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HOUSE BILL NO. 1614

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health
on February 16, 1995)

(Patron Prior to Substitute—Delegate Cooper)

A BILL 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, and to amend the Code of Virginia by adding a section numbered 22.1-277.01, relating to the expulsion of students for firearms possession on school property.

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, and that the Code of Virginia is amended by adding a section numbered 22.1-277.01 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 and court authority to order alternatives.

A. 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 (i) committed an offense in violation of school board policies, ~~or against whom such charges are pending as~~ (ii) *been charged with an offense* described in subsection A of § 22.1-209.1:2, ~~or~~ (iii) *been expelled from school attendance pursuant to* § 22.1-277.01, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or § 22.1-277.1.

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

C. 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, 22.1-277.01, and 22.1-277.2.

D. As used in subdivision A 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; court authority to order alternatives.

A. 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;

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

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

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

71 5. May, upon a finding that a school-age child has (i) committed an offense in violation of school
72 board policies, ~~or against whom such charges are pending as~~ (ii) *been charged with an offense*
73 *described in subsection A of § 22.1-209.1:2, or (iii) been expelled from school attendance pursuant to*
74 *§ 22.1-277.01*, require the child to attend an alternative education program as provided in § 22.1-209.1:2
75 or § 22.1-277.1.

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

79 C. The family court of the county or city, in which a pupil resides, or in which charges are pending
80 against a pupil, or any court in which charges are pending against a pupil, may require the pupil who
81 has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a
82 violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to
83 possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative
84 education program, including, but not limited to, night school, adult education, or any other educational
85 program designed to offer instruction to students for whom the regular program of instruction may be
86 inappropriate. The local school board of the school division in which the pupil resides shall determine
87 the appropriate alternative education placement for such pupil. This subsection shall not be construed to
88 limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277,
89 22.1-277.01, and 22.1-277.2.

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

92 § 22.1-277.01. *Expulsion of students for firearms possession on school property or at*
93 *school-sponsored activity.*

94 A. *A school board shall expel from school attendance for one year any student who such school*
95 *board has determined, in accordance with the procedures set forth in § 22.1-277, to have brought a*
96 *firearm onto school property or to a school-sponsored activity as prohibited by § 18.2-308.1. A school*
97 *board may, however, determine, based on the facts of the particular case, that special circumstances*
98 *exist and another disciplinary action or term of expulsion is appropriate.*

99 B. *As used in this section:*

100 *"Firearm" means any weapon prohibited on school property or at a school-sponsored activity as*
101 *defined in 18 U.S.C. § 921 or other applicable federal law.*

102 § 22.1-277.1. Disciplinary authority of school boards under certain circumstances.

103 A school board may require any student who has been found guilty or not innocent of a crime which
104 resulted in or could have resulted in injury to others, *or who has been expelled pursuant to*
105 *§ 22.1-277.01*, to attend an alternative education program, including, but not limited to, night school,
106 adult education, or any other educational program designed to offer instruction to students for whom the
107 regular program of instruction may be inappropriate. A school board may require such student to attend
108 such programs regardless of where the crime occurred.