submitted pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.