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HOUSE BILL NO. 886

Offered January 11, 2012

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A BILL to amend and reenact §§ 22.1-258, 22.1-260, 22.1-261, 22.1-262, and 22.1-267 of the Code of Virginia, relating to chronic school absenteeism and truancy.

Patron—Alexander

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-258, 22.1-260, 22.1-261, 22.1-262, and 22.1-267 of the Code of Virginia are amended and reenacted as follows:

§ 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 or his designee shall act as attendance officer.

Whenever any pupil fails to report 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, a reasonable effort to notify *the parent* by telephone ~~the parent~~ to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, 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 to school for a total of ~~five scheduled~~ *three consecutive* school days ~~for during any part of~~ 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, and a reasonable effort to notify the parent has failed, the school principal or his designee or the attendance officer shall make a ~~reasonable effort to ensure that~~ direct contact is ~~made~~, *to the extent possible*, with the parent, either in person or through telephone conversation, to obtain an explanation for the pupil's absence and to explain to the parent the *academic and legal* consequences of continued nonattendance. The school principal or his designee or the attendance officer, *the school guidance counselor*, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance *and may include a requirement to attend evening or weekend classes or make up missed class work or assignments.*

If the pupil is absent 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, either the school principal or his designee or the attendance officer shall schedule a conference within ~~40~~ *three* 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. The conference shall be held no later than ~~45~~ *five* school days after the ~~sixth~~ *fourth* absence. Upon the next absence by such pupil without indication to the attendance officer *or other school personnel* that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall notify the ~~attendance officer or the division superintendent or his designee~~, *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 *or a child in need of services* 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 *school principal or his designee or the attendance officer* shall provide *the division superintendent with* 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

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59 set forth in this article.

60 Attendance officers, other school personnel or volunteers organized by the school administration for
61 this purpose shall be immune from any civil or criminal liability in connection with the notice to parents
62 of a pupil's absence or failure to give such notice as required by this section.

63 § 22.1-260. Reports of children enrolled and not enrolled; nonattendance; social security numbers
64 required.

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

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

69 2. To the best of the principal's information, the name of each child subject to the provisions of this
70 article who is not enrolled in school, with the name and address of the child's parent or guardian. *Upon*
71 *receiving the list from the principal containing the names of students who are subject to the provisions*
72 *of this article and whose parents have not exercised other lawful educational options pursuant to*
73 *§ 22.1-254 or 22.1-254.1, the division superintendent shall commence proceedings in accordance with*
74 *the provisions of § 22.1-258 to enforce compliance with the compulsory school attendance law.*

75 B. At the end of each school year, each public school principal shall report to the division
76 superintendent the number of students by grade level for whom a conference was scheduled as required
77 by § 22.1-258. The division superintendent shall compile such grade level information for the division,
78 *including information pertaining to proceedings instituted to enforce compliance with the compulsory*
79 *school attendance law,* and provide such information to the Superintendent of Public Instruction
80 annually.

81 C. For the purposes of this section, each student shall present a federal social security number within
82 90 days of his enrollment. The Board of Education shall, after consulting with the Social Security
83 Administration, promulgate guidelines for determining which students are eligible to obtain social
84 security numbers. In any case in which a student is ineligible, pursuant to these guidelines, to obtain a
85 social security number or the parent is unwilling to present such number, the superintendent or his
86 designee may assign another identifying number to the student or waive this requirement.

87 § 22.1-261. Attendance officer to make list of children not enrolled; duties of division superintendent.

88 The attendance officer or the division superintendent or his designee shall check the reports
89 submitted pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records
90 and Health Statistics. From these reports and from any other reliable source the attendance officer or the
91 division superintendent or his designee shall, within five days after receiving all reports submitted
92 pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in
93 any school and who are not exempt from school attendance. It shall be the duty of the ~~attendance~~
94 ~~officer, on behalf of the local school board,~~ *division superintendent or his designee* to investigate all
95 cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or
96 other person having control of the child to require the attendance of such child at the school within
97 three days from the date of such notice.

98 § 22.1-262. Complaint to court when parent fails to comply with law.

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

111 § 22.1-267. Proceedings against habitually absent child.

112 Any child permitted by any parent, guardian, or other person having control thereof to be habitually
113 absent from school contrary to the provisions of this article may be proceeded against as a child in need
114 of supervision *or a child in need of services* as provided in Chapter 11 (§ 16.1-226 et seq.) of Title
115 16.1.