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HOUSE BILL NO. 751

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 22.1-277.06 and 22.1-277.08 of the Code of Virginia, relating to the expulsion of students for certain drug offenses.

Patrons—Rust, McClellan, McQuinn and Robinson

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-277.06 and 22.1-277.08 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-277.06. Expulsions; procedures; readmission.

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:

1. The nature and seriousness of the violation;
2. The degree of danger to the school community;
3. The student's disciplinary history, including the seriousness and number of previous infractions;
4. The appropriateness and availability of an alternative education placement or program;
5. The student's age and grade level;
6. The results of any mental health, substance abuse, or special education assessments;
7. The student's attendance and academic records; and
8. Such other matters as he deems appropriate.

No decision to expel a student shall be reversed on the grounds that such factors were not

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59 considered.

60 Nothing in this subsection shall be deemed to preclude a school board from considering any of these
61 factors as "special circumstances" for purposes of §§ § 22.1-277.07 and 22.1-277.08.

62 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

63 A. School boards ~~shall~~ *may* expel from school attendance any student whom such school board has
64 determined, in accordance with the procedures set forth in this article, to have brought a controlled
65 substance, imitation controlled substance, marijuana as defined in § 18.2-247, or synthetic cannabinoids
66 as defined in § 18.2-248.1:1 onto school property or to a school-sponsored activity. A school board ~~may,~~
67 ~~however, determine, based on the facts of the particular case, that special circumstances exist and another~~
68 ~~disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division~~
69 ~~superintendent or his designee to conduct a preliminary review of such cases to determine whether a~~
70 ~~disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a~~
71 ~~determination is made that another disciplinary action is appropriate, any such subsequent disciplinary~~
72 ~~action is to be taken in accordance with the procedures set forth in this article.~~

73 B. Each school board shall revise its standards of student conduct to incorporate the requirements of
74 this section no later than three months after the date on which this act becomes effective.