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HOUSE BILL NO. 1748

Offered January 12, 2011

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A BILL to amend and reenact §§ 22.1-208.01, 22.1-253.13:5, 22.1-276.01, 22.1-279.3:1, and 22.1-279.6 of the Code of Virginia, relating to bullying in public schools.

Patrons—Plum and Kory

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-208.01, 22.1-253.13:5, 22.1-276.01, 22.1-279.3:1, and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs, a character education program in its schools. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in the Student Conduct Policy Guidelines adopted by the Board of Education pursuant to § 22.1-279.6 as defined in § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues which are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. To assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools, the Board of Education shall also establish, within the Department of Education, the Commonwealth Character Initiative. The Board shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Board may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Board of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs.

§ 22.1-253.13:5. Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, administrator, and superintendent evaluations shall be consistent with the performance objectives included in the Guidelines for Uniform Performance Standards and Evaluation

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59 Criteria for Teachers, Administrators, and Superintendents. Teacher evaluations shall include regular
60 observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall
61 include identification of areas of individual strengths and weaknesses and recommendations for
62 appropriate professional activities.

63 C. The Board of Education shall provide guidance on high-quality professional development for (i)
64 teachers, principals, supervisors, division superintendents and other school staff; (ii) administrative and
65 supervisory personnel in the evaluation and documentation of teacher and administrator performance
66 based on student academic progress and the skills and knowledge of such instructional or administrative
67 personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv)
68 programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia
69 Department for the Blind and Vision Impaired.

70 The Board shall also provide technical assistance on high-quality professional development to local
71 school boards designed to ensure that all instructional personnel are proficient in the use of educational
72 technology consistent with its comprehensive plan for educational technology.

73 D. Each local school board shall require (i) its members to participate annually in high-quality
74 professional development activities at the state, local, or national levels on governance, including, but
75 not limited to, personnel policies and practices; curriculum and instruction; use of data in planning and
76 decision making; and current issues in education as part of their service on the local board and (ii) the
77 division superintendent to participate annually in high-quality professional development activities at the
78 local, state or national levels.

79 E. Each local school board shall provide a program of high-quality professional development (i) in
80 the use and documentation of performance standards and evaluation criteria based on student academic
81 progress and skills for teachers and administrators to clarify roles and performance expectations and to
82 facilitate the successful implementation of instructional programs that promote student achievement at
83 the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and
84 principals in acquiring the skills needed to work with gifted students, students with disabilities, and
85 students who have been identified as having limited English proficiency and to increase student
86 achievement and expand the knowledge and skills students require to meet the standards for academic
87 performance set by the Board of Education; (iii) in educational technology for all instructional personnel
88 which is designed to facilitate integration of computer skills and related technology into the curricula;
89 ~~and~~ (iv) *on bullying prevention for all instructional personnel*; and (v) for administrative personnel
90 designed to increase proficiency in instructional leadership and management, including training in the
91 evaluation and documentation of teacher and administrator performance based on student academic
92 progress and the skills and knowledge of such instructional or administrative personnel.

93 In addition, each local school board shall also provide teachers and principals with high-quality
94 professional development programs each year in (i) instructional content; (ii) the preparation of tests and
95 other assessment measures; (iii) methods for assessing the progress of individual students, including
96 Standards of Learning assessment materials or other criterion-referenced tests that match locally
97 developed objectives; (iv) instruction and remediation techniques in English, mathematics, science, and
98 history and social science; (v) interpreting test data for instructional purposes; (vi) technology
99 applications to implement the Standards of Learning; and (vii) effective classroom management.

100 F. Schools and school divisions shall include as an integral component of their comprehensive plans
101 required by § 22.1-253.13:6, high-quality professional development programs that support the
102 recruitment, employment, and retention of qualified teachers and principals. Each school board shall
103 require all instructional personnel to participate each year in these professional development programs.

104 G. Each local school board shall annually review its professional development program for quality,
105 effectiveness, participation by instructional personnel, and relevancy to the instructional needs of
106 teachers and the academic achievement needs of the students in the school division.

107 § 22.1-276.01. Definitions.

108 A. For the purposes of this article, unless the context clearly indicates otherwise:

109 "Alternative education program" shall include, but shall not be limited to, night school, adult
110 education, or any other education program designed to offer instruction to students for whom the regular
111 program of instruction may be inappropriate.

112 "*Bullying*" means the repeated use by one or more students of a written, verbal or electronic
113 expression or a physical act or gesture directed at a victim that (i) causes physical or emotional harm
114 to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to
115 himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv)
116 infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education
117 process or the orderly operation of a school. "*Bullying*" shall include cyberbullying.

118 "*Cyberbullying*" means bullying through the use of technology or any electronic communication,
119 which shall include any transfer of signs, signals, writing, images, sounds, data or intelligence of any
120 nature transmitted by a wire, radio, electromagnetic, photo electronic or photo optical system.

Cyberbullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person; (ii) the knowing impersonation of another person as the author of posted content or messages; or (iii) the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium accessible by more than one person, provided such behavior meets the definition of bullying.

"Disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than thirty calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed ten school days.

B. For the purposes of §§ 22.1-277, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.2, and 22.1-277.2:1, "superintendent's designee" means a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor; or (ix) the bullying of any student as defined in § 22.1-276.01.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall

182 annually report all such incidents to the Department of Education for the purpose of recording the
183 frequency of such incidents on forms that shall be provided by the Department and shall make such
184 information available to the public.

185 In submitting reports of such incidents, principals and division superintendents shall accurately
186 indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be
187 reported by such authorities pursuant to subsection B.

188 A division superintendent who knowingly fails to comply or secure compliance with the reporting
189 requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who
190 knowingly fails to comply or secure compliance with the reporting requirements of this section shall be
191 subject to sanctions prescribed by the local school board, which may include, but need not be limited to,
192 demotion or dismissal.

193 The principal or his designee shall also notify the parent of any student involved in an incident
194 required pursuant to this section to be reported, regardless of whether disciplinary action is taken against
195 such student or the nature of the disciplinary action. Such notice shall relate to only the relevant
196 student's involvement and shall not include information concerning other students.

197 Whenever any student commits any reportable incident as set forth in this section, such student shall
198 be required to participate in such prevention and intervention activities as deemed appropriate by the
199 superintendent or his designee. Prevention and intervention activities shall be identified in the local
200 school division's drug and violence prevention plans developed pursuant to the federal Improving
201 America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

202 D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal
203 shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through
204 (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement
205 agency any incident described in clause (i) of subsection A.

206 Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall
207 also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may
208 constitute a criminal offense to the parents of any minor student who is the specific object of such act.
209 Further, the principal shall report that the incident has been reported to local law enforcement as
210 required by law and that the parents may contact local law enforcement for further information, if they
211 so desire.

212 E. A statement providing a procedure and the purpose for the requirements of this section shall be
213 included in school board policies required by § 22.1-253.13:7.

214 The Board of Education shall promulgate regulations to implement this section, including, but not
215 limited to, establishing reporting dates and report formats.

216 F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person
217 having control or charge of a child.

218 G. This section shall not be construed to diminish the authority of the Board of Education or to
219 diminish the Governor's authority to coordinate and provide policy direction on official communications
220 between the Commonwealth and the United States government.

221 § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school
222 board regulations.

223 A. The Board of Education shall establish guidelines and develop model policies for codes of student
224 conduct to aid local school boards in the implementation of such policies. The guidelines and model
225 policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use
226 of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and
227 expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for
228 such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards,
229 consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related
230 activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with
231 disabilities, intentional injury of others, self-defense, bullying, ~~the use of electronic means for purposes~~
232 ~~of cyberbullying~~, harassment, and intimidation, and dissemination of such policies to students, their
233 parents, and school personnel; and (iii) standards for in-service training of school personnel in and
234 examples of the appropriate management of student conduct and student offenses in violation of school
235 board policies.

236 In accordance with the most recent enunciation of constitutional principles by the Supreme Court of
237 the United States of America, the Board's standards for school board policies on alcohol and drugs and
238 search and seizure shall include guidance for procedures relating to voluntary and mandatory drug
239 testing in schools, including, but not limited to, which groups may be tested, use of test results,
240 confidentiality of test information, privacy considerations, consent to the testing, need to know, and
241 release of the test results to the appropriate school authority.

242 In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum
243 procedures that the school board may prescribe.

244 B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the
245 requirements of this section, regulations on codes of student conduct that are consistent with, but may be
246 more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes
247 of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially
248 review the model student conduct code to incorporate discipline options and alternatives to preserve a
249 safe, nondisruptive environment for effective teaching and learning.

250 Each school board shall include, in its code of student conduct, prohibitions against bullying, hazing,
251 and profane or obscene language or conduct. School boards shall also cite, in their codes of student
252 conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1
253 misdemeanor penalty for violations, i.e., confinement in jail for not more than 12 months and a fine of
254 not more than \$2,500, either or both. *Any principal or school administrator who fails to comply with the*
255 *procedures set out in the code of student conduct shall be subject to discipline.*

256 A school board may regulate the use or possession of beepers or other portable communications
257 devices and laser pointers by students on school property or attending school functions or activities and
258 establish disciplinary procedures pursuant to this article to which students violating such regulations will
259 be subject.

260 Nothing herein shall be construed to require any school board to adopt policies requiring or
261 encouraging any drug testing in schools. However, a school board may, in its discretion, require or
262 encourage drug testing in accordance with the Board of Education's guidelines and model student
263 conduct policies required by subsection A and the Board's guidelines for student searches required by
264 § 22.1-279.7.

265 C. The Board of Education shall establish standards to ensure compliance with the federal Improving
266 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
267 § 22.1-277.07.

268 This subsection shall not be construed to diminish the authority of the Board of Education or to
269 diminish the Governor's authority to coordinate and provide policy direction on official communications
270 between the Commonwealth and the United States government.