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**HOUSE BILL NO. 2347****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Militia, Police and Public Safety  
on February 11, 2013)

(Patron Prior to Substitute—Delegate Ramadan)

A *BILL to amend and reenact §§ 16.1-260, 16.1-300, 16.1-305.1, 16.1-305.2, 22.1-3.2, 22.1-254, 22.1-277, 22.1-277.2:1, 22.1-279.3:1, 22.1-288.2, and 22.1-360 of the Code of Virginia, relating to sharing juvenile intake and petition information with school divisions and public and private institutions of higher education.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-260, 16.1-300, 16.1-305.1, 16.1-305.2, 22.1-3.2, 22.1-254, 22.1-277, 22.1-277.2:1, 22.1-279.3:1, 22.1-288.2, and 22.1-360 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-260. Intake; petition; investigation.**

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H 1 and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the

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60 court. The intake officer may defer filing the complaint for 90 days and proceed informally by  
61 developing a truancy plan. The intake officer may proceed informally only if the juvenile has not  
62 previously been proceeded against informally or adjudicated in need of supervision for failure to comply  
63 with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents,  
64 guardian or other person standing in loco parentis must agree, in writing, for the development of a  
65 truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,  
66 guardian or other person standing in loco parentis participate in such programs, cooperate in such  
67 treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's  
68 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer  
69 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an  
70 interagency interdisciplinary team approach. The team may include qualified personnel who are  
71 reasonably available from the appropriate department of social services, community services board, local  
72 school division, court service unit and other appropriate and available public and private agencies and  
73 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the  
74 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then  
75 the intake officer shall file the petition.

76 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child  
77 is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for  
78 the juvenile, which may include restitution and the performance of community service, based upon  
79 community resources and the circumstances which resulted in the complaint, (ii) create an official record  
80 of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise  
81 the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the  
82 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent  
83 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241  
84 will result in the filing of a petition with the court.

85 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
86 visitation or support of a child is the subject of controversy or requires determination, (ii) a person has  
87 deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such  
88 child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment,  
89 rehabilitation or other services which are required by law, (iv) family abuse has occurred and a  
90 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of  
91 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,  
92 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
93 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
94 be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer  
95 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
96 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
97 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
98 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
99 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
100 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
101 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
102 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
103 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

104 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
105 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
106 in need of supervision have utilized or attempted to utilize treatment and services available in the  
107 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
108 the intake officer determines that the parties have not attempted to utilize available treatment or services  
109 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
110 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility  
111 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
112 officer determines that the parties have made a reasonable effort to utilize available community  
113 treatment or services may he permit the petition to be filed.

114 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
115 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in  
116 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate  
117 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic  
118 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake  
119 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate  
120 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the  
121 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake

officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. *The intake officer shall verbally notify the principal of any private primary or secondary school in which a student is known to be enrolled, and shall notify the school division superintendent in the jurisdiction in which a student is known to be enrolled or the chief of the campus police department established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 of any public or private nonprofit institution of higher education in which a student is known to be enrolled, and the local chief of police or sheriff, if the intake officer reasonably believes the student poses a credible danger of serious bodily injury or death to any students, school personnel, or others on school property. In addition, the intake officer shall refer the juvenile to the local community services board for an emergency mental health evaluation. Information provided with such notification shall include the nature of the danger. Any information provided to a school division superintendent pursuant to this subsection may be disclosed only as provided in § 16.1-305.2*

G. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

~~G.~~ H. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall verbally notify the principal of any private primary or secondary school in which a student is known to be enrolled, and shall file a report with the division superintendent of the school division in which ~~any student who~~ a student is known to be enrolled or with the chief of the campus police department established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 of any public or private nonprofit institution of higher education in which a student is known to be enrolled if the student is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, ~~which~~ that would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the principal, division superintendent or chief of the campus police department of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana or synthetic cannabinoids pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3; ~~or~~

12. An act of violence by a mob pursuant to § 18.2-42.1; ~~or~~

13. A violent juvenile felony as defined in § 16.1-228.

*The intake officer shall verbally notify the principal of any private primary or secondary school in which a student is known to be enrolled, and shall submit a written notification with the school division superintendent in the jurisdiction in which a student is known to be enrolled or with the chief of the campus police department established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 of any public or private nonprofit institution of higher education in which a student is known to be enrolled when a petition is filed with the court pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11.*

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent, principal of any private primary or secondary school, or to the chief of the campus police department established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 of any public or private nonprofit institution of higher education pursuant to this section may be disclosed only as provided in § 16.1-305.2.

