

11100039D

**HOUSE BILL NO. 1775**

Offered January 12, 2011

Prefiled January 11, 2011

*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 2.2-208.01, relating to the immigration status of the parents of enrolled students.*

Patrons—Gilbert, Cole, Cosgrove, Cox, M.K., Landes, Oder, Pogge and Poindexter

Referred to Committee for Courts of Justice

**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 2.2-208.01 as follows:**

*§ 2.2-208.01. Annual legislative report on enrollment data.*

*On or before November 30 of each year, the Secretary shall submit an annual report to the Governor and the General Assembly on the number of children whose parents lack citizenship or lawful immigration status documentation attending public schools in the Commonwealth and the approximate cost of such students' education. The report shall aggregate the information by school division.*

*§ 22.1-3.1. Birth certificates required upon admission; required notice to the local law-enforcement agency.*

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 and may retain a copy in 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 submit an affidavit setting forth the pupil's age and explaining the inability to present a certified copy of the birth record. 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, the person enrolling the pupil shall indicate on the official enrollment paperwork the citizenship or immigration status of the child's parents under federal law. The children of parents lacking citizenship or lawful immigration status documentation shall nonetheless be admitted into the public schools.*

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. On or before September 15 of each year, each school shall submit an annual report to the Secretary of Education listing all of the information obtained regarding immigration status pursuant to subsection A, specifically information on the parents of enrolled pupils who lack citizenship or lawful*

INTRODUCED

HB1775

**59** *immigration status documentation. Disclosure of such information shall be unlawful except for purposes*  
**60** *pursuant to § 2.2-208.01.*