

VIRGINIA ACTS OF ASSEMBLY -- 1995 RECONVENED SESSION

CHAPTER 755

An Act to amend and reenact § 22.1-257, as it is currently effective and as it may become effective, and § 22.1-277.1 of the Code of Virginia, relating to disciplinary authority of school boards and alternative education placement of students.

[H 2150]

Approved April 6, 1995

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-257, as it is currently effective and as it may become effective, and § 22.1-277.1 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-257. Excusing children who cannot benefit from education or whose parents conscientiously object; excusing children for reasons of health or apprehension for personal safety; school board authority for alternative education placements; and court authority to order alternatives.

A. Whenever a court orders any pupil into an alternative education program offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises, or resides within its school division.

B. A school board:

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

2. Shall excuse from attendance at school any pupil who, together with his parents, by reason of bona fide religious training or belief, is conscientiously opposed to attendance at school;

3. Shall, on the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, excuse from attendance at school for such period of time as the court deems appropriate any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court to be justified;

4. May, on recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, excuse from attendance at school any pupil who, in the judgment of such court, cannot benefit from education at such school;

5. May, upon a finding that a school-age child has committed an offense in violation of school board policies, or against whom such charges are pending as described in subsection A of § 22.1-209.1:2, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or § 22.1-277.1.

~~B.~~ *C. The court in reaching its determination as to whether the concern or apprehension referred to in subdivision A B 3 of this section is justified shall take into consideration the recommendation of the principal and division superintendent.*

~~C.~~ *D. The juvenile and domestic relations district court of the county or city in which a pupil resides, or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other educational program designed to offer instruction to students for whom the regular program of instruction may be inappropriate. The local school board of the school division in which the pupil resides shall determine the appropriate alternative education placement for such pupil. This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277 and 22.1-277.2.*

~~D.~~ *E. As used in subdivision A B 2 of this section, the term "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code.*

§ 22.1-257. (Delayed effective date) Excusing children who cannot benefit from education or whose parents conscientiously object; excusing children for reasons of health or apprehension for personal safety; school board authority for alternative education placements; court authority to order alternatives.

A. Whenever a court orders any pupil into an alternative education program offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the

public schools it supervises, or resides within its school division.

B. A school board:

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

2. Shall excuse from attendance at school any pupil who, together with his parents, by reason of bona fide religious training or belief, is conscientiously opposed to attendance at school;

3. Shall, on the recommendation of the family court of the county or city in which the pupil resides, excuse from attendance at school for such period of time as the court deems appropriate any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court to be justified;

4. May, on recommendation of the family court of the county or city in which the pupil resides, excuse from attendance at school any pupil who, in the judgment of such court, cannot benefit from education at such school;

5. May, upon a finding that a school-age child has committed an offense in violation of school board policies, or against whom such charges are pending as described in subsection A of § 22.1-209.1:2, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or § 22.1-277.1.

~~B.~~ *C.* The court in reaching its determination as to whether the concern or apprehension referred to in subdivision ~~A B~~ 3 of this section is justified shall take into consideration the recommendation of the principal and division superintendent.

~~C.~~ *D.* The family court of the county or city in which a pupil resides, or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other educational program designed to offer instruction to students for whom the regular program of instruction may be inappropriate. The local school board of the school division in which the pupil resides shall determine the appropriate alternative education placement for such pupil. This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277 and 22.1-277.2.

~~D.~~ *E.* As used in subdivision ~~A B~~ 2 of this section, the term "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code.

§ 22.1-277.1. Disciplinary authority of school boards under certain circumstances.

A school board may require any student *who has been charged with an offense, or who has been found guilty or not innocent of a crime which resulted in or could have resulted in injury to others, or of a crime for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1*, to attend an alternative education program, including, but not limited to, night school, adult education, or any other educational program designed to offer instruction to students for whom the regular program of instruction may be inappropriate. A school board may require such student to attend such programs regardless of where the crime occurred.