~~H.~~ I. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations or littering violations.

183 In such cases the court may proceed on a summons issued by the officer investigating the violation in  
184 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle  
185 accident may, at the scene of the accident or at any other location where a juvenile who is involved in  
186 such an accident may be located, proceed on a summons in lieu of filing a petition.

187 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H  
188 of § 16.1-241.

189 3. In the case of a misdemeanor violation of § 18.2-250.1, 18.2-266, 18.2-266.1, or 29.1-738, or the  
190 commission of any other alcohol-related offense, provided the juvenile is released to the custody of a  
191 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of  
192 a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons  
193 requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the  
194 charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so  
195 charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a  
196 sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to  
197 §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed  
198 except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be  
199 served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to  
200 the court in which the violation is to be tried. When a violation of § 18.2-250.1 is charged by summons,  
201 the juvenile shall be entitled to have the charge referred to intake for consideration of informal  
202 proceedings pursuant to subsection B, provided such right is exercised by written notification to the  
203 clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 18.2-250.1  
204 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge  
205 referred to intake on a form approved by the Supreme Court and make return of such service to the  
206 court. If the officer fails to make such service or return, the court shall dismiss the summons without  
207 prejudice.

208 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or  
209 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in  
210 § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as  
211 provided by law for adults provided that notice of the summons to appear is mailed by the investigating  
212 officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

213 F. J. Failure to comply with the procedures set forth in this section shall not divest the juvenile court  
214 of the jurisdiction granted it in § 16.1-241.

215 **§ 16.1-300. Confidentiality of Department records.**

216 A. The social, medical, psychiatric and psychological reports and records of children who are or have  
217 been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or  
218 who are committed to the Department of Juvenile Justice shall be confidential and shall be open for  
219 inspection only to the following:

220 1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court  
221 having the child currently before it in any proceeding;

222 2. Any public agency, child welfare agency, private organization, facility or person who is treating or  
223 providing services to the child pursuant to a contract with the Department or pursuant to the Virginia  
224 Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.);

225 3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the  
226 child's attorney;

227 4. Any person who has reached the age of majority and requests access to his own records or  
228 reports;

229 5. Any state agency providing funds to the Department of Juvenile Justice and required by the  
230 federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which  
231 are financed in whole or in part by federal funds;

232 6. Any other person, agency or institution, including any law-enforcement agency, school  
233 administration, or probation office by order of the court, having a legitimate interest in the case, the  
234 juvenile, or in the work of the court *except as provided in § 16.1-260*;

235 7. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the  
236 confidential information is for the provision of treatment or rehabilitation services for the juvenile who  
237 is the subject of the information, (ii) when the requesting party has custody or is providing supervision  
238 for a juvenile and the release of the confidential information is in the interest of maintaining security in  
239 a secure facility, as defined by § 16.1-228 if the facility is located in Virginia, or as similarly defined by  
240 the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release  
241 of the confidential information is for consideration of admission to any group home, residential facility,  
242 or postdispositional facility, and copies of the records in the custody of such home or facility shall be  
243 destroyed if the child is not admitted to the home or facility;

244 8. Any attorney for the Commonwealth, any pretrial services officer, local community-based

probation officer and adult probation and parole officer for the purpose of preparing pretrial investigation, including risk assessment instruments, presentence reports, including those provided in § 19.2-299, discretionary sentencing guidelines worksheets, including related risk assessment instruments, as directed by the court pursuant to subsection C of § 19.2-298.01 or any court-ordered post-sentence investigation report;

9. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions; or any state criminal justice agency that is conducting research, provided that the agency agrees that all information received shall be kept confidential, or released or published only in aggregate form;

