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SENATE BILL NO. 1034

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Nolen

on February 7, 1995)

(Patron Prior to Substitute—Senator Martin)

A BILL to amend and reenact § 22.1-258 and § 22.1-262, as it is currently effective and as it may become effective, and to amend the Code of Virginia by adding sections numbered 63.1-105.3, 63.1-133.48:1 and 63.1-133.50:1 through 63.1-133.50:4, relating to public assistance and the Virginia Independence Program.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-258 and § 22.1-262, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.1-105.3, 63.1-133.48:1 and 63.1-133.50:1 through 63.1-133.50:4 as follows:

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.

Every school board shall have power to appoint one or more attendance officers who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify by telephone the parent or guardian shall be made by the attendance officer, other school personnel or volunteers organized by the school administration for this purpose. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for five consecutive school days, and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, and a reasonable effort to notify the parent or guardian has failed, the school principal or his designee shall notify the parent or guardian by letter that such parent or guardian is requested to advise the school in writing of the reason for the pupil's absence or to accompany the pupil upon his return to school to explain the reason for his absence. Upon the failure of the parent or guardian to so advise the school or to return the child to school within three days of the date of the notice, the school principal or his designee shall notify the attendance officer or the division superintendent, as the case may be, who shall enforce the provisions of this article.

However, nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

The Superintendent of Public Instruction and the Commissioner of Social Services shall jointly develop methods to identify and notify appropriate agencies of students who are habitually absent.

Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

§ 22.1-262. Complaint to court when parent fails to comply with law.

A list of persons so notified shall be sent by the attendance officer to the appropriate school principal. If the parent, guardian, or other person having control of the child fails to comply with the law within the time specified in the notice, it shall be the duty of the attendance officer to make complaint in the name of the Commonwealth before the juvenile and domestic relations district court. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1. *At the time a complaint is made before the court, the attendance officer shall notify the local department of social services in the jurisdiction in which the child resides of the child's nonenrollment. The attendance officer shall promptly notify the local department of social services when the child is reenrolled and is in compliance with the compulsory school attendance requirements.*

§ 22.1-262. (Delayed effective date) Complaint to court when parent fails to comply with law.

A list of persons so notified shall be sent by the attendance officer to the appropriate school principal. If the parent, guardian, or other person having control of the child fails to comply with the law within the time specified in the notice, it shall be the duty of the attendance officer to make complaint in the name of the Commonwealth before the family court. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1. *At the time a complaint is made before the court, the attendance officer shall notify the local department of social services in the jurisdiction in which the child resides of the child's nonenrollment. The attendance officer shall promptly notify the local*

60 department of social services when the child is reenrolled and is in compliance with the compulsory
61 school attendance requirements.

62 § 63.1-105.3. Eligibility for aid to families with dependent children; school attendance.

63 *In order to be eligible for aid to families with dependent children (AFDC), members of the assistance*
64 *unit, including minor custodial parents, shall be in compliance with compulsory school attendance*
65 *laws (§ 22.1-254 et seq.). The Board of Social Services shall promulgate regulations to implement the*
66 *provisions of this section, including procedures for local social services departments to receive*
67 *notification from local school divisions of students who are truant. An applicant for AFDC or any*
68 *member of his assistance unit who is not in compliance with this section pursuant to § 22.1-263 shall*
69 *not be eligible for AFDC financial assistance until the provisions of this section are complied with. A*
70 *recipient of AFDC or any member of his assistance unit who is not in compliance with this section*
71 *pursuant to § 22.1-263 shall not be eligible for AFDC payments during any period of noncompliance.*
72 *Any person who becomes ineligible for AFDC financial assistance as a result of this section shall*
73 *nonetheless be considered an AFDC recipient for all other purposes, including Medicaid eligibility.*

74 § 63.1-133.48:1. Child support; limitation on AFDC benefits for additional child.

75 A single custodial parent who does not receive additional AFDC financial assistance for the birth of
76 a child pursuant to subsection A of § 63.1-133.48 shall receive the total value of all child support
77 payments due and collected for such child, and the value of such payments shall not be counted as
78 income for the purposes of AFDC eligibility and grant determination.

79 § 63.1-133.50:1. Diversionary AFDC cash assistance.

80 The State Board shall promulgate regulations to enable AFDC-eligible applicants meeting certain
81 criteria to receive at one time the maximum AFDC cash assistance which the applicant would otherwise
82 receive for a period up to 120 days. An individual may receive diversionary AFDC cash assistance only
83 one time in a sixty-month period and, in so doing, waives his eligibility for AFDC for a period of up to
84 120 days. Diversionary assistance shall be used to address one-time emergencies that will divert the
85 family from receiving ongoing AFDC cash assistance.

86 § 63.1-133.50:2. Minor parent residency.

87 A. Except as provided in subsection B, an individual who is under the age of eighteen and has never
88 married, and who has a dependent child in his care may receive AFDC for himself and his child only if
89 the individual and his child reside in the home maintained by his parent, legal guardian or other adult
90 relative.

91 B. The provisions of subsection A shall not apply if:

92 1. The individual has no parent or legal guardian of his own who is living or whose whereabouts
93 are known;

94 2. No parent or legal guardian of the individual allows the individual and his child to live in the
95 home of the parent or legal guardian;

96 3. The local department of social services determines that the physical or emotional health or safety
97 of the individual or his dependent child would be jeopardized if the individual and dependent child lived
98 in the same residence with the individual's own parent or legal guardian;

99 4. The individual lived apart from his parent or legal guardian for a period of at least one year
100 before the birth of any such dependent child or before the individual applied for AFDC; or

101 5. The local department of social services otherwise determines, in accordance with regulations
102 promulgated by the State Board, that there is good cause for waiving the requirements of subsection A.

103 C. If the individual and his dependent child are not required to live with the individual's parent,
104 legal guardian or other adult relative, the local department of social services shall assist the individual
105 in locating an appropriate adult-supervised supportive living arrangement taking into consideration the
106 needs and concerns of the minor and thereafter shall require that the individual and his child reside in
107 such living arrangement or an alternative appropriate arrangement as a condition of the continued
108 receipt of AFDC. If the local department of social services is unable, after making diligent efforts, to
109 locate any such appropriate living arrangement, it shall provide case management and other social
110 services consistent with the best interests of the individual and child who live independently.

111 § 63.1-133.50:3. Paternity identity and establishment.

112 A. Any applicant for, or recipient of, AFDC who intentionally misidentifies another person as a
113 parent shall be guilty of perjury and upon conviction therefor, shall be punished in accordance with
114 § 18.2-434. Such cases shall be referred to the attorney for the Commonwealth for prosecution.

115 B. If paternity is not established after six months of receipt of AFDC, the local department may
116 suspend, in accordance with regulations promulgated by the State Board, the adult portion of the AFDC
117 grant if such adult has failed without good cause to cooperate fully in establishing paternity.

118 § 63.1-133.50:4. AFDC for two-parent families.

119 To the extent permissible under federal law, AFDC shall be provided to needy two-parent families in
120 the same amount, for the same duration and on the same terms and conditions that AFDC is provided
121 to single-parent families of like size.

122 2. That the Secretary of Health and Human Resources shall apply for the appropriate federal
123 waivers and approvals necessary to implement the provisions of this act with the goal of statewide
124 implementation and for any other waivers of federal law or regulation to further the goals of
125 economic self-sufficiency and that the provisions or portions of this act requiring federal waivers
126 shall become effective upon the receipt of such waivers or approvals, or on July 1, 1995, whichever
127 is later.