

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 753

An Act to amend and reenact §§ 22.1-258 and 22.1-262 of the Code of Virginia, relating to truancy; procedures.

[H 1485]

Approved April 4, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-258 and 22.1-262 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; plan; conference; court proceedings.

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, or through the use of other communications devices~~ 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~~ *for more than one* additional day after direct contact with the pupil's parent, and ~~the attendance officer has school personnel have~~ 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~~. Such conference may include *the attendance officer and other community service providers*; to resolve issues related to the pupil's nonattendance. The conference shall be held no later than ~~15~~ *10* school days after the ~~sixth~~ *tenth* absence of the pupil, regardless of whether his parent approves of the conference. ~~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 The conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns and plan additional interventions if attendance does not improve. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the pupil is resisting parental efforts to comply with compulsory attendance requirements, the principal or his designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting institute 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.~~

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.

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

§ 22.1-262. Complaint to court when parent fails to comply with law.

A list of persons notified pursuant to § 22.1-261 shall be sent by the attendance officer to the appropriate school principal. If the parent (i) fails to comply with the provisions of § 22.1-261 within the time specified in the notice; or (ii) fails to comply with the provisions of § 22.1-254; ~~or (iii) refuses to participate in the development of the plan to resolve the student's nonattendance or in the conference provided for in § 22.1-258,~~ it shall be the duty of the attendance officer, with the knowledge and approval of the division superintendent, to make complaint against the pupil's parent in the name of the Commonwealth before the juvenile and domestic relations district court. If proceedings are instituted against the parent for failure to comply with the provisions of § 22.1-258, the attendance officer is to provide documentation to the court regarding the school division's compliance with § 22.1-258. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.