10. With the exception of medical, psychiatric, and psychological records and reports, any full-time or part-time employee of the Department of State Police or of a police department or sheriff's office that is a part of or administrated by the Commonwealth or any political subdivision thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is entitled to any information related to a criminal street gang including that a person is a member of a criminal street gang as defined in § 18.2-46.1. Information shall be provided by the Department to law enforcement without their request to aid in initiating an investigation or assist in an ongoing investigation of a criminal street gang as defined in § 18.2-46.1. The Department shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall divulge such information except in connection with a criminal investigation regarding a criminal street gang as defined in § 18.2-46.1 that is authorized by the Attorney General or by the attorney for the Commonwealth or in connection with a prosecution or proceeding in court;

11. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as permitted under subsection B of § 66-3.2;

12. Any state or local correctional facility as defined in § 53.1-1 when such facility has custody of or is providing supervision for a person convicted as an adult who is the subject of the reports and records. The reports and records shall remain confidential and shall be open for inspection only in accordance with this section; and

13. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2; and

*14. A threat assessment team established by a school division, by a public institution of higher education pursuant to § 23-9.2:10, or by a private nonprofit institution of higher education to aid in the assessment, treatment or support of or intervention with individuals whose behavior may present a threat to safety when such records concern a minor or adult student enrolled in a school within the school division or in the public or private nonprofit institution of higher education and such records reasonably relate to the incident or behavior prompting the threat assessment team to assess the student; however, no member of a threat assessment team shall disclose any confidential record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.*

A designated individual treating or responsible for the treatment of a person may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in subsection A hereof, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.

If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court (a) having jurisdiction over the facility where the child is currently placed or (b) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child

is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.

**§ 16.1-305.1. Disclosure of disposition in certain delinquency cases.**

Upon a court's disposition of a proceeding where a juvenile is charged with a crime listed in subsection G H of § 16.1-260 in which a juvenile is adjudicated delinquent, convicted, found not guilty or the charges are reduced, the clerk of the court in which the disposition is entered shall, within 15 days of the expiration of the appeal period, if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the disposition was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If the court defers disposition, or the charges are nolle prosequi, withdrawn, or dismissed the clerk shall, within 15 days of such action, provide written notice of such action to the superintendent of the school division in which the child is enrolled at such time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If charges are withdrawn in intake or handled informally without a court disposition, the intake officer shall, within 15 days of such action, provide written notification of the action to the superintendent of the school division in which the child is enrolled at that time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense.

If the child is not enrolled in the school division that receives notification under this section, the superintendent of that division may forward the notification to the superintendent of the school division where the child is enrolled.

A superintendent who receives notification under this section may disclose the information received to anyone to whom he or a principal disclosed that a petition had been filed. Further disclosure of information received under this section by the superintendent to school personnel is authorized only as provided in § 22.1-288.2.

**§ 16.1-305.2. Disclosure of notice of the filing of a petition and certain reports by division superintendent or the chief of the campus police department.**

Except as otherwise provided in this section, a division superintendent, *principal of any private primary or secondary school, or the chief of the campus police department established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 of any public or private nonprofit institution of higher education* shall not disclose information contained in or derived from a (i) notice of petition received pursuant to § 16.1-260 or (ii) report received pursuant to § 66-25.2:1. If the juvenile is not enrolled as a student in a public school in the division *or in the public or private nonprofit institution of higher education* to which the notice or report was given, the superintendent, *principal of any private primary or secondary school, or the chief of the campus police department* shall promptly so notify the intake officer of the juvenile court in which the petition was filed or the Director of the Department who sent the report and may forward the notice of petition or report to the superintendent of the division in which the juvenile is enrolled, if known.

If the division superintendent *or the chief of the campus police department* believes that disclosure of information regarding a petition to school personnel is necessary to ensure the physical safety of the juvenile, other students or school personnel within the division *or the public or private nonprofit institution of higher education*, he may at any time prior to receipt of the notice of disposition in accordance with § 16.1-305.1, disclose the fact of the filing of the petition and the nature of the offense to the principal of the school *or a threat assessment team of the public or private nonprofit institution of higher education* in which the juvenile who is the subject of the petition is enrolled. The principal *or threat assessment team of the public or private nonprofit institution of higher education* may further disseminate the information regarding a petition, after the juvenile has been taken into custody, whether or not the child has been released, only to those students and school, *college or university* personnel having direct contact with the juvenile and need of the information to ensure physical safety or the appropriate educational placement or other educational services.

