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HOUSE BILL NO. 991

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 22.1-212.13, 22.1-296.1, 22.1-296.2, and 22.1-296.4 of the Code of Virginia, relating to charter schools; employees.*

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Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-212.13, 22.1-296.1, 22.1-296.2, and 22.1-296.4 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-212.13. Employment of professional, licensed personnel.

A. ~~Public~~*At the discretion of the local school board*, charter school personnel ~~shall~~ *may* be employees of the local school board or boards granting the charter. *Any personnel not employed by the local school board shall remain subject to the provisions of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4.*

B. Professional, licensed education personnel may volunteer for assignment to a public charter school. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed education personnel who request assignment to a public noncharter school in the relevant school division or who are not recommended for reassignment in the public charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a public noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a public charter school shall be granted the same employment benefits given to professional, licensed personnel in public noncharter schools in accordance with the policies of the relevant school board or boards.

E. Nothing in this section shall be construed to restrict the authority of the local school board to assign professional, licensed personnel to a public charter school or any other public school as provided in §§ 22.1-293 and 22.1-295.

F. School boards may employ such health, mental health, social services, and other related personnel to serve in residential charter schools for at-risk pupils as set forth in the charter agreement between such school board and the charter school; however, nothing herein shall require a school board to fund the residential or other services provided by a residential charter school.

§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.

A. As a condition of employment for all of its ~~public school~~ employees, whether full-time or part-time, permanent, or temporary, every school board *and charter school* shall require on its application for employment certification (i) that the applicant has not been convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse or rape of a child; and (ii) whether the applicant has been convicted of a crime of moral turpitude. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction shall be grounds for the Board of Education to revoke such person's license to teach.

B. Every school board *and charter school* shall also require on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect shall be guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction shall be grounds for the Board of Education to revoke such person's license to teach.

C. As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board *or charter school* shall require the contractor to provide certification that all persons who will provide such services have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to

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59 provide such services. School boards *and charter schools* shall not be liable for materially false
60 statements regarding the certifications required by this subsection.

61 This subsection shall not apply to a contractor or his employees providing services to a school
62 division in an emergency or exceptional situation, such as when student health or safety is endangered
63 or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable,
64 when it is reasonably anticipated that the contractor or his employees will have no direct contact with
65 students.

66 § 22.1-296.2. Fingerprinting required; reciprocity permitted.

67 A. As a condition of employment, ~~the school boards of the Commonwealth~~ *and charter schools* shall
68 require any applicant who is offered or accepts employment after July 1, 1989, whether full-time or
69 part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive
70 information to be forwarded along with the applicant's fingerprints through the Central Criminal Records
71 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record
72 information regarding such applicant. The school board *or the charter school* may (i) pay for all or a
73 portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the
74 applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

75 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
76 record exists, shall report to the school board whether or not the applicant has ever been convicted of a
77 felony or a Class 1 misdemeanor or an equivalent offense in another state.

78 To conserve the costs of conducting criminal history record checks to applicants ~~and school boards~~,
79 upon the written request and permission of the applicant, a school board *or charter school* shall inform
80 another school board *or charter school* with which reciprocity has been established, and to which the
81 applicant also has applied for employment, of the results of the criminal history record information
82 conducted within the previous ninety days that it obtained concerning the applicant. Criminal history
83 record information pertaining to an applicant for employment ~~by a school board~~ shall be exchanged only
84 between school boards *or charter schools* in the Commonwealth in which a current agreement of
85 reciprocity for the exchange of such information has been established and is in effect. Reciprocity
86 agreements ~~between school boards~~ shall provide for the apportionment of the costs of the fingerprinting
87 or criminal records check between the applicant and the ~~school board~~ *prospective employer*, as prescribed
88 in this section. However, school boards *or charter schools* that enter into reciprocity agreements shall
89 not each levy the costs of the fingerprinting or criminal records check on the applicant.

90 B. The division superintendent shall inform the relevant school board of any notification of arrest of
91 a school board employee received pursuant to § 19.2-83.1. The school board shall require such
92 employee, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to
93 provide personal descriptive information to be forwarded along with the employee's fingerprints through
94 the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of
95 obtaining criminal history record information regarding such employee. The school board may (i) pay
96 for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion,
97 require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records
98 check.

99 The Central Criminal Records Exchange, upon receipt of an employee's record or notification that no
100 record exists, shall report to the school board whether or not the employee has been convicted of any of
101 the offenses listed in subsection A of this section. The contents of the employee's record shall be used
102 by the school board solely to implement the provisions of §§ 22.1-307 and 22.1-315.

103 C. The Central Criminal Records Exchange shall not disclose information to the school board *or*
104 *charter school* regarding charges or convictions of any crimes not specified in this section. If an
105 applicant is denied employment or a current employee is suspended or dismissed because of information
106 appearing on his criminal history record, the school board shall provide a copy of the information
107 obtained from the Central Criminal Records Exchange to the applicant or employee. The information
108 provided to the school board shall not be disseminated except as provided in this section.

109 § 22.1-296.4. Child abuse and neglect data required.

110 A. On and after July 1, 1997, every school board *or charter school* shall require, as a condition of
111 employment, that any applicant who is offered or accepts employment requiring direct contact with
112 students, whether full-time or part-time, permanent or temporary, provide written consent and the
113 necessary personal information for the school board *or charter school* to obtain a search of the registry
114 of founded complaints of child abuse and neglect maintained by the Department of Social Services
115 pursuant to § 63.2-1515. The school board *or charter school* shall ensure that all such searches are
116 requested in conformance with the regulations of the Board of Social Services. In addition, where the
117 applicant has resided in another state within the last five years, the school board *or charter school* shall
118 require as a condition of employment that such applicant provide written consent and the necessary
119 personal information for the school board *or charter school* to obtain information from each relevant
120 state as to whether the applicant was the subject of a founded complaint of child abuse and neglect in

121 such state. The school board *or charter school* shall take reasonable steps to determine whether the
122 applicant was the subject of a founded complaint of child abuse and neglect in the relevant state. The
123 Department of Social Services shall maintain a database of central child abuse and neglect registries in
124 other states that provide access to out-of-state school boards, for use by local school boards *or charter*
125 *schools*. The applicant may be required to pay the cost of any search conducted pursuant to this
126 subsection at the discretion of the school board *or charter school*. From such funds as may be available
127 for this purpose, however, the school board *or charter school* may pay for the search.

128 The Department of Social Services shall respond to such request by the school board *or charter*
129 *school* in cases where there is no match within the central registry regarding applicants for employment
130 within ten business days of receipt of such request. In cases where there is a match within the central
131 registry regarding applicants for employment, the Department of Social Services shall respond to such
132 request by the school board *or charter school* within ~~thirty~~30 business days of receipt of such request.
133 The response may be by first-class mail or facsimile transmission.

134 B. If the response obtained pursuant to subsection A indicates that the applicant is the subject of a
135 founded case of child abuse and neglect, such applicant shall be denied employment, or the employment
136 shall be rescinded.

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