

2008 SESSION

LEGISLATION NOT PREPARED BY DLS
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HOUSE BILL NO. 1439

Offered January 14, 2008

A *BILL to amend and reenact §§ 22.1-253.13:7, 22.1-298.1, 22.1-313, and 63.2-1503 of the Code of Virginia, and to amend the Code of Virginia by adding in Article 1 of Chapter 17 of Title 19.2 a section numbered 19.2-291.1, relating to certain crimes committed by persons holding licenses issued by the Board of Education.*

Patron—Frederick

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:7, 22.1-298.1, 22.1-313, and 63.2-1503 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 1 of Chapter 17 of Title 19.2 a section numbered 19.2-291.1 as follows:

§ 19.2-291.1. *Report of conviction of school employees for certain offenses.*

Upon the conviction of any individual holding a license issued by the Board of Education for any felony; any offense involving the sexual molestation, physical or sexual abuse or rape of a child; or any offense involving drugs pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk of each circuit court and district court shall make a report of such conviction to the Superintendent of Public Instruction and the division superintendent of the employing division as soon as practicable.

§ 22.1-253.13:7. Standard 7. School board policies.

A. Each local school board shall develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee. Such policies and procedures shall be reviewed annually.

B. Each local school board shall maintain and follow up-to-date policies. All school board policies shall be reviewed at least every five years and revised as needed.

BC. Each local school board shall ensure that policies are developed giving consideration to the views of teachers, parents, and other concerned citizens and addressing the following:

1. A system of two-way communication between employees and the local school board and its administrative staff whereby matters of concern can be discussed in an orderly and constructive manner;

2. The selection and evaluation of all instructional materials purchased by the school division, with clear procedures for handling challenged controversial materials;

3. The standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights;

4. School-community communications and community involvement;

5. Guidelines to encourage parents to provide instructional assistance to their children in the home, which may include voluntary training for the parents of children in grades K through three;

6. Information about procedures for addressing concerns with the school division and recourse available to parents pursuant to § 22.1-87;

7. A cooperatively developed procedure for personnel evaluation appropriate to tasks performed by those being evaluated; and

8. Grievances, dismissals, etc., of teachers, and the implementation procedure prescribed by the General Assembly and the Board of Education, as provided in Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, and the maintenance of copies of such procedures.

D. A current copy of the school division policies, *required by this section*, including the Student Conduct Policy, shall be posted on the division's website and shall be available to employees and to the public. School boards shall ensure that printed copies of such policies are available as needed to citizens who do not have online access.

EE. An annual announcement shall be made in each division at the beginning of the school year and, for parents of students enrolling later in the academic year, at the time of enrollment, advising the public that the policies are available in such places.

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into Virginia from another state when that individual meets certain conditions specified in the Board of

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59 Education's regulations.

60 "Professional teacher's assessment" means those tests mandated for licensure as prescribed by the
61 Board of Education.

62 "Provisional license" means a nonrenewable license issued by the Board of Education for a specified
63 period of time, not to exceed three years, to an individual who may be employed by a school division in
64 Virginia and who generally meets the requirements specified in the Board of Education's regulations for
65 licensure, but who may need to take additional coursework or pass additional assessments to be fully
66 licensed with a renewable license.

67 "Renewable license" means a license issued by the Board of Education for five years to an individual
68 who meets the requirements specified in the Board of Education's regulations.

69 B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of
70 teachers and other school personnel required to hold a license. *Such regulations shall include*
71 *requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure.*
72 Regardless of the authority of any other agency of the Commonwealth to approve educational programs,
73 only the Board of Education shall have the authority to license teachers to be regularly employed by
74 school boards, including those teachers employed to provide nursing education.

75 Notwithstanding the provisions of this section and the Board's authority to license teachers, local
76 school boards shall be authorized to issue valid, three-year local eligibility licenses pursuant to
77 § 22.1-299.3.

78 C. The Board of Education's regulations shall include requirements that a person seeking initial
79 licensure:

80 1. Complete professional assessments as prescribed by the Board of Education;

81 2. Complete study in attention deficit disorder;

82 3. Complete study in gifted education, including the use of multiple criteria to identify gifted
83 students; and

84 4. Complete study in methods of improving communication between schools and families and ways
85 of increasing family involvement in student learning at home and at school.

86 D. In addition, such regulations shall include requirements that:

87 1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of
88 educational technology for instruction;

89 2. Every person seeking initial licensure or persons seeking licensure renewal as teachers for the first
90 time shall complete study in child abuse recognition and intervention in accordance with curriculum
91 guidelines developed by the Board of Education in consultation with the Department of Social Services
92 that are relevant to the specific teacher licensure routes;

93 3. Every person seeking initial licensure or renewal of a license shall receive professional
94 development in instructional methods tailored to promote student academic progress and effective
95 preparation for the Standards of Learning end-of-course and end-of-grade assessments; and

96 4. Every person seeking licensure with an endorsement as a teacher of the blind and visually
97 impaired shall demonstrate proficiency in reading and writing Braille.

98 E. The Board's regulations shall require that initial licensure for principals and assistant principals be
99 contingent upon passage of an assessment as prescribed by the Board.

100 F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential
101 learning for coursework for those persons seeking initial licensure through an alternate route as defined
102 in Board regulations.

103 G. Notwithstanding any provision of law to the contrary, the Board may provide for the issuance of
104 a provisional license, valid for a period not to exceed three years, to any person who does not meet the
105 requirements of this section or any other requirement for licensure imposed by law.

106 H. The Board's licensure regulations shall also provide for licensure by reciprocity:

107 1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching
108 license and national certification from the National Board for Professional Teaching Standards or a
109 nationally recognized certification program approved by the Board of Education. The application for
110 such individuals shall require evidence of such valid licensure and national certification and shall not
111 require official student transcripts;

112 2. For individuals who have obtained a valid out-of-state license, with full credentials and without
113 deficiencies, that is in force at the time the application for a Virginia license is received by the
114 Department of Education. The individual must establish a file in the Department of Education by
115 submitting a complete application packet, which shall include official student transcripts. An assessment
116 of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these
117 licensed individuals; however, other licensing assessments, as prescribed by the Board of Education,
118 shall be required; and

119 3. The Board may include other provisions for reciprocity in its regulations.

120 § 22.1-313. Decision of school board; generally.

A. The school board shall retain its exclusive final authority over matters concerning employment and supervision of its personnel, including dismissals, suspensions and placing on probation.

B. In the case of a hearing before the school board, the school board shall give the teacher its written decision within 30 days after the hearing. A record of the proceedings shall be taken and made available as provided in subsection I of § 22.1-312. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible. In the case of a hearing before a fact-finding panel, the school board shall give the teacher its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's findings of fact and recommendations; however, should there be a further hearing before the school board, as hereafter provided, such decision shall be furnished the teacher within 30 days after such further hearing. The decision of the school board shall be reached after considering the transcript, if any, and the findings of fact and recommendations of the panel and such further evidence as the school board may receive at any further hearing.

C. A teacher may be dismissed, suspended or placed on probation by a majority of a quorum of the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, the school board shall be required to conduct an additional hearing which shall be public unless the teacher requests a private one. However, if the fact-finding hearing was held in private, the additional hearing shall be held in private. The hearing shall be conducted by the school board pursuant to subsection D of this section, except that the grievant and the division superintendent shall be allowed to appear, to be represented, and to give testimony. However, the additional hearing shall not include examination and cross-examination of any other witnesses. The school board's written decision shall include the rationale for the decision.

D. In any case in which a further hearing by a school board is held after a hearing before a fact-finding panel, the school board shall consider at such further hearing the transcript, if any, the findings and recommendations of the fact-finding panel and such further evidence, including that of witnesses having testified before the panel, as the school board deems appropriate or as may be offered on behalf of the grievant or the respondent. A school board may initiate any such hearing upon written notice to the teacher and the division superintendent within 10 business days after the board receives the findings of fact and recommendations of the panel and any transcript of any panel hearing. Such notice shall specify each matter to be inquired into by the school board. In any case in which a teacher may initiate any such hearing, the teacher shall request such hearing in writing within 10 business days after receiving the findings of fact and recommendations of the panel and any transcript of the panel hearing. Any decision by the school board shall be based solely on the transcript, if any, the findings of fact and recommendations of the panel, and any evidence relevant to the issues of the original grievance adduced at the hearing in the presence of each party. Such hearing shall be conducted as a hearing by the school board as provided in § 22.1-311.

E. The school board's attorney, assistants or representative, if he or they represented a participant in the prior proceedings, the grievant, the grievant's attorney or representative and, notwithstanding the provisions of § 22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

F. In those instances where licensed personnel are recommended for dismissal or resign due to a conviction of any felony; any offense involving the sexual molestation, physical or sexual abuse or rape of a child; any offense involving drugs; or due to having become the subject of a founded case of child abuse and neglect the local school board shall notify the Board of Education regarding the teacher's dismissal or resignation and conviction. The local school board shall notify the Board of Education within 10 business days of the local school board's decision on dismissal or the board's receipt of the resignation.

When licensed personnel are recommended for dismissal for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, a crime of moral turpitude or other good and just cause and the local school board recommends revocation of the employee's license, the local school board shall make such recommendation to the Board of Education within 10 business days of its decision to dismiss the teacher.

§ 63.2-1503. Local departments to establish child-protective services; duties.

A. Each local department shall establish child-protective services under a departmental coordinator within such department or with one or more adjacent local departments that shall be staffed with qualified personnel pursuant to regulations adopted by the Board. The local department shall be the

182 public agency responsible for receiving and responding to complaints and reports, except that (i) in cases
183 where the reports or complaints are to be made to the court and the judge determines that no local
184 department within a reasonable geographic distance can impartially respond to the report, the court shall
185 assign the report to the court services unit for evaluation; and (ii) in cases where an employee at a
186 private or state-operated hospital, institution or other facility, or an employee of a school board is
187 suspected of abusing or neglecting a child in such hospital, institution or other facility, or public school,
188 the local department shall request the Department and the relevant private or state-operated hospital,
189 institution or other facility, or school board to assist in conducting a joint investigation in accordance
190 with regulations adopted by the Board, in consultation with the Departments of Education, Health,
191 Medical Assistance Services, Mental Health, Mental Retardation and Substance Abuse Services, Juvenile
192 Justice and Corrections.

