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SENATE BILL NO. 672

Offered January 19, 2006

A *BILL to amend and reenact §§ 16.1-228, 22.1-254, 22.1-258, 22.1-259, 22.1-260, 22.1-262, 22.1-265, 22.1-266, 22.1-267, and 22.1-279.3 of the Code of Virginia, relating to compulsory school attendance; truancy and chronic tardiness.*

Patron—Obenshain

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 22.1-254, 22.1-258, 22.1-259, 22.1-260, 22.1-262, 22.1-265, 22.1-266, 22.1-267, and 22.1-279.3 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or rescue squad, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile" or "minor" means a person less than 18 years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor

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SB672

59 shall any child who habitually remains away from or habitually deserts or abandons his family as a
60 result of what the court or the local child protective services unit determines to be incidents of physical,
61 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

62 However, to find that a child falls within these provisions, (i) the conduct complained of must
63 present a clear and substantial danger to the child's life or health or to the life or health of another
64 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
65 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or
66 services needed by the child or his family.

67 "Child in need of supervision" means:

68 1. A child who, while subject to compulsory school attendance, is habitually and without justification
69 absent from *or chronically tardy* to school, and (i) the child has been offered an adequate opportunity to
70 receive the benefit of any and all educational services and programs that are required to be provided by
71 law and which meet the child's particular educational needs, (ii) the school system from which the child
72 is absent or *to which the child is chronically tardy* or other appropriate agency has made a reasonable
73 effort to effect the child's regular *and punctual* attendance without success, and (iii) the school system
74 has provided documentation that it has complied with the provisions of § 22.1-258; or

75 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
76 placement authority, remains away from or deserts or abandons his family or lawful custodian on more
77 than one occasion or escapes or remains away without proper authority from a residential care facility in
78 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to
79 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
80 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
81 rehabilitation or services needed by the child or his family.

82 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile
83 and domestic relations district court of each county or city.

84 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an
85 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of
86 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
87 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
88 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
89 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or
90 town.

91 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
92 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has
93 been terminated under the provisions of § 16.1-269.6.

94 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
95 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
96 duties imposed upon him under this law.

97 "Family abuse" means any act involving violence, force, or threat including, but not limited to, any
98 forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily
99 injury and which is committed by a person against such person's family or household member.

100 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
101 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
102 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
103 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
104 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,
105 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)
106 any individual who has a child in common with the person, whether or not the person and that
107 individual have been married or have resided together at any time, or (vi) any individual who cohabits
108 or who, within the previous 12 months, cohabited with the person, and any children of either of them
109 then residing in the same home with the person.

110 "Foster care services" means the provision of a full range of casework, treatment and community
111 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or
112 in need of services as defined in this section and his family when the child (i) has been identified as
113 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through
114 an agreement between the local board of social services or a public agency designated by the
115 community policy and management team and the parents or guardians where legal custody remains with
116 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or
117 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board
118 pursuant to § 16.1-293.

119 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
120 chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

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

For the purpose of determining compliance with the requirements of this section that a child be sent to school promptly for the "same number of days and hours per day as the public schools," the Board of Education shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), defining "chronically tardy" to identify those children who are in violation of this article by reason of being habitually and without justification absent from school for a substantial portion of the day because of routine and significant late arrival to school.

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

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

182 The requirements of this section shall apply to (i) any child in the custody of the Department of
183 Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii)
184 any child whom the division superintendent has required to take a special program of prevention,
185 intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01.
186 However, the requirements of this section shall (a) be satisfied for those persons 16 through 18 years of
187 age who are housed in adult correctional facilities when such persons are actively pursuing a general
188 educational development (GED) certificate but are not enrolled in an individual student alternative
189 education plan pursuant to subsection D and (b) not apply to any child who has obtained a high school
190 diploma, its equivalent, or a certificate of completion or who has otherwise complied with compulsory
191 school attendance requirements as set forth in this article.

192 B. A school board shall excuse from attendance at school:

193 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
194 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
195 training or belief" does not include essentially political, sociological or philosophical views or a merely
196 personal moral code; and

197 2. On the recommendation of the juvenile and domestic relations district court of the county or city
198 in which the pupil resides and for such period of time as the court deems appropriate, any pupil who,
199 together with his parents, is opposed to attendance at a school by reason of concern for such pupil's
200 health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension
201 for personal safety when such concern or apprehension in that pupil's specific case is determined by the
202 court, upon consideration of the recommendation of the principal and division superintendent, to be
203 justified.

