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SENATE BILL NO. 458

Offered January 13, 2016

Prefiled January 12, 2016

A *BILL to amend and reenact §§ 22.1-277, 22.1-277.04, and 22.1-277.05 of the Code of Virginia, relating to student discipline; alternatives to suspension.*

Patrons—McEachin; Delegate: McClellan

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-277, 22.1-277.04, and 22.1-277.05 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. *Pupils Students* may be suspended or expelled from attendance at school for sufficient cause; however, *a student may only be suspended after all feasible alternatives to suspension have been considered and* in no cases may sufficient cause for suspensions include only instances of truancy.

B. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

A pupil may be suspended, *consistent with 22.1-277*, for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended, *consistent with 22.1-277*, from attendance at school for more than ten days after providing 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, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.

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 suspension of a student. Any such

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59 committee of the school board shall be composed of at least three members. If the committee's decision
60 is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board.
61 Such appeal shall be decided by the school board within thirty days.

62 B. A school board shall include in the written notice of a suspension for more than ten days required
63 by this section, notification of the length of the suspension. In the case of a suspension for more than
64 ten days, such written notice shall provide information concerning the availability of community-based
65 educational, alternative education, or intervention programs. Such notice shall also state that the student
66 is eligible to return to regular school attendance upon the expiration of the suspension or to attend an
67 appropriate alternative education program approved by the school board during or upon the expiration of
68 the suspension. The costs of any community-based educational, alternative education, or intervention
69 program that is not a part of the educational program offered by the school division that the student may
70 attend during his suspension shall be borne by the parent of the student.

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

74 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

75 A. School boards ~~shall~~ *may, consistent with subsection B of § 22.1-277*, expel from school
76 attendance any student whom such school board has determined, in accordance with the procedures set
77 forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana
78 as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator,
79 pursuant to school board policy, or a school board may, however, determine, based on the facts of a
80 particular situation, that special circumstances exist and no disciplinary action or another disciplinary
81 action or another term of expulsion is appropriate. A school board may, by regulation, authorize the
82 division superintendent or his designee to conduct a preliminary review of such cases to determine
83 whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a
84 determination is made that another disciplinary action is appropriate, any such subsequent disciplinary
85 action is to be taken in accordance with the procedures set forth in this article. Nothing in this section
86 shall be construed to require a student's expulsion regardless of the facts of the particular situation.

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