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HOUSE BILL NO. 2195

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 22.1-258 and 54.1-3900 of the Code of Virginia, relating to school attendance officers; powers and duties.

Patron—Torian

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 22.1-258 and 54.1-3900 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.**

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee or the attendance officer shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee or the attendance officer, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent an additional day after direct contact with the pupil's parent and the attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence, either the school principal or his designee or the attendance officer shall schedule a conference within 10 school days with the pupil, his parent, and school personnel, which conference may include other community service providers, to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 15 school days after the sixth absence. Upon the next absence by such pupil without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall notify the attendance officer or the division superintendent or his designee, as the case may be, who shall enforce the provisions of this article by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

Additionally, an attendance officer or the division superintendent or his designee acting as an attendance officer may complete, sign, and file petitions and motions for the enforcement of orders entered by a juvenile and domestic relations district court pursuant to § 16.1-278.5, relating to the filing of a complaint alleging the pupil is a child in need of supervision as defined in § 16.1-228.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

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59 Attendance officers, other school personnel or volunteers organized by the school administration for
60 this purpose shall be immune from any civil or criminal liability in connection with the notice to parents
61 of a pupil's absence or failure to give such notice as required by this section.

62 **§ 54.1-3900. Practice of law; student internship program, etc.; definition.**

63 Persons who hold a license or certificate to practice law under the laws of this Commonwealth and
64 have paid the license tax prescribed by law may practice law in the Commonwealth.

65 Any person authorized and practicing as counsel or attorney in any state or territory of the United
66 States, or in the District of Columbia, may for the purpose of attending to any case he may occasionally
67 have in association with a practicing attorney of this Commonwealth practice in the courts of this
68 Commonwealth, in which case no license fee shall be chargeable against such nonresident attorney.

69 Nothing herein shall prohibit the limited practice of law by military legal assistance attorneys who
70 are employed by a military program providing legal services to low-income military clients and their
71 dependents pursuant to rules promulgated by the Supreme Court of Virginia.

72 Nothing herein shall prohibit a limited practice of law under the supervision of a practicing attorney
73 by (i) third-year law students or (ii) persons who are in the final year of a program of study as
74 authorized in § 54.1-3926, pursuant to rules promulgated by the Supreme Court of Virginia.

75 Nothing herein shall prohibit an employee of a state agency in the course of his employment from
76 representing the interests of his agency in administrative hearings before any state agency, such
77 representation to be limited to the examination of witnesses at administrative hearings relating to
78 personnel matters and the adoption of agency standards, policies, rules and regulations.

79 Nothing herein shall prohibit designated nonattorney employees of the Department of Social Services
80 from completing, signing and filing petitions and motions relating to the establishment, modification, or
81 enforcement of support on forms approved by the Supreme Court of Virginia in Department cases in the
82 juvenile and domestic relations district courts.

83 Nothing herein shall prohibit designated nonattorney employees of a local department of social
84 services from appearing before an intake officer to initiate a case in accordance with subsection A of
85 § 16.1-260 on behalf of the local department of social services.

86 Nothing herein shall prohibit designated nonattorney employees of a local department of social
87 services from completing, signing, and filing with the clerk of the juvenile and domestic relations
88 district court, on forms approved by the Supreme Court of Virginia, petitions for foster care review,
89 petitions for permanency planning hearings, petitions to establish paternity, motions to establish or
90 modify support, motions to amend or review an order, or motions for a rule to show cause.

91 *Nothing herein shall prohibit a nonattorney attendance officer or local school division superintendent*
92 *or his designee acting as an attendance officer from performing the powers and duties of an attendance*
93 *officer as authorized by § 22.1-258.*

94 As used in this chapter, "attorney" means attorney-at-law.