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SENATE BILL NO. 720

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws

on January 30, 1997)

(Patron Prior to Substitute—Senator Barry)

A BILL to amend and reenact §§ 2.1-341 and 22.1-287 of the Code of Virginia, relating to the disclosure of public school election results.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-341 and 22.1-287 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-341. Definitions.

The following terms, whenever used or referred to in this chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

"Criminal incident information" means a general description of the criminal activity reported, the date and general location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries suffered or property damaged or stolen; however, the identity of any victim, witness, undercover officer, or investigative techniques or procedures need not but may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

"Executive meeting" or "closed meeting" means a meeting from which the public is excluded.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.1-343.1, as a body or entity, or as an informal assemblage of (i) as many as three members, or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body, including any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties; municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of state institutions of higher education; and other organizations, corporations or agencies in the Commonwealth, supported wholly or principally by public funds. The notice provisions of this chapter shall not apply to the said informal meetings or gatherings of the members of the General Assembly. Nothing in this chapter shall be construed to make unlawful the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body or (ii) at a public meeting whose purpose is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting. The gathering of employees of a public body shall not be deemed a "meeting" subject to the provisions of this chapter.

No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.1-343.1 or as may specifically be provided in Title 54.1 for the summary suspension of professional licenses.

"Official records" means all written or printed books, papers, letters, documents, maps and tapes, photographs, films, sound recordings, reports or other material, regardless of physical form or characteristics, prepared, owned, or in the possession of a public body or any employee or officer of a public body in the transaction of public business.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any of the groups, agencies or organizations enumerated in the definition of "meeting" as provided in this section, including any committees or subcommittees of the public body created to perform delegated functions of the public body or to advise the public body. Corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries also are "public bodies" for purposes of this chapter.

"Scholastic records" means those records, files, documents, and other materials containing information about a student and maintained by a public body which is an educational agency or institution or by a person acting for such agency or institution, but, for the purpose of access by a student, ~~does~~ shall not include (i) financial records of a parent or guardian nor (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any

other person except a substitute. *The limitations on access to records contained in § 22.1-287 shall also apply to the determination of what is a scholastic record for purposes of this chapter.*

§ 22.1-287. Limitations on access to records.

A. No teacher, principal or employee of any public school nor any school board member shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Either parent or a guardian of such pupil or such pupil; provided that a school board may require that such pupil, if he be less than eighteen years of age, as a condition precedent to access to such records, furnish written consent of his or her parent or guardian for such access;

2. A person designated in writing by such pupil if the pupil is eighteen years of age or older or by either parent or a guardian of such pupil if the pupil is less than eighteen years of age;

3. The principal, or someone designated by him, of a school where the pupil attends, has attended, or intends to enroll;

4. The current teachers of such pupil;

5. State or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties;

6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of schools where the pupil attends, has attended, or intends to enroll or a member of his staff;

7. An officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

B. A parent, guardian or pupil entitled to see the records pursuant to subdivision A 1 of this section shall have access to all written records relating to such pupil maintained by the school except as otherwise provided by law and need only appear in person during regular hours of the school day and request to see such records. No written material concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent, guardian or pupil shall be entitled to read such material personally.

C. The restrictions imposed by this section shall not apply to the giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information. *Upon request by a student currently enrolled in such school, or by the parent of a student currently enrolled in such school, school personnel shall disclose the results of schoolwide student elections. If requested, such results shall include specific vote tabulations and shall identify student candidates by name.*

D. Notwithstanding the restrictions imposed by this section:

1. A division superintendent of schools may, in his discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information provided for research;

2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents or guardian, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of his duties when the pupil is a veteran of military service with the United States, an orphan or dependent of such veteran, or an alien;

3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an employee of a local department of welfare or social services who needs the record to determine the eligibility of the pupil's family for public assistance.