193 B. The local department shall ensure, through its own personnel or through cooperative arrangements
194 with other local agencies, the capability of receiving reports or complaints and responding to them
195 promptly on a 24-hours-a-day, seven-days-per-week basis.

196 C. The local department shall widely publicize a telephone number for receiving complaints and
197 reports.

198 D. The local department shall upon receipt of a complaint, report immediately to the attorney for the
199 Commonwealth and the local law-enforcement agency and make available to them the records of the
200 local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii)
201 injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii)
202 any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not
203 limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1;
204 (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or
205 (vi) contributing to the delinquency of a minor in violation of § 18.2-371, and provide the attorney for
206 the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or
207 neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of
208 the death of the victim from other local agencies to substitute for direct reports to the attorney for the
209 Commonwealth and the local law-enforcement agency. The local department shall develop, when
210 practicable, memoranda of understanding for responding to reports of child abuse and neglect with local
211 law enforcement and the attorney for the Commonwealth.

212 E. When abuse or neglect is suspected in any case involving the death of a child, the local
213 department shall report the case immediately to the regional medical examiner and the local
214 law-enforcement agency.

215 F. The local department shall use reasonable diligence to locate (i) any child for whom a report of
216 suspected abuse or neglect has been received and is under investigation, receiving family assessment, or
217 for whom a founded determination of abuse and neglect has been made and a child-protective services
218 case opened and (ii) persons who are the subject of a report that is under investigation or receiving
219 family assessment, if the whereabouts of the child or such persons are unknown to the local department.

220 G. When an abused or neglected child and the persons who are the subject of an open
221 child-protective services case have relocated out of the jurisdiction of the local department, the local
222 department shall notify the child-protective services agency in the jurisdiction to which such persons
223 have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant
224 portions of the case record. The receiving local department shall arrange protective and rehabilitative
225 services as required by this section.

226 H. When a child for whom a report of suspected abuse or neglect has been received and is under
227 investigation or receiving family assessment and the child and the child's parents or other persons
228 responsible for the child's care who are the subject of the report that is under investigation or family
229 assessment have relocated out of the jurisdiction of the local department, the local department shall
230 notify the child-protective services agency in the jurisdiction to which the child and such persons have
231 relocated, whether inside or outside of the Commonwealth, and complete such investigation or family
232 assessment by requesting such agency's assistance in completing the investigation or family assessment.
233 The local department that completes the investigation or family assessment shall forward to the receiving
234 agency relevant portions of the case record in order for the receiving agency to arrange protective and
235 rehabilitative services as required by this section.

236 I. Upon receipt of a report of child abuse or neglect, the local department shall determine the validity
237 of such report and shall make a determination to conduct an investigation pursuant to § 63.2-1505 or, if
238 designated as a child-protective services differential response agency by the Department according to
239 § 63.2-1504, a family assessment pursuant to § 63.2-1506.

240 J. The local department shall foster, when practicable, the creation, maintenance and coordination of
241 hospital and community-based multidisciplinary teams that shall include where possible, but not be
242 limited to, members of the medical, mental health, social work, nursing, education, legal and
243 law-enforcement professions. Such teams shall assist the local departments in identifying abused and

neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.2-5207. Multidisciplinary teams may develop agreements regarding the exchange of information among the parties for the purposes of the investigation and disposition of complaints of child abuse and neglect, delivery of services and child protection. Any information exchanged in accordance with the agreement shall not be considered to be a violation of the provisions of §§ 63.2-102, 63.2-104 or § 63.2-105.

The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

K. The local department may develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect, and to make recommendations regarding the prosecution of such cases. These teams may include, but are not limited to, members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee; a local child-protective services representative; and the guardian ad litem or other court-appointed advocate for the child. Any information exchanged for the purpose of such consultation shall not be considered a violation of §§ 63.2-102, 63.2-104 or § 63.2-105.

L. The local department shall report annually on its activities concerning abused and neglected children to the court and to the Child-Protective Services Unit in the Department on forms provided by the Department.

M. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case-in-chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

N. Notwithstanding any other provision of law, the local department, in accordance with Board regulations, shall transmit information regarding founded complaints or family assessments and may transmit other information regarding reports, complaints, family assessments and investigations involving active duty military personnel or members of their household to family advocacy representatives of the United States Armed Forces.

O. The local department shall notify the custodial parent and make reasonable efforts to notify the noncustodial parent as those terms are defined in § 63.2-1900 of a report of suspected abuse or neglect of a child who is the subject of an investigation or is receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation.

P. The local department shall notify the Superintendent of Public Instruction when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual.