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SENATE BILL NO. 89

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 1, 1996)

(Patron Prior to Substitute—Senator Lambert)

A BILL to amend and reenact §§ 16.1-293 as it is currently effective and as it may become effective, 22.1-254, 22.1-258, 22.1-265 and 22.1-280.1 of the Code of Virginia, relating to education of juvenile offenders; development and implementation of re-enrollment plans; compulsory school attendance; reports of certain criminal incidents at schools; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-293 of the Code of Virginia as it is currently effective and as it may become effective, and §§ 22.1-254, 22.1-258, 22.1-265 and 22.1-280.1, of the Code of Virginia are amended and reenacted as follows:

§ 16.1-293. (For effective date - See note) Supervision of child during commitment and on parole; placing child in halfway house.

At such time as the court commits a child to the Department, it shall determine whether the juvenile and domestic relations district court service unit or the local department of public welfare or social services shall maintain contact with the child during the child's commitment. Except in exceptional cases, the court shall designate the local department to maintain contact with the child during commitment only when the child was in the custody of the local department immediately prior to his commitment to the Department. The Department shall return a child to the previously designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the child to the local agency, unless there is an agreement for an earlier release. However, when any child is committed to the Department by a circuit court, the child may, upon request of the judge, be returned to the committing court by the Department.

The local supervising agency shall be responsible for the development of a re-enrollment plan, in accordance with § 22.1-17.1, for each child of compulsory school age or of age of eligibility for special education. The plan shall be developed with the assistance of representatives from the Department of Correctional Education, the local school division and the juvenile correctional center counselor. Education information shall be shared by all parties at the point of commitment and prior to the juvenile's scheduled discharge, in accordance with § 22.1-289. Prior to the juvenile's scheduled discharge, the local school division superintendent where the juvenile will be enrolled shall identify the juvenile's education placement, which may include a placement in accordance with § 22.1-277.1, and the re-enrollment plan shall be finalized.

The local supervising agency shall furnish the child a written statement of the conditions of his parole and shall instruct him regarding the same. *The conditions of the re-enrollment plan may be included in the conditions of parole.* Violations of parole shall be heard by the court pursuant to § 16.1-291. The director of the supervising agency may approve termination of parole supervision.

In the event it is determined by the juvenile and domestic relations district court that a child may benefit from placement in the halfway house program operated by the Department, the child may be referred for care and treatment to a halfway house. Children so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those children who have violated their parole status.

§ 16.1-293. (Delayed effective date - See notes) Supervision of child during commitment and on parole; placing child in halfway house.

At such time as the court commits a child to the Department, it shall determine whether the family court service unit or the local department of public welfare or social services shall maintain contact with the child during the child's commitment. Except in exceptional cases, the court shall designate the local department to maintain contact with the child during commitment only when the child was in the custody of the local department immediately prior to his commitment to the Department. The Department shall return a child to the previously designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the child to the local agency, unless there is an agreement for an earlier release. However, when any child is committed to the Department by a circuit court, the child may, upon request of the judge, be returned to the committing court by the Department.

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71 halfway house program operated by the Department, the child may be referred for care and treatment to
72 a halfway house. Children so placed in a halfway house shall remain in parole status and cannot be
73 transferred or otherwise placed in another institutional setting or institutional placement operated by the
74 Department except as elsewhere provided by law for those children who have violated their parole
75 status.

76 § 22.1-254. Ages of children required to attend.

77 A. Every parent, guardian, or other person in the Commonwealth having control or charge of any
78 child who will have reached the fifth birthday on or before September 30 of any school year and who
79 has not passed the eighteenth birthday shall, during the period of each year the public schools are in
80 session and for the same number of days and hours per day as the public schools, send such child to a
81 public school or to a private, denominational or parochial school or have such child taught by a tutor or
82 teacher of qualifications prescribed by the Board of Education and approved by the division
83 superintendent or provide for home instruction of such child as described in § 22.1-254.1.

84 As prescribed in the regulations of the Board of Education, the requirements of this section may also
85 be satisfied by sending a child to an alternative program of study or work/study offered by a public,
86 private, denominational or parochial school or by a public or private degree - granting institution of
87 higher education. Further, in the case of any five-year-old child who is subject to the provisions of this
88 subsection, the requirements of this section may be alternatively satisfied by sending the child to any
89 public educational pre-kindergarten program, including a Head Start program, or in a private,
90 denominational or parochial educational pre-kindergarten program.

91 B. Instruction in the home of a child or children by the parent, guardian or other person having
92 control or charge of such child or children shall not be classified or defined as a private, denominational
93 or parochial school.

94 C. The requirements of this section shall not apply to any child who has obtained a high school
95 diploma, its equivalent, or a certificate of completion, or has otherwise complied with compulsory
96 school attendance requirements as set forth in this article.

97 D. The requirements of this section shall apply to any child in the custody of the Department of
98 Youth and Family Services, or any child who may have been adjudicated as an adult, and who has not
99 passed his eighteenth birthday.

100 *E. Within one calendar month of the opening of school, each school board shall send to the parents*
101 *or guardian of each student enrolled in the division a copy of the compulsory school attendance law*
102 *and the enforcement procedures and policies established by the school board. Each parent or guardian*
103 *shall submit to the school board a statement, provided with the materials, acknowledging receipt of*
104 *these materials.*

105 § 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.

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

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

114 Whenever any pupil fails to report to school for ~~five~~ *three* consecutive school days *or for a total of*
115 *five scheduled school days per month or an aggregate of seven scheduled school days per school*
116 *calendar quarter, whichever occurs sooner*, and no indication has been received by school personnel that
117 the pupil's parent or guardian is aware of the pupil's absence, and a reasonable effort to notify the parent
118 or guardian has failed, the school principal or his designee shall notify the parent or guardian by letter
119 that such parent or guardian is requested to advise the school in writing of the reason for the pupil's
120 absence or to accompany the pupil upon his return to school to explain the reason for his absence. Upon
121 the failure of the parent or guardian to so advise the school or to return the child to school within three

school 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.

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.

§ 22.1-265. Inducing children to absent themselves.

Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 43 misdemeanor and may be subject to the penalties provided by subdivision 5 a of subsection B of § 16.1-278.5 or § 18.2-371.

§ 22.1-280.1. Reports of certain acts to school authorities.

A. Reports shall be made to the principal or his designee on all incidents involving (i) the assault, assault and battery, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity; (ii) 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; (iii) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; or (iv) the illegal carrying of a firearm onto school property. The principal or his designee shall submit a report of all such incidents 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 which shall be provided by the Department *and shall make such information available to the public*. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65.

B. The principal or his designee shall notify the parent of any student involved in an incident required by subsection A 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").

~~C. Division superintendents~~ *The principal* shall report to the local law-enforcement agency any act enumerated in subsection A which may constitute a criminal offense.

D. All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events. Activities designed to prevent the recurrence of violence and crime may include such interventions as school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in the policy manual of all school divisions.

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

F. School boards are encouraged to develop and use a network of volunteer services in implementing the prevention activities required by subsection D.

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

H. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.