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HOUSE BILL NO. 1371

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Education and Health
 on February 28, 2002)

(Patron Prior to Substitute—Delegate O'Brien)

A BILL to amend and reenact §§ 22.1-202 and 22.1-208.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-202.1, relating to instruction in certain historic and patriotic freedoms, music, and observances.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-202 and 22.1-208.01 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 22.1-202.1 as follows:

§ 22.1-202. Instruction in history and principles of flags of United States and Virginia; pledge of allegiance to American flag; guidelines developed by the Board.

A. Instruction in the history and principles of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division. The instruction shall include the pledge of allegiance and the appropriate etiquette and conventions for respecting the dignity and appropriate display of such flags.

In a manner consistent with the laws and constitutions of Virginia and the United States and in recognition of the civic heritage of the United States of America, all students shall be required to learn the Pledge of Allegiance and to demonstrate such knowledge. In addition, local school divisions shall ensure that students receive age-appropriate instruction in (i) the recognition of the texts and music to traditional American patriotic songs, including the national anthem, and appropriate respect therefor, "America the Beautiful," "God Bless America," "America (My Country 'Tis of Thee)," "Lift Every Voice and Sing," and "Battle Hymn of the Republic"; and (ii) the historical significance of patriotic holidays, including Veterans' Day, Memorial Day, Columbus Day, Independence Day, Martin Luther King's birthday, and Presidents' Day.

B. To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools.

The Board's guidelines shall include, but shall not be limited to, provisions which address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the propriety and constitutionality of any recitation or participation requirements; appropriate etiquette and conventions for respecting the dignity and appropriate display of the flag of the United States and the flag of the Commonwealth; and relevant state and federal constitutional concerns, such as freedom of speech and religion.

These guidelines shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). However, to provide appropriate opportunity for involvement by the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to the adoption of such guidelines.

C. Each school board shall require the daily recitation of the Pledge of Allegiance in each classroom of the school division and shall ensure that the flag of the United States is in place in each such classroom. Each school board shall determine the appropriate time during the school day for the recitation of the Pledge. During such Pledge of Allegiance, students shall stand and recite the Pledge while facing the flag with their right hands over their hearts or in an appropriate salute if in uniform; however, no student shall be compelled to recite the Pledge if he, his parent or legal guardian objects on religious, philosophical or other grounds to his participating in this exercise. Students who are thus exempt from reciting the Pledge shall remain quietly standing or sitting at their desks while others recite the Pledge and shall make no display that disrupts or distracts others who are reciting the Pledge. School boards shall provide appropriate accommodations for students who are unable to comply with the procedures described herein due to disability.

The school board's code of conduct shall apply to disruptive behavior during the recitation of the Pledge in the same manner as provided for other circumstances of such behavior.

D. The Office of the Attorney General shall intervene on behalf of local school boards and shall provide legal defense of the provisions of this section.

SENATE SUBSTITUTE

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§ 22.1-202.1. *Display of United States flag.*

Local school boards shall develop and implement policies to address the respectful display of the flag; classroom and assembly spaces in which the flag is to be displayed to facilitate instruction regarding the flag and the recitation of the Pledge of Allegiance pursuant to § 22.1-202; the identification of spaces, such as resource rooms and other areas, in which the flag need not be displayed; and such other issues as may be deemed necessary and appropriate.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs, a character education program in its schools. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Character education shall also include appreciation for the unique nature of the American culture's valuing of and belief in freedom and respect for individual rights and liberties, including political, economic, and religious freedom, and freedom of speech, as contrasted with other societies' and cultures' lack of such freedoms. Such citizenship concepts shall be incorporated in appropriate portions of the K-12 curriculum, including the Standards of Learning.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning.

This provision is intended to educate students regarding those core civic values and virtues which are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. To assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools, the Board of Education shall also establish, within the Department of Education, the Commonwealth Character Initiative. The Board shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Board may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Board of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs.