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**HOUSE BILL NO. 1870**

Offered January 8, 1997

**A BILL to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 21, consisting of sections numbered 22.1-355 through 22.1-358, relating to flagging missing children's records.**

Patrons—Almand and Plum

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 21, consisting of sections numbered 22.1-355 through 22.1-358 as follows:**

**CHAPTER 21.****MISSING CHILDREN RECORD FLAGGING ACT.**

§ 22.1-355. Public and private schools to require proof of student identity and age; public and private school systems; home schools; noncompliance .

A. Upon enrollment of a student for the first time in a public or private school, the school of enrollment shall:

1. Request information from the person enrolling the child as to the previous schools attended by the child;

2. Request the school records for the child from any and all previous schools attended by the child, and if the parent or person enrolling the child provides copies of previous school records, shall request verification from the prior school of the child's name, address, birth date, grade(s) attended and month(s) and year(s) attended; and

3. Notify the person enrolling the student that within thirty days (ninety days, if the student was not born in this country), he or she must provide either (i) a certified copy of the student's birth certificate or (ii) other reliable proof of the student's identity and age accompanied by a signed statement explaining the inability to produce a copy of the birth certificate.

B. The parent or guardian of a child who is receiving his or her education in a home school shall, not later than October 1 of the first year of the child's attendance at the home school, provide to the State Department of Education either:

1. A certified copy of the child's birth certificate, or

2. Other proof of the child's identity and age accompanied by a signed statement explaining the inability to produce a certified copy of the birth certificate.

C. If the parent, guardian, or person enrolling the child in school does not provide valid, prior school information or documentation as requested by this section, the school (for lack of information under subsections A(1) or A(3)) or the State Department of Education (for lack of information under subsection B) shall so notify a law-enforcement agency within thirty days. Upon receipt of such notification, a Virginia law-enforcement agency shall immediately check the NCIC to determine if such child has been reported as missing. If so, the Virginia law-enforcement agency shall immediately notify law-enforcement agencies in other states that the missing child has been located.

For the purposes of this chapter "flagged record" means any school or day care facility record, or birth certificate, regarding a missing child.

§ 22.1-356. Law-enforcement agencies and clearinghouse to notify schools, day care facilities, birth certificate agencies to flag missing children's records.

A. When a report concerning a missing child is received from within or without this Commonwealth, the law-enforcement agency shall immediately notify any and all schools and/or day care facilities that the child attended or in which the child was enrolled ,as well as all birth certificate agencies (if the child was born in the state), that such child is missing, and the school, day care facility or birth certificate agency shall flag that child's records in accordance with this Act and any regulations promulgated hereunder. The law-enforcement agency also shall alert the clearinghouse that the notification required under this section has been made. In the event that the law-enforcement agency does not provide the notification required hereunder within fifteen days, the clearinghouse is directed to provide such notification to the appropriate schools, day care facilities and birth certificate agencies.

B. If a missing child, who was the subject of a missing child report by someone in this Commonwealth, was born in another state, or attended or was enrolled in a school or licensed day care facility in another state, the Virginia law-enforcement agency shall also notify law-enforcement agency or the missing and exploited children clearinghouse in the appropriate state regarding such missing child and request such law-enforcement agency or clearinghouse to contact the state and county

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60   agencies maintaining birth certificates as well as any schools or licensed day care facilities that the  
61   missing child attended or was enrolled in to flag the missing child's records.

62   § 22.1-357. System for flagging records; information to convey to a law-enforcement agency;  
63   removal of flag from record.

64   A. Schools/day care facilities/agencies shall flag records. Upon notification by a law-enforcement  
65   agency or the clearinghouse regarding a missing child, any school and/or day care facility in which the  
66   missing child is currently or was previously enrolled and any birth certificate agency shall maintain the  
67   school or day care records and birth certificate in its possession in such a manner that immediately  
68   upon receipt of a request regarding a missing child's school or day care record or birth certificate, the  
69   school, day care facility or birth certificate agency shall notify a law-enforcement agency or the  
70   clearinghouse that a request for a flagged record has been made.

71   B. 1. When a request concerning a flagged record is made in person, the school, day care facility, or  
72   birth certificate agency shall not advise the requesting party that the request concerns a missing child,  
73   and shall:

74   a. Require the person requesting the flagged record to complete a form requesting such person's  
75   name, address, telephone number, social security number and relationship to the child whose birth  
76   certificate is being requested, and the name, address, birth date and social security number of the child  
77   whose flagged record is being requested;

78   b. If possible, obtain a copy of the driver's license of the requesting party or other photographic  
79   identification;

80   c. Inform the requesting party that a copy of a certificate will be mailed to him or her; and

81   d. Immediately after providing the information under subsection B 1 c notify a law-enforcement  
82   agency that a request has been made concerning a flagged record, including a physical description of  
83   the requesting party, the identity, address of the requesting party, and a copy of the requesting party's  
84   driver's license or other photographic identification. After such notification, the school, day care facility,  
85   or birth certificate agency shall mail a copy of the requested record to the requesting party no sooner  
86   than twenty-one days later.

87   2. When a request concerning a flagged record is made in writing, the school, day care facility, or  
88   birth certificate agency shall immediately notify a law-enforcement agency that a request has been made  
89   concerning a flagged record and provide a copy of the written request. After such notification, the  
90   school, day care facility, or birth certificate agency shall mail a copy of the requested record to the  
91   requesting party no sooner than twenty-one days later.

92   C. Upon recovery of a missing child, the law-enforcement agency shall so notify any school, day  
93   care facility, and/or birth certificate agency that has maintained flagged records. The law-enforcement  
94   agency shall also alert the clearinghouse that such notification has been made. In the event that such  
95   notification is not made within thirty days of the missing child's recovery, the clearinghouse is  
96   authorized to notify any school, day care facility, and/or birth certificate agency that has maintained  
97   flagged records that the missing child has been recovered. Upon notification by a law-enforcement  
98   agency or the clearinghouse that a missing child has been recovered, any school, day care facility,  
99   and/or birth certificate agency that has maintained flagged records shall remove the flag from the  
100   records. If a school, day care facility and/or birth certificate agency has reason to believe that a  
101   missing child may have been recovered, it may request confirmation that the missing child has been  
102   recovered from the law-enforcement agency or the clearinghouse. If after forty-five days from the initial  
103   request for confirmation, no response is received, then the school, day care facility and/or birth  
104   certificate agency may remove the flag from the record and so inform the law-enforcement agency or  
105   the clearinghouse.

106   § 22.1-358. Immunity from liability.

107   Any law-enforcement agency, clearinghouse, school, day care facility or birth certificate agency and  
108   any person acting on behalf of any such entity shall be immune from civil and criminal liability for any  
109   acts taken in good faith pursuant to this Act.