204 C. A school board may excuse from attendance at school:

205 1. On recommendation of the principal and the division superintendent and with the written consent
206 of the parent or guardian, any pupil who the school board determines, in accordance with regulations of
207 the Board of Education, cannot benefit from education at such school; and

208 2. On recommendation of the juvenile and domestic relations district court of the county or city in
209 which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at
210 such school.

211 D. Local school boards may allow the requirements of subsection A of this section to be met under
212 the following conditions:

213 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's
214 parents, and the principal or his designee of the school in which the student is enrolled in which an
215 individual student alternative education plan shall be developed in conformity with guidelines prescribed
216 by the Board, which plan must include:

217 a. Career guidance counseling;

218 b. Mandatory enrollment and attendance in a general educational development preparatory program or
219 other alternative education program approved by the local school board with attendance requirements
220 that provide for reporting of student attendance by the chief administrator of such GED preparatory
221 program or approved alternative education program to such principal or his designee;

222 c. Counseling on the economic impact of failing to complete high school; and

223 d. Procedures for reenrollment to comply with the requirements of subsection A of this section.

224 A student for whom an individual student alternative education plan has been granted pursuant to this
225 subsection and who fails to comply with the conditions of such plan shall be in violation of the
226 compulsory school attendance law, and the division superintendent or attendance officer of the school
227 division in which such student was last enrolled shall seek immediate compliance with the compulsory
228 school attendance law as set forth in this article.

229 Students enrolled with an individual student alternative education plan shall be counted in the
230 average daily membership of the school division.

231 E. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et
232 seq.) of Chapter 14 of this title and upon a finding that a school-age child has been (i) charged with an
233 offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons,
234 alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that
235 resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to
236 the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended
237 pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or
238 § 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program
239 as provided in § 22.1-209.1:2 or § 22.1-277.2:1.

240 F. Whenever a court orders any pupil into an alternative education program offered in the public
241 schools, the local school board of the school division in which the program is offered shall determine
242 the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the
243 public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

G. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

H. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;
3. Children under 10 years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;
4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and
5. Children excused pursuant to subsections B and C of this section.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

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

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

Whenever any pupil fails to report *or is chronically tardy* to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence *or chronic tardiness*, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence *or chronic tardiness* shall be made by the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report *or is tardy* to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence *or tardiness*, and a reasonable effort to notify the parent has failed, the school principal or his designee shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, by the attendance officer to obtain an explanation for the pupil's absence *or chronic tardiness* and to explain to the parent the consequences of continued nonattendance *or chronic tardiness*. The attendance officer, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance *or chronic tardiness*. Such plan shall include documentation of the reasons for the pupil's nonattendance *or chronic tardiness*.

If the pupil is absent *or tardy* an additional day after direct contact with the pupil's parent and the

attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence *or tardiness*, the attendance officer shall schedule a conference within ~~ten~~ 10 school days with the pupil, his parent, and school personnel, which conference may include other community service providers, to resolve issues related to the pupil's nonattendance *or tardiness*. The conference shall be held no later than ~~fifteen~~ 15 school days after the sixth absence. Upon the next absence *or tardiness* by such pupil without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence *or tardiness*, 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 by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

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.

§ 22.1-259. Teachers to keep daily attendance records.

Every teacher in every school in the Commonwealth shall keep an accurate daily record of attendance *and timeliness* of all children in accordance with regulations prescribed by the Board of Education. Such record shall, at all times, be open to any officer authorized to enforce the provisions of this article who may inspect or copy the same and shall be admissible in evidence in any prosecution for a violation of this article as prima facie evidence of the facts stated therein.

§ 22.1-260. Reports of children enrolled and not enrolled; nonattendance; social security numbers required.

A. Within 10 days after the opening of the school, each public school principal shall report to the division superintendent:

1. The name, age and grade of each student enrolled in the school, and the name and address of the student's parent or guardian; and

2. To the best of the principal's information, the name of each child subject to the provisions of this article who is not enrolled in school, with the name and address of the child's parent or guardian.

