

971329358

## HOUSE BILL NO. 2248

Offered January 17, 1997

*A BILL to amend and reenact §§ 19.2-83.1, 22.1-296.2, and 22.1-315 of the Code of Virginia, relating to the effects of the commission of certain crimes by school employees.*

Patrons—Mims, Albo, Almand, Callahan, Connally, Dillard, Keating, May, McClure, McDonnell, O'Brien, Plum, Puller, Rust and Scott; Senators: Barry, Howell, Saslaw and Woods

Referred to Committee for Courts of Justice

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

**1. That §§ 19.2-83.1, 22.1-296.2, and 22.1-315 of the Code of Virginia are amended and reenacted as follows:**

§ 19.2-83.1. Report of arrest of school employees for certain offenses.

Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony, a ~~crime~~ involving moral turpitude, or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; ; a misdemeanor involving (i) sexual assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (ii) obscenity and related offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, (iii) drugs as established in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as reasonably practical. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of § 22.1-315.

§ 22.1-296.2. Fingerprinting required.

As a condition of employment, the school boards of the Counties of Albemarle, Campbell, Chesterfield, Cumberland, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Greene, Hanover, Henrico, Henry, Isle of Wight, Loudoun, Louisa, Nelson, Orange, Pittsylvania, Prince William, Rockbridge, Spotsylvania, and Stafford and the Cities of Alexandria, Bristol, Charlottesville, Chesapeake, Danville, Falls Church, Fredericksburg, Hampton, Hopewell, Manassas, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Virginia Beach, and Winchester shall require any applicant who is offered or accepts employment after July 1, 1989, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant; however, such applicant may be required to pay the cost of such fingerprinting or criminal records check at the discretion of the school board. From such funds as may be available for this purpose, the school board may pay for the fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the school board whether or not the applicant has ever been convicted of murder, abduction for immoral purposes as set out in § 18.2-48, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, failing to secure medical attention for an injured child, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, neglect of children as set out in § 18.2-371.1, or obscenity offenses as set out in § 18.2-374.1 or § 18.2-379, possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, use of a firearm in the commission of a felony as set out in § 18.2-53.1, a felony; a misdemeanor involving (i) sexual assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (ii) obscenity and related offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, (iii) drugs as established in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in another state. The Central Criminal Records Exchange shall not disclose information to the school board regarding charges or convictions of any crimes not specified in this section. If an applicant is denied employment because of information appearing on his criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant. The information provided to the school board shall

INTRODUCED

HB2248

60 not be disseminated except as provided in this section.

61 § 22.1-315. Grounds and procedure for suspension.

62 A. A teacher or other public school employee, whether full-time or part-time, permanent, or  
63 temporary, may be suspended for good and just cause when the safety or welfare of the school division  
64 or the students therein is threatened or when the teacher or school employee has been charged by  
65 summons, warrant, indictment or information with the commission of a felony; a ~~crime of moral~~  
66 ~~turpitude, or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; a~~  
67 ~~misdemeanor involving (i) sexual assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of~~  
68 ~~Title 18.2, (ii) obscenity and related offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter~~  
69 ~~8 of Title 18.2, (iii) drugs as established in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (iv)~~  
70 ~~moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in~~  
71 ~~another state.~~ Except when a teacher or school employee is suspended because of being charged by  
72 summons, warrant, indictment or information with the commission of a ~~felony or a crime of moral~~  
73 ~~turpitude~~ *one of the above-listed criminal offenses*, a division superintendent or appropriate central office  
74 designee shall not suspend a teacher or school employee for longer than sixty days and shall not  
75 suspend a teacher or school employee for a period in excess of five days unless such teacher or school  
76 employee is advised in writing of the reason for the suspension and afforded an opportunity for a  
77 hearing before the school board in accordance with §§ 22.1-311 and 22.1-313, if applicable. Any teacher  
78 or other school employee so suspended shall continue to receive his or her then applicable salary unless  
79 and until the school board, after a hearing, determines otherwise. No teacher or school employee shall  
80 be suspended solely on the basis of his or her refusal to submit to a polygraph examination requested by  
81 the school board.

82 B. Any school employee suspended because of being charged by summons, warrant, information or  
83 indictment with a ~~felony, a crime of moral turpitude or any offense involving the sexual molestation,~~  
84 ~~physical or sexual abuse, or rape of a child~~ *one of the offenses listed in subsection A* may be suspended  
85 with or without pay. In the event any school employee is suspended without pay, an amount equal to his  
86 or her salary while on suspended status shall be placed in an interest-bearing demand escrow account.  
87 Upon being found not guilty of a ~~crime of moral turpitude or any offense involving the sexual~~  
88 ~~molestation, physical or sexual abuse, or rape of a child~~ *one of the offenses listed in subsection A* or  
89 upon the dismissal or nolle prosequi of the charge, such school employee shall be reinstated with all  
90 unpaid salary and accrued interest from the escrow account, less any earnings received by the school  
91 employee during the period of suspension, but in no event shall such payment exceed one year's salary.

92 C. In the event any school employee is found guilty by an appropriate court of a ~~felony, a crime of~~  
93 ~~moral turpitude or any offense involving the sexual molestation, physical or sexual abuse, or rape of a~~  
94 ~~child~~ *one of the offenses listed in subsection A* and, after all available appeals have been exhausted and  
95 such conviction is upheld, all funds in the escrow account shall be repaid to the school board.

96 D. No school employee shall have his or her insurance benefits suspended or terminated because of  
97 such suspension in accordance with this section.

98 E. Nothing in this section shall be construed to limit the authority of a school board to dismiss or  
99 place on probation a teacher or school employee pursuant to Article 3 (§ 22.1-306 et seq.) of this  
100 chapter.