If the division superintendent believes that disclosure of information regarding a report received pursuant to § 66-25.2:1 to school personnel is necessary to ensure the physical safety of the juvenile, other students, or school personnel within the division he may disclose the information to the principal of the school in which the juvenile is enrolled. The principal may further disseminate the information regarding such report only to school personnel as necessary to protect the juvenile, the subject or subjects of the danger, other students, or school personnel.

*Any information released pursuant to this section may be further disseminated to members of a violence prevention committee or threat assessment team established by a school division, by a public institution of higher education pursuant to § 23-9.2:10, or by a private nonprofit institution of higher education to aid in the assessment, treatment or support of or intervention with individuals whose behavior may present a threat to safety. No member of a threat assessment team shall disclose any juvenile record information obtained pursuant to this section or otherwise use any record of an*

individual beyond the purpose for which such disclosure was made to the threat assessment team.

Notwithstanding the provisions of this section, no information regarding a petition filed pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 may be disseminated to any student.

**§ 22.1-3.2. Notice of student's school status required as condition of admission; penalty.**

A. Prior to admission to any public school of the Commonwealth, a school board shall require the parent, guardian, or other person having control or charge of a child of school age to provide, upon registration:

1. A sworn statement or affirmation indicating whether the student has been expelled from school attendance at a private school or in a public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. This document shall be maintained as a part of the student's scholastic record.

2. A sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in subsection G & H of § 16.1-260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories. This document shall be maintained as provided in § 22.1-288.2.

B. When the child is registered as a result of a foster care placement as defined in § 63.2-100, the information required under this section shall be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

C. Any person making a materially false statement or affirmation shall be guilty upon conviction of a Class 3 misdemeanor.

**§ 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 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.

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 pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten 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.

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

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

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

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

429 court, upon consideration of the recommendation of the principal and division superintendent, to be  
430 justified.

431 C. Each local school board shall develop policies for excusing students who are absent by reason of  
432 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any  
433 award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test  
434 or examination, for any which he missed by reason of such absence, if the absence is verified in a  
435 manner acceptable to the school board.

436 D. A school board may excuse from attendance at school:

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

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

443 E. Local school boards may allow the requirements of subsection A to be met under the following  
444 conditions:

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

449 a. Career guidance counseling;

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

454 c. Mandatory enrollment in a program to earn a Board of Education-approved career and technical  
455 education credential, such as the successful completion of an industry certification, a state licensure  
456 examination, a national occupational competency assessment, or the Virginia workplace readiness skills  
457 assessment;

458 d. Successful completion of the course in economics and personal finance required to earn a Board  
459 of Education-approved high school diploma;

460 e. Counseling on the economic impact of failing to complete high school; and

461 f. Procedures for reenrollment to comply with the requirements of subsection A.

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

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

469 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et  
470 seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense  
471 relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol  
472 or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that  
473 resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to  
474 the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended  
475 pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or  
476 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program  
477 as provided in § 22.1-209.1:2 or 22.1-277.2:1.

478 G. Whenever a court orders any pupil into an alternative education program, including a program of  
479 general educational development, offered in the public schools, the local school board of the school  
480 division in which the program is offered shall determine the appropriate alternative education placement  
481 of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its  
482 school division.

483 The juvenile and domestic relations district court of the county or city in which a pupil resides or in  
484 which charges are pending against a pupil, or any court in which charges are pending against a pupil,  
485 may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in  
486 injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any  
487 offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend  
488 an alternative education program, including, but not limited to, night school, adult education, or any  
489 other education program designed to offer instruction to students for whom the regular program of  
490 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.

H. 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.

I. 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 D.

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.

**§ 22.1-277. Suspensions and expulsions of pupils generally.**

A. Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G H of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

**§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.**

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G H of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G H of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection B of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an

552 alternative education program and (ii) notice of the opportunity for the student or his parent to  
553 participate in a hearing to be conducted by the division superintendent or his designee regarding such  
554 placement. The decision of the superintendent or his designee regarding such alternative education  
555 placement shall be final unless altered by the school board, upon timely written petition, as established  
556 in regulation, by the student or his parent, for a review of the record by the school board.

