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HOUSE BILL NO. 1213

Offered January 18, 2016

A BILL to amend and reenact § 18.2-415 of the Code of Virginia, relating to disorderly conduct at schools; minors; evidence.

Patrons—Albo, Hugo, Kilgore, Aird, Bagby, Filler-Corn, McClellan and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-415 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-415. Disorderly conduct in public places.

A. A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

1. In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or

B. 2. Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this Commonwealth or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the funeral, memorial service, or meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

C. 3. Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

~~However, the B. The~~ conduct prohibited under subdivision A, B or C of this section 1, 2, or 3 shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

C. In any prosecution of a minor for a violation of subdivision A 3, the defendant may present the following as evidence relevant to whether he acted willfully:

1. A report from the treating or examining health care provider as defined in § 8.01-581.1 or a health care provider licensed outside of the Commonwealth for his treatment of the defendant outside of the Commonwealth; or

2. Any document that is part of (i) an Individualized Education Program prepared pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; (ii) a Section 504 Plan prepared pursuant to § 504 of the Rehabilitation Act, 29 U.S.C. § 794; (iii) a behavior intervention plan as defined in 8VAC-20-81-10; or (iv) a functional behavior assessment as defined in 8VAC-20-81-10.

Such report or document shall be admitted as evidence of the facts stated therein, provided that the defendant, at least 10 days prior to trial, notifies in writing the attorney for the Commonwealth of his intention to introduce such report or document and gives a copy of such report or document to the attorney for the Commonwealth. Upon motion of the defendant, any report or document admitted pursuant to this subsection shall be placed under seal by the court.

D. The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

E. The governing bodies of counties, cities and towns are authorized to adopt ordinances prohibiting and punishing the acts and conduct prohibited by this section, provided that the punishment fixed therefor shall not exceed that prescribed for a Class 1 misdemeanor. A person violating any provision of this section shall be is guilty of a Class 1 misdemeanor.

INTRODUCED

HB1213