

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 22.1-254, 22.1-277, and 22.1-277.2:1 of the Code of Virginia, relating*
3 *to public schools; student discipline.*

4 [S 170]
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That §§ 22.1-254, 22.1-277, and 22.1-277.2:1 of the Code of Virginia are amended and reenacted**
8 **as follows:**

9 **§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education**
10 **program attendance; exemptions from article.**

11 A. Except as otherwise provided in this article, every parent, guardian, or other person in the
12 Commonwealth having control or charge of any child who will have reached the fifth birthday on or
13 before September 30 of any school year and who has not passed the eighteenth birthday shall, during
14 the period of each year the public schools are in session and for the same number of days and hours per
15 day as the public schools, send such child to a public school or to a private, denominational, or
16 parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board
17 of Education and approved by the division superintendent, or provide for home instruction of such child
18 as described in § 22.1-254.1.

19 As prescribed in the regulations of the Board of Education, the requirements of this section may also
20 be satisfied by sending a child to an alternative program of study or work/study offered by a public,
21 private, denominational, or parochial school or by a public or private degree-granting institution of
22 higher education. Further, in the case of any five-year-old child who is subject to the provisions of this
23 subsection, the requirements of this section may be alternatively satisfied by sending the child to any
24 public educational pre-kindergarten program, including a Head Start program, or in a private,
25 denominational, or parochial educational pre-kindergarten program.

26 Instruction in the home of a child or children by the parent, guardian, or other person having control
27 or charge of such child or children shall not be classified or defined as a private, denominational or
28 parochial school.

29 The requirements of this section shall apply to (i) any child in the custody of the Department of
30 Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii)
31 any child whom the division superintendent has required to take a special program of prevention,
32 intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The
33 requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed
34 in an adult correctional facility when such person is actively pursuing the achievement of a passing
35 score on a high school equivalency examination approved by the Board of Education but is not enrolled
36 in an individual student alternative education plan pursuant to subsection E, and (b) any child who has
37 obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing
38 score on a high school equivalency examination approved by the Board of Education, or who has
39 otherwise complied with compulsory school attendance requirements as set forth in this article.

40 B. A school board shall excuse from attendance at school:

41 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
42 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
43 training or belief" does not include essentially political, sociological or philosophical views or a merely
44 personal moral code; and

45 2. On the recommendation of the juvenile and domestic relations district court of the county or city
46 in which the pupil resides and for such period of time as the court deems appropriate, any pupil who,
47 together with his parents, is opposed to attendance at a school by reason of concern for such pupil's
48 health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension
49 for personal safety when such concern or apprehension in that pupil's specific case is determined by the
50 court, upon consideration of the recommendation of the principal and division superintendent, to be
51 justified.

52 C. Each local school board shall develop policies for excusing students who are absent by reason of
53 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any
54 award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test
55 or examination, for any which he missed by reason of such absence, if the absence is verified in a
56 manner acceptable to the school board.

57 D. A school board may excuse from attendance at school:

58 1. On recommendation of the principal and the division superintendent and with the written consent
59 of the parent or guardian, any pupil who the school board determines, in accordance with regulations of
60 the Board of Education, cannot benefit from education at such school; or

61 2. On recommendation of the juvenile and domestic relations district court of the county or city in
62 which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at
63 such school.

64 E. Local school boards may allow the requirements of subsection A to be met under the following
65 conditions:

66 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's
67 parents, and the principal or his designee of the school in which the student is enrolled in which an
68 individual student alternative education plan shall be developed in conformity with guidelines prescribed
69 by the Board, which plan must include:

70 1. Career guidance counseling;

71 2. Mandatory enrollment and attendance in a preparatory program for passing a high school
72 equivalency examination approved by the Board of Education or other alternative education program
73 approved by the local school board with attendance requirements that provide for reporting of student
74 attendance by the chief administrator of such preparatory program or approved alternative education
75 program to such principal or his designee;

76 3. Mandatory enrollment in a program to earn a Board of Education-approved career and technical
77 education credential, such as the successful completion of an industry certification, a state licensure
78 examination, a national occupational competency assessment, the Armed Services Vocational Aptitude
79 Battery, or the Virginia workplace readiness skills assessment;

80 4. Successful completion of the course in economics and personal finance required to earn a Board
81 of Education-approved high school diploma;

82 5. Counseling on the economic impact of failing to complete high school; and

83 6. Procedures for reenrollment to comply with the requirements of subsection A.

84 A student for whom an individual student alternative education plan has been granted pursuant to this
85 subsection and who fails to comply with the conditions of such plan shall be in violation of the
86 compulsory school attendance law, and the division superintendent or attendance officer of the school
87 division in which such student was last enrolled shall seek immediate compliance with the compulsory
88 school attendance law as set forth in this article.