557 C. A school board may adopt regulations authorizing the principal or his designee to impose a  
558 short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense  
559 involving intentional injury enumerated in subsection G H of § 16.1-260, to another student in the same  
560 school pending a decision as to whether to require that such student attend an alternative education  
561 program.

562 **§ 22.1-279.3:1. Reports of certain acts to school authorities.**

563 A. Reports shall be made to the division superintendent and to the principal or his designee on all  
564 incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a  
565 school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results  
566 in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or  
567 stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a  
568 school-sponsored activity; (iii) any conduct involving alcohol, marijuana, synthetic cannabinoids as  
569 defined in § 18.2-248.1:1, a controlled substance, imitation controlled substance, or an anabolic steroid  
570 on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted  
571 theft of student prescription medications; (iv) any threats against school personnel while on a school bus,  
572 on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in  
573 § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or  
574 devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as  
575 defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school  
576 property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in  
577 § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the  
578 arrest of any student for an incident occurring on a school bus, on school property, or at a  
579 school-sponsored activity, including the charge therefor.

580 B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1,  
581 local law-enforcement authorities shall report, and the principal or his designee and the division  
582 superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the  
583 school if the offense would be a felony if committed by an adult or would be a violation of the Drug  
584 Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a  
585 school-sponsored activity, or would be an adult misdemeanor involving any incidents described in  
586 clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his  
587 parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense  
588 that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of  
589 subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized  
590 to disclose information regarding terms of release from detention, court dates, and terms of any  
591 disposition orders entered by the court, to the superintendent of such student's school division, upon  
592 request by the superintendent, if, in the determination of the law-enforcement authority or attorney for  
593 the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case.  
594 No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of  
595 subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further,  
596 any school superintendent who receives notification that a juvenile has committed an act that would be a  
597 crime if committed by an adult pursuant to subsection G H of § 16.1-260 shall report such information  
598 to the principal of the school in which the juvenile is enrolled.

599 C. The principal or his designee shall submit a report of all incidents required to be reported  
600 pursuant to this section to the superintendent of the school division. The division superintendent shall  
601 annually report all such incidents to the Department of Education for the purpose of recording the  
602 frequency of such incidents on forms that shall be provided by the Department and shall make such  
603 information available to the public.

604 In submitting reports of such incidents, principals and division superintendents shall accurately  
605 indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be  
606 reported by such authorities pursuant to subsection B.

607 A division superintendent who knowingly fails to comply or secure compliance with the reporting  
608 requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who  
609 knowingly fails to comply or secure compliance with the reporting requirements of this section shall be  
610 subject to sanctions prescribed by the local school board, which may include, but need not be limited to,  
611 demotion or dismissal.

612 The principal or his designee shall also notify the parent of any student involved in an incident  
613 required pursuant to this section to be reported, regardless of whether disciplinary action is taken against

such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

**§ 22.1-288.2. Receipt, dissemination, and maintenance of records of certain law-enforcement information.**

A. A division superintendent shall disseminate the notice or information regarding an adjudication of delinquency or conviction for an offense listed in subsection G & H of § 16.1-260, contained in a notice received by him pursuant to § 16.1-305.1 to school personnel responsible for the management of student records and to other relevant school personnel, including, but not limited to, the principal of the school in which the student is enrolled. The principal shall further disseminate such information to licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the student and (ii) have a legitimate educational interest in such information.

B. A parent, guardian or other person having control or charge of a student in a public school and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication of delinquency or conviction for an offense listed in subsection G & H of § 16.1-260 was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to review, and to request an amendment of, the student's scholastic record, in accordance with regulations of the Board of Education governing the management of scholastic records.

Every notice of adjudication of delinquency or conviction for an offense listed in subsection G & H of § 16.1-260 received by a superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G & H of § 16.1-260, the notice shall become a part of the student's disciplinary record.

C. When a superintendent receives notice of the filing of a petition from the intake officer in accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide information regarding the student's educational and attendance status to the intake officer or court services unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment to the Department of Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment plan as provided in § 16.1-293.

**§ 22.1-360. Interstate Compact on Educational Opportunity for Military Children.**

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I.  
Purpose.

675 It is the purpose of this compact to remove barriers to educational success imposed on children of  
676 military families because of frequent moves and deployment of their parents by:

677 A. Facilitating the timely enrollment of children of military families and ensuring that they are not  
678 placed at a disadvantage due to difficulty in the transfer of education records from the previous school  
679 district(s) or variations in entrance/age requirements.

680 B. Facilitating the student placement process through which children of military families are not  
681 disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content,  
682 or assessment.

683 C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation  
684 in extracurricular academic, athletic, and social activities.

685 D. Facilitating the on-time graduation of children of military families.

686 E. Providing for the promulgation and enforcement of administrative rules implementing the  
687 provisions of this compact.

688 F. Providing for the uniform collection and sharing of information between and among member  
689 states, schools, and military families under this compact.

690 G. Promoting coordination between this compact and other compacts affecting military children.

691 H. Promoting flexibility and cooperation between the educational system, parents, and the student in  
692 order to achieve educational success for the student.

693 Article II.

694 Definitions.

695 As used in this compact, unless the context clearly requires a different construction:

696 "Active duty" means full-time duty status in the active uniformed service of the United States,  
697 including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C.  
698 §§ 1209 and 1211.

699 "Children of military families" means school-aged children, enrolled in kindergarten through 12th  
700 grade, in the household of an active duty member.

701 "Compact commissioner" means the voting representative of each compacting state appointed  
702 pursuant to Article VIII of this compact.

703 "Deployment" means the period one month prior to the service members' departure from their home  
704 station on military orders through six months after return to their home station.

705 "Educational records" means those official records, files, and data directly related to a student and  
706 maintained by the school or local education agency, including but not limited to records encompassing  
707 all the material kept in the student's cumulative folder such as general identifying data, records of  
708 attendance and of academic work completed, records of achievement and results of evaluative tests,  
709 health data, disciplinary status, test protocols, and individualized education programs.

710 "Extracurricular activities" means a voluntary activity sponsored by the school or local education  
711 agency or an organization sanctioned by the local education agency. Extracurricular activities include but  
712 are not limited to preparation for and involvement in public performances, contests, athletic  
713 competitions, demonstrations, displays, and club activities.

714 "Interstate Commission on Educational Opportunity for Military Children" means the commission that  
715 is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

716 "Local education agency" means a public authority legally constituted by the state as an  
717 administrative agency to provide control of and direction for kindergarten through 12th grade public  
718 educational institutions.

719 "Member state" means a state that has enacted this compact.

720 "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship,  
721 or other activity under the jurisdiction of the Department of Defense, including any leased facility,  
722 which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto  
723 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other  
724 U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors  
725 projects, or flood control projects.

726 "Nonmember state" means a state that has not enacted this compact.

727 "Receiving state" means the state to which a child of a military family is sent, brought, or caused to  
728 be sent or brought.

729 "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII  
730 of this compact that is of general applicability; implements, interprets, or prescribes a policy or  
731 provision of the compact, or an organizational, procedural, or practice requirement of the Interstate  
732 Commission and has the force and effect of statutory law in a member state if approved by the  
733 legislature of the member state.

734 "Sending state" means the state from which a child of a military family is sent, brought, or caused to  
735 be sent or brought.

736 "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

"Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

"Transition" means: (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

"Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

"Veteran" means a person who served in the active military, naval, or air service and who was discharged or released there from under conditions other than dishonorable.

### Article III. Applicability.

A. Except as otherwise provided in subsection B, this compact shall apply to the children of:  
1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided in subsection A;

3. Veterans of the uniformed services, except as provided in subsection A; and

4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

### Article IV. Educational Records and Enrollment.

A. Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education records from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age. Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of minimum age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of minimum age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from a local education agency in the sending state.

### Article V. Placement and Attendance.

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the

798 sending state if the courses are offered. Course placement includes, but is not limited to, honors,  
799 International Baccalaureate, advanced placement, vocational, technical, and career pathways courses.  
800 Continuing the student's academic program from the previous school and promoting placement in  
801 academically and career challenging courses should be paramount when considering placement. This  
802 does not preclude the school in the receiving state from performing subsequent evaluations to ensure  
803 appropriate placement and continued enrollment of the student in the course(s).