B. At the end of each school year, each public school principal shall report to the division superintendent the number of students by grade level for whom a conference was scheduled as required by § 22.1-258. The division superintendent shall compile such grade level information for the division and provide such information to the Superintendent of Public Instruction annually. *Such report shall differentiate between children who have been habitually and without justification absent and children who have been habitually and without justification chronically tardy in accordance with the Board of Education's regulations.*

C. For the purposes of this section, each student shall present a federal social security number within 90 days of his enrollment. The Board of Education shall, after consulting with the Social Security Administration, promulgate guidelines for determining which students are eligible to obtain social security numbers. In any case in which a student is ineligible, pursuant to these guidelines, to obtain a social security number or the parent is unwilling to present such number, the superintendent or his designee may assign another identifying number to the student or waive this requirement.

§ 22.1-262. Complaint to court when parent fails to comply with law.

A list of persons notified pursuant to § 22.1-261 shall be sent by the attendance officer to the appropriate school principal. If the parent (i) fails to comply with the provisions of § 22.1-261 within the time specified in the notice; or (ii) fails to comply with the provisions of § 22.1-254; or (iii) refuses to participate in the development of the plan to resolve the student's nonattendance *or chronic tardiness* or in the conference provided for in § 22.1-258, it shall be the duty of the attendance officer, with the knowledge and approval of the division superintendent, to make complaint against the pupil's parent in the name of the Commonwealth before the juvenile and domestic relations district court. If proceedings are instituted against the parent for failure to comply with the provisions of § 22.1-258, the attendance officer is to provide documentation to the court regarding the school division's compliance with § 22.1-258. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

§ 22.1-265. Inducing children to absent themselves or to be chronically tardy.

Any person who induces or attempts to induce any child to be absent *or tardy* unlawfully from

school or who knowingly employs or harbors, while school is in session, any child absent *or tardy* unlawfully shall be guilty of a Class 3 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. Upon a finding that a person knowingly and willfully violated the provisions of this section and that such person has been convicted previously of a violation of this section, such person shall be guilty of a Class 2 misdemeanor.

§ 22.1-266. Law-enforcement officers and truant and chronically tardy children.

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from *or chronically tardy to* a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from *or chronically tardy to* public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section:-

"Chronically tardy" shall be defined in the regulations of the Board of Education.

~~"Truancy"~~ *Truancy center* means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

§ 22.1-267. Proceedings against habitually absent or chronically tardy child.

Any child permitted by any parent, guardian, or other person having control thereof to be habitually absent from *or chronically tardy to* school contrary to the provisions of this article may be proceeded against as a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

§ 22.1-279.3. Parental responsibility and involvement requirements.

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; ~~and~~ (iii) a copy of the compulsory school attendance law; *and (iv) the Board of Education's definition of "chronically tardy."* These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct, the notice of the requirements of this section, and the compulsory school attendance law *and the Board's definition of "chronically tardy."* Each school shall maintain records of such signed statements.

D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress, *including the child's attendance at or timeliness in reporting to school.*

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal may notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation could result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of

the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance *and timeliness in reporting to school*; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; ~~and~~ (iv) that a petition with the juvenile and domestic relations court may be filed under certain circumstances to declare the student a child in need of supervision; *and (v) the parent's liability for failure to comply with the compulsory school attendance requirements.*

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in *improving the student's compliance with the compulsory school attendance requirements or in* disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, *including the child's attendance at or timeliness in reporting to school*, it may order the parent to so meet *or, in the case of compliance with the compulsory school attendance requirements and a child who is habitually and without justification absent from or chronically tardy to school, issue an order against such parent pursuant to § 22.1-263 or 22.1-265, or issue an order finding such child to be in need of supervision pursuant to § 22.1-267 and Chapter 11 (§ 16.1-226 et seq.) of Title 16.1; or*

2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order the student or his parent, or both, to participate in such programs or such treatment, including, but not limited to, extended day programs, summer school, other educational programs and counseling, as the court deems appropriate to improve the student's behavior or school attendance. The order may also require participation in a parenting, counseling or a mentoring program, as appropriate or that the student or his parent, or both, shall be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed \$500.

H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

I. All references in this section to the juvenile and domestic relations court shall be also deemed to mean any successor in interest of such court.