89 Students enrolled with an individual student alternative education plan shall be counted in the
90 average daily membership of the school division.

91 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et
92 seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense
93 relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol
94 or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that
95 resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to
96 the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended
97 pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or
98 22.1-277.07 or subsection B C of § 22.1-277, require the child to attend an alternative education
99 program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

100 G. Whenever a court orders any pupil into an alternative education program, including a program
101 preparing students for a high school equivalency examination approved by the Board of Education,
102 offered in the public schools, the local school board of the school division in which the program is
103 offered shall determine the appropriate alternative education placement of the pupil, regardless of
104 whether the pupil attends the public schools it supervises or resides within its school division.

105 The juvenile and domestic relations district court of the county or city in which a pupil resides or in
106 which charges are pending against a pupil, or any court in which charges are pending against a pupil,
107 may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in
108 injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any
109 offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend
110 an alternative education program, including, but not limited to, night school, adult education, or any
111 other education program designed to offer instruction to students for whom the regular program of
112 instruction may be inappropriate.

113 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or
114 exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2.
115 As used in this subsection, the term "charged" means that a petition or warrant has been filed or is
116 pending against a pupil.

117 H. Within one calendar month of the opening of school, each school board shall send to the parents

118 or guardian of each student enrolled in the division a copy of the compulsory school attendance law and
119 the enforcement procedures and policies established by the school board.

120 I. The provisions of this article shall not apply to:

121 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

122 2. Children whose immunizations against communicable diseases have not been completed as
123 provided in § 22.1-271.2;

124 3. Children under 10 years of age who live more than two miles from a public school unless public
125 transportation is provided within one mile of the place where such children live;

126 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public
127 school unless public transportation is provided within 1.5 miles of the place where such children live;
128 and

129 5. Children excused pursuant to subsections B and D.

130 Further, any child who will not have reached his sixth birthday on or before September 30 of each
131 school year whose parent or guardian notifies the appropriate school board that he does not wish the
132 child to attend school until the following year because the child, in the opinion of the parent or
133 guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's
134 attendance for one year.

135 The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined
136 from the child's residence to the entrance to the school grounds or to the school bus stop nearest the
137 entrance to the residence of such children by the nearest practical routes which are usable for walking or
138 riding. Disease shall be established by the certificate of a reputable practicing physician in accordance
139 with regulations adopted by the Board of Education.

140 **§ 22.1-277. Suspensions and expulsions of pupils generally.**

141 A. ~~Pupils~~ *Students* may be suspended or expelled from attendance at school for sufficient cause;
142 however, in no cases may sufficient cause for suspensions include only instances of truancy.

143 B. *Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool*
144 *through grade three shall be suspended for more than three school days or expelled from attendance at*
145 *school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii)*
146 *the local school board or the division superintendent or his designee finds that aggravating*
147 *circumstances exist, as defined by the Department.*

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

152 ~~C.~~ D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in
153 certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04,
154 22.1-277.05, or 22.1-277.06.

155 **§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative**
156 **education program.**

157 A. A school board may, in accordance with the procedures set forth in this article, require any
158 student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a
159 violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person,
160 or with an offense that is required to be disclosed to the superintendent of the school division pursuant
161 to subsection G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the
162 Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have
163 resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the
164 school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense
165 or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or
166 (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection B C of § 22.1-277, to
167 attend an alternative education program. A school board may require such student to attend such
168 programs regardless of where the crime occurred. School boards may require any student who has been
169 found, in accordance with the procedures set forth in this article, to have been in possession of, or under
170 the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity
171 in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if
172 recommended by the evaluator and with the consent of the student's parent, to participate in a treatment
173 program.

174 As used in this section, the term "charged" means that a petition or warrant has been filed or is
175 pending against a pupil.

176 B. A school board may adopt regulations authorizing the division superintendent or his designee to
177 require students to attend an alternative education program consistent with the provisions of subsection
178 A after (i) written notice to the student and his parent that the student will be required to attend an

179 alternative education program and (ii) notice of the opportunity for the student or his parent to
180 participate in a hearing to be conducted by the division superintendent or his designee regarding such
181 placement. The decision of the superintendent or his designee regarding such alternative education
182 placement shall be final unless altered by the school board, upon timely written petition, as established
183 in regulation, by the student or his parent, for a review of the record by the school board.

184 C. A school board may adopt regulations authorizing the principal or his designee to impose a
185 short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense
186 involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same
187 school pending a decision as to whether to require that such student attend an alternative education
188 program.