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HOUSE BILL NO. 533

House Amendments in [] — January 30, 1996

A BILL to amend and reenact §§ 16.1-241.2, 16.1-263 as it is effective and as it may become effective, and § 22.1-263 of the Code of Virginia and to amend the Code of Virginia by adding in Article 9 of Chapter 11 of Title 16.1 sections numbered 16.1-290.1 and 16.1-290.2, relating to parental responsibility [~~contract~~]; payment for court-ordered counseling, treatment, etc.; court's use of contempt power; summons; penalty.

Patrons—Deeds, Clement, Davies, Howell, Jackson, Jones, J.C., Melvin, Mims and Moran; Senators: Howell and Quayle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241.2, 16.1-263 as it is effective and as it may become effective, and § 22.1-263 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 9 of Chapter 11 of Title 16.1 sections numbered 16.1-290.1 and 16.1-290.2 as follows:

§ 16.1-241.2. Proceedings against certain parents.

A. Upon the failure of a parent to comply with the provisions of § 22.1-279.3, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior as follows:

1. If the court finds that the parent has willfully and unreasonably failed to return the statement required by subsection C of § 22.1-279.3, it may impose a civil penalty not to exceed fifty dollars;

2. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of § 22.1-279.3, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or

3. If the court finds that the parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F of § 22.1-279.3, or upon the student receiving a second suspension or being expelled, it may order (i) the student or his parent to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior or (ii) the student or his parent to be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent; in addition, the court may order the parent to pay a civil penalty not to exceed \$500.

~~The court shall not use its contempt power to enforce any order entered under this section.~~

B. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court or its successor in interest in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision 3 of subsection G of § 22.1-279.3. Upon the failure to pay any civil penalties imposed by this section and § 22.1-279.3, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

C. For the purposes of this section and § 22.1-279.3, "parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

§ 16.1-263. Summonses.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not the parent of the child in question, the parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing. *The summons shall be considered a mandate of the court, and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment as for contempt. Upon failure of such person to appear as ordered in the summons, the court shall immediately issue an order for such person to show cause why he should not be held in contempt.*

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy

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60 of the petition shall accompany each summons for the initial proceedings. Notice of subsequent
61 proceedings shall be provided to all parties in interest. In all cases where a party is represented by
62 counsel and counsel has been provided with a copy of the petition and due notice as to time, date and
63 place of the hearing, such action shall be deemed due notice to such party, unless such counsel has
64 notified the court that he no longer represents such party.

65 C. The judge may endorse upon the summons an order directing the parents, guardian or other
66 custodian having the custody or control of the child to bring the child to the hearing.

67 D. A party, other than the child, may waive service of summons by written stipulation or by
68 voluntary appearance at the hearing.

69 E. No such summons or notification shall be required if the judge shall certify on the record that the
70 identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the
71 identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided
72 there is no other evidence before the court which would refute such an affidavit.

73 § 16.1-263. Process.

74 A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to
75 the child, if the child is twelve or more years of age, and another to the parents, guardian, legal
76 custodian or other person standing in loco parentis, and such other persons as appear to the court to be
77 proper or necessary parties to the proceedings. The summons shall require them to appear personally
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81 proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.
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83 *shall subject any person guilty thereof to liability for punishment as for contempt. Upon failure of such*
84 *person to appear as ordered in the summons, the court shall immediately issue an order for such person*
85 *to show cause why he should not be held in contempt.*

86 B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy
87 of the petition shall accompany each summons for the initial proceedings. Notice of subsequent
88 proceedings shall be provided to all parties in interest. In all cases where a party is represented by
89 counsel and counsel has been provided with a copy of the petition and due notice as to time, date and
90 place of the hearing, such action shall be deemed due notice to such party, unless such counsel has
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97 identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the
98 identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided
99 there is no other evidence before the court which would refute such an affidavit.

100 F. For all cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable
101 distribution based on a foreign decree, adoption, change of name, amendment of a record of birth, and
102 judicial review of school board actions and of hearing officer decisions, process shall be governed by
103 the Rules of the Supreme Court or statute, as appropriate.

104 § 16.1-290.1. *Payment for court-ordered counseling, treatment or programs.*

105 *The court shall order the participant in any treatment, counseling or other program for the*
106 *rehabilitation of a minor or his family to pay as much of the applicable fee for participation as the*
107 *person is able to pay. A finding of guilt shall not be required for the court to order payment.*

108 § 16.1-290.2. *Parental responsibility [contract] .*

109 *The court may order any parent, guardian or legal custodian who received a summons under the*
110 *provisions of § 16.1-263 to [enter into a contract with the court in regard to the supervision and*
111 *implementation of a program for the minor participate in a treatment, counseling or other program for*
112 *the rehabilitation of a minor or his family] during any probation period. The program must be*
113 *reasonably calculated to provide the supervision necessary to prevent further unlawful acts. [The court*
114 *shall review the program and make participation in the program a part of the court's order.]*

115 § 22.1-263. Violation constitutes misdemeanor.

116 Any person violating the provisions of either § 22.1-254, § 22.1-255, or § 22.1-267 shall be guilty of
117 a Class 4 3 misdemeanor.