804 B. Educational program placement. The receiving state school shall initially honor placement of the  
805 student in educational programs based on current educational assessments conducted at the school in the  
806 sending state or participation/placement in like programs in the sending state. Such programs include,  
807 but are not limited to, (i) gifted and talented programs and (ii) English as a second language (ESL)  
808 programs. This does not preclude the school in the receiving state from performing subsequent  
809 evaluations to ensure appropriate placement of the student.

810 C. Special education services. In compliance with the federal requirements of the Individuals with  
811 Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide  
812 comparable services to a student with disabilities based on his or her current Individualized Education  
813 Program (IEP) and in compliance with the requirements of § 504 of the Rehabilitation Act, 29 U.S.C.  
814 § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, and the  
815 receiving state shall make reasonable accommodations and modifications to address the needs of  
816 incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student  
817 with equal access to education. This does not preclude the school in the receiving state from performing  
818 subsequent evaluations to ensure appropriate placement of the student.

819 D. Placement flexibility. Local education agency administrative officials shall have flexibility in  
820 waiving course/program prerequisites or other preconditions for placement in courses/programs offered  
821 under the jurisdiction of the local education agency.

822 E. Absence as related to deployment activities. A student whose parent or legal guardian is an active  
823 duty member of the uniformed services, as defined by the compact, and has been called to duty for, is  
824 on leave from, or has immediately returned from deployment to a combat zone or combat support  
825 posting, shall be granted additional excused absences at the discretion of the local education agency  
826 superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of  
827 the parent or guardian.

## 828 Article VI.

### 829 Eligibility.

#### 830 A. Eligibility for enrollment.

831 1. Children of military families shall be eligible for enrollment in the public schools of Virginia  
832 provided that the documents required by §§ 22.1-3.1 and 22.1-3.2 are provided and subject to the  
833 authority of a local education agency to exclude such children from attendance pursuant to § 22.1-277.2  
834 or if such children have been found guilty or adjudicated delinquent for any offense listed in subsection  
835 G of § 16.1-260 or any substantially similar offense under the laws of any state, the District of  
836 Columbia, or the United States or its territories;

837 2. Special power of attorney, relative to the guardianship of a child of a military family, and  
838 executed under Title 10, United States Code, § 1044b, shall be sufficient for the purposes of enrollment  
839 and all other actions requiring parental participation and consent;

840 3. A local education agency shall be prohibited from charging local tuition to a military child placed  
841 in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction  
842 other than that of the custodial parent; and

843 4. A military child, placed in the care of a noncustodial parent or other person standing in loco  
844 parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the  
845 school in which he or she was enrolled while residing with the custodial parent.

846 B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the  
847 opportunity for military children's inclusion in extracurricular activities, regardless of application  
848 deadlines, to the extent they are otherwise qualified.

## 849 Article VII.

### 850 Graduation.

851 In order to facilitate the on-time graduation of children of military families, states and local  
852 education agencies shall incorporate the following procedures:

853 A. Waiver requirements. Local education agency administrative officials shall waive specific courses  
854 required for graduation if similar coursework has been satisfactorily completed in another local education  
855 agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student  
856 who would qualify to graduate from the sending school, the local education agency shall provide an  
857 alternative means of acquiring required coursework so that graduation may occur on time.

858 B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the  
859 sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing acceptable to the

receiving state, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state, then the provisions of subsection C of this Article shall apply. Within 12 months of the effective date of this compact, the Interstate Commission shall adopt a rule addressing the acceptance of exit exams.

C. Transfers during senior year. Should a military student transferring in his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending local education agency, with the cooperation of the receiving local education agency, shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections A and B of this Article.

#### Article VIII.

##### State Coordination.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: (i) the state superintendent of education, (ii) the superintendent of a school district with a high concentration of military children, (iii) one representative from a military installation, and (iv) one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. Each member state shall employ a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The Governor of each member state shall appoint or designate a compact commissioner responsible for the administration and management of the state's participation in the compact and who is empowered to establish statewide policy related to matters governed by this compact.

