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SENATE BILL NO. 1020

Offered January 17, 2020

A BILL to amend and reenact § 22.1-279.3:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-279.3:3, relating to public schools; alternative accountability process; assault and battery without bodily injury.

Patron—Stanley

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-279.3:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-279.3:3 as follows:

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting

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requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV — Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal *(i)* shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and *(ii) for any incident described in clause (i) of subsection A, may attempt to engage the involved parties in an alternative accountability process adopted by the local school board pursuant to § 22.1-279.3:3, if any, or* may report *the incident described in clause (i) of subsection A* to the local law-enforcement agency ~~any incident described in clause (i) of subsection A~~. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-279.3:3. Alternative accountability process.

A. A school board may establish an alternative accountability process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1 an option to enter into a mutually agreed-upon process between the involved parties as an alternative to reporting such incident to law enforcement pursuant to § 22.1-279.3:1. Such process may be designed to divert students without a prior adjudication away from the criminal justice system and to hold the student accountable to a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report pursuant to subsection D of § 22.1-279.3:1 a party who successfully completes the alternative accountability process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative accountability process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.