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HOUSE BILL NO. 2297

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact § 22.1-3 of the Code of Virginia, relating to free public elementary and secondary education; eligibility criteria.*

Patrons—Simon and Ayala

Referred to Committee on Finance**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-3 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-3. Persons to whom public schools shall be free.**

A. The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent or a parent by legal adoption;

2. When, in accordance with the provisions of § 22.1-360, the person is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under 10 U.S.C. § 1044b by the custodial parent;

3. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;

4. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § 63.2-1200; or (iii) an adult relative providing temporary kinship care as that term is defined in § 63.2-100. Local school divisions may require one or both parents and the relative providing kinship care to submit signed, notarized affidavits (a) explaining why the parents are unable to care for the person, (b) detailing the kinship care arrangement, and (c) agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person. A school division may also require the parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services. The verification process shall be consistent with confidentiality provisions of Article 5 (§ 22.1-287 et seq.) of Chapter 14 of this title and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2. If the kinship care arrangement lasts more than one year, a school division may require continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

5. When the person is living in the school division not solely for school purposes, as an emancipated minor; or

6. When all or any portion of the building in which such person resides (i) with another person as set forth in subdivisions 1 through 4 or (ii) as an emancipated minor as set forth in subdivision 5 is taxable by the locality in which the school division is located; or

7. When the person living in the school division is a homeless child or youth, as set forth in this subdivision, who lacks a fixed, regular, and adequate nighttime residence. Such persons shall include (i) children and youths, including unaccompanied youths who are not in the physical custody of their parents, who (a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (ii) migratory children, as defined in the federal Elementary and Secondary Education Act of 1965, P.L.

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59 89-10, as amended, who are deemed homeless as they are living in circumstances set forth in clause (i).
60 School divisions shall comply with the requirements of Subtitle VII-B of the federal
61 McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), to ensure that
62 homeless children and youths shall receive the educational services comparable to those offered to other
63 public school students.

64 School divisions serving the students identified in *this* subdivision 6 shall coordinate the
65 identification and provision of services to such students with relevant local social services agencies and
66 other agencies and programs providing services to such students, and with other school divisions as may
67 be necessary to resolve interdivisional issues.

68 B. In the interest of providing educational continuity to the children of military personnel, no child
69 of a person on active military duty:

70 1. Who is attending a school free of charge in accordance with this section shall be charged tuition
71 by that school division upon such child's relocation to military housing located in another school
72 division in the Commonwealth, pursuant to orders received by such child's parent to relocate to base
73 housing. Such children shall be allowed to continue attending school in the school division they attended
74 immediately prior to the relocation and shall not be charged tuition for attending such school;

75 2. Who is attending a school free of charge in accordance with this section shall be charged tuition
76 by that school division upon such child's relocation pursuant to orders received by such child's parent to
77 relocate to a new duty station or to be deployed. Such children shall be allowed to remain enrolled in
78 the current school division free of tuition through the end of the school year; and

79 3. Who is eligible to attend school free of charge in accordance with this section shall be charged
80 tuition by a school division that will be the child's school division of residence once his service member
81 parent is relocated pursuant to orders received. Such a child shall be allowed to enroll in the school
82 division of the child's intended residence if documentation is provided, at the time of enrollment, of
83 military orders of the service member parent or an official letter from the service member's command
84 indicating such relocation. Documentation indicating a permanent address within the school division
85 shall be provided to the school division within 120 days of a child's enrollment or tuition may be
86 charged, including tuition for the days since the child's enrollment in school. In the event that the child's
87 service member parent is ordered to relocate before the 120th day following the child's enrollment, the
88 school division shall not charge tuition. The assignment of the school such child will attend shall be
89 determined by the local school division.

90 Such children as listed in subdivisions 1, 2, and 3 shall be counted in the average daily membership
91 of the school division in which they are enrolled. Further, the school division in which such children are
92 enrolled subsequent to their relocation to base housing shall not be responsible for providing for their
93 transportation to and from school.