11101865D

SENATE BILL NO. 1094

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 22.1-79.3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 2 of Title 32.1 an article numbered 15, consisting of a section numbered 32.1-73.8, relating to youth health risk behavior survey.

Patron—Hanger

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-79.3 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 2 of Title 32.1 an article numbered 15, consisting of a section numbered 32.1-73.8, as follows:

§ 22.1-79.3. Policies regarding certain activities.

A. No later than January 1, 2001, local school boards shall develop and implement policies to ensure that public school students are not required to convey or deliver any materials that (i) advocate the election or defeat of any candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii) advocate the passage or defeat of any matter pending before a local school board, local governing body or the General Assembly of Virginia or the Congress of the United States.

This section shall not be construed to prohibit the discussion or use of political or issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of informational materials.

B. Local school boards shall develop and implement policies to prohibit the administration of questionnaires or surveys to public school students during the regular school day or at school-sponsored events without written, informed parental consent for the student's participation when participation in such questionnaire or survey may subsequently result in the sale for commercial purposes of personal information regarding the individual student. In any case in which a questionnaire or survey requesting sexual information of students is to be administered, the school board shall notify the parent concerning the administration of such questionnaire or survey in writing not less than 30 days prior to its administration. The notice shall inform the parent regarding the nature and types of questions included in the questionnaire or survey, the purposes and age-appropriateness of the survey, and whether and how any findings or results will be disclosed. Parents shall have the right to review the questionnaire or survey and to exempt their child from participating in the survey. However, no questionnaire or survey requesting sexual information of a student shall be administered to any student in kindergarten through grade six and, unless required by federal or state law or regulation, school personnel administering any such questionnaire or survey shall not disclose personally identifiable information.

C. *Local school boards shall develop and implement policies to notify parents of each student enrolled in a middle or high school selected for participation in the annual survey of student health risk behaviors pursuant to § 32.1-73.8, in writing and at least 30 days prior to administration of the survey, that their child may be required to participate in the survey unless the parent denies consent for the student's participation in writing prior to administration of the survey. The notice shall inform the parent regarding the nature and types of questions included in the survey, the purposes and age-appropriateness of the survey, how information collected by the survey will be used, who will have access to such information, whether and how any findings or results will be disclosed, and the steps that will be taken to protect students' privacy. Parents shall have the right to review the survey prior to administration of the survey.*

D. Local school boards shall develop and implement policies to advise the parent of each student enrolled in the school division of the availability of information in the Sex Offender and Crimes Against Minors Registry and the location of the Internet website. Local school boards shall also develop protocols governing the release of children to persons who are not their parent.

~~D.~~*E.* No local school board providing access and opportunity to use school facilities or to distribute literature may deny equal access or fair opportunity to use such school facilities or to distribute literature, or otherwise discriminate against the Boy Scouts of America or the Girl Scouts of the USA.

Nothing in this subsection shall be construed to require any school or school division to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from school board policies governing access to and use of school facilities and distribution of literature.

~~E.~~*F.* Local school boards shall develop and implement policies to allow a parent of twins or higher

order multiples in the same grade level to request that the children be placed in the same classroom or in separate classrooms if they are at the same elementary school. Such policies shall also provide that: (i) schools may recommend classroom placement to the parent; (ii) schools must provide the placement requested by the children's parent, unless the division superintendent or his designee makes a classroom placement determination following the school principal's request in accordance with this subsection; (iii) a parent must request the classroom placement no later than 3 days after the first day of each school year or 3 days after the first day of attendance of the children during a school year; and (iv) at the end of the initial grading period, if the school principal, in consultation with the children's classroom teacher, determines that the requested classroom placement is disruptive to the school or is harmful to the children's educational progress, the school principal may request that the division superintendent or his designee determine the children's classroom placement.

Article 15.

Youth Health Risk Behavior Survey.

§ 32.1-73.8. Youth health risk behavior survey.

The Department shall, in cooperation with the Department of Behavioral Health and Developmental Services and the Superintendent of Public Education, develop and administer a survey of students to facilitate planning and implementation of effective programs for the prevention of substance abuse through collection of data and information to (i) identify trends in the use of alcohol, tobacco, and other drugs and (ii) assess the prevalence of risk and protective factors among the youth of the Commonwealth. In developing such survey, the Department may utilize all or part of an existing survey designed to collect such information developed by the Centers for Disease Control and Prevention. The survey shall be administered annually, and shall be anonymous and administered in a manner designed to protect students' privacy. The Department shall randomly select schools for participation in the survey each year. Schools selected to participate in the survey shall notify students and parents pursuant to § 22.1-79.3. A student whose parents have refused to consent to the student's participation in the survey as provided in § 22.1-79.3 shall not be required to participate in the survey.