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HOUSE BILL NO. 1698

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 4, 2015)

(Patron Prior to Substitute—Delegate Wilt)

A *BILL to amend and reenact § 22.1-79.3 of the Code of Virginia, relating to student questionnaires and surveys; parental notification and consent.*

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-79.3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-79.3. Policies regarding certain activities.

A. ~~No later than January 1, 2001, local~~ 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~~ *Nothing in this subsection 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.

C. In any case in which a questionnaire or survey requesting ~~sexual information of students that students provide sexual information, mental health information, medical information, information on student health risk behaviors pursuant to § 32.1-73.8, other information on controlled substance use, or any other information that the school board deems to be sensitive in nature~~ 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 ~~questionnaire or survey, how information collected by the questionnaire or survey will be used, who will have access to such information, the steps that will be taken to protect student privacy,~~ and whether and how any findings or results will be disclosed. ~~Parents~~ The parent shall have the right to (i) ~~request that a copy of the questionnaire or survey be sent through (a) email or (b) regular mail to the address on file for the student,~~ (ii) review the questionnaire or survey in person at the school, and to (iii) exempt ~~their~~ his child from participating in the questionnaire or 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~~ 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 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 randomly selected 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. ~~No questionnaire or survey requesting that students provide sexual information shall be administered to any student in kindergarten through grade six.~~

E. 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.

F. 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.

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

63 ~~F.~~ G. Local school boards shall develop and implement policies to allow a parent of twins or higher
64 order multiples in the same grade level to request that the children be placed in the same classroom or
65 in separate classrooms if they are at the same elementary school. Such policies shall also provide that:
66 (i) schools may recommend classroom placement to the parent; (ii) schools must provide the placement
67 requested by the children's parent, unless the division superintendent or his designee makes a classroom
68 placement determination following the school principal's request in accordance with this subsection; (iii)
69 a parent must request the classroom placement no later than three days after the first day of each school
70 year or three days after the first day of attendance of the children during a school year; and (iv) at the
71 end of the initial grading period, if the school principal, in consultation with the children's classroom
72 teacher, determines that the requested classroom placement is disruptive to the school or is harmful to
73 the children's educational progress, the school principal may request that the division superintendent or
74 his designee determine the children's classroom placement.

75 ~~G.~~ H. Local school boards may adopt and implement policies pursuant to which electronic records
76 and electronic signatures may be accepted from any parent, guardian, or other person having control or
77 charge of a child enrolled in the relevant school division, provided such policies are consistent with the
78 provisions of Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1.

79 ~~H.~~ I. Local school boards may develop a single, standardized form to obtain parental consent for the
80 release of student data. If developed by the local school board, such form shall be used by Community
81 Policy and Management Teams and the Departments of Health, Social Services, Juvenile Justice, and
82 Behavioral Health and Developmental Services.