D. The compact commissioner and the military family education liaison described herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

#### Article IX.

##### Interstate Commission on Educational Opportunity for Military Children.

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner and who is empowered to establish statewide policy related to matters governed by this compact.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote;

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from the state for a specified meeting; and

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws.

921 Members of the executive committee shall serve a one-year term. Members of the executive committee  
922 shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the  
923 Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission  
924 is not in session. The executive committee shall oversee the day-to-day activities of the administration of  
925 the compact, including enforcement and compliance with the provisions of the compact, its bylaws and  
926 rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex  
927 officio, nonvoting member of the executive committee.

928 F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate  
929 Commission shall make its information and official records available to the public for inspection or  
930 copying. The Interstate Commission may exempt from disclosure information or official records to the  
931 extent they would adversely affect personal privacy rights or proprietary interests.

932 G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall  
933 be open to the public, except as set forth in the rules or as otherwise provided in the compact. The  
934 Interstate Commission and its committees may close a meeting, or portion thereof, when it determines  
935 by two-thirds vote that an open meeting would be likely to:

- 936 1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
- 937 2. Disclose matters specifically exempted from disclosure by federal and state statute;
- 938 3. Disclose trade secrets or commercial or financial information that is privileged or confidential;
- 939 4. Involve accusing a person of a crime or formally censuring a person;
- 940 5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted  
941 invasion of personal privacy;
- 942 6. Disclose investigative records compiled for law-enforcement purposes; or
- 943 7. Specifically relate to the Interstate Commission's participation in a civil action or other legal  
944 proceeding.

945 H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the  
946 Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall  
947 reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall  
948 fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate  
949 summary of actions taken, and the reasons therefore, including a description of the views expressed and  
950 the record of a roll call vote. All documents considered in connection with an action shall be identified  
951 in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to  
952 release by a majority vote of the Interstate Commission.

953 I. The Interstate Commission shall collect standardized data concerning the educational transition of  
954 the children of military families under this compact as directed through its rules, which shall specify the  
955 data to be collected, the means of collection and data exchange, and reporting requirements. Such  
956 methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to  
957 current technology and coordinate its information functions with the appropriate custodian of records as  
958 identified in the bylaws and rules.

959 J. The Interstate Commission shall create a process that permits military officials, education officials,  
960 and parents to inform the Interstate Commission if and when there are alleged violations of the compact  
961 or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the  
962 state or local education agency. This section shall not be construed to create a private right of action  
963 against the Interstate Commission, any member state, or any local education agency.

#### 964 Article X.

#### 965 Powers and Duties of the Interstate Commission.

966 The Interstate Commission shall have the following powers:

967 A. To provide for dispute resolution among member states.

968 B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as  
969 enumerated in this compact. The rules shall have the force and effect of regulations adopted under the  
970 Administrative Process Act (§ 2.2-4000 et seq.), and shall be binding in the compact states to the extent  
971 and in the manner provided in this compact.

972 C. To issue, upon request of a member state, advisory opinions concerning the meaning or  
973 interpretation of the interstate compact, its bylaws, rules, and actions.

974 D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate  
975 Commission, and the bylaws, using all necessary and proper means, including but not limited to the use  
976 of judicial process. Any action to enforce compliance with the compact provisions by the Interstate  
977 Commission shall be brought against a member state only.

978 E. To establish and maintain offices, which shall be located within one or more of the member  
979 states.

980 F. To purchase and maintain insurance and bonds.

981 G. To borrow, accept, hire, or contract for services of personnel.

982 H. To establish and appoint committees, including but not limited to an executive committee as



required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of them.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

#### Article XI.

#### Organization and Operation of the Interstate Commission.

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to: (i) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; (ii) overseeing an organizational structure within and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and (iii) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to

the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or the Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## Article XII.

### Rulemaking Functions of the Interstate Commission.

A. Rulemaking authority. The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

## Article XIII.

### Oversight, Enforcement, and Dispute Resolution.

#### A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as regulations adopted under the Administrative Process Act (§ 2.2-4000 et seq.);

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the Interstate Commission; and

3. The Interstate Commission shall be entitled to receive all service of process in any such

proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states;

5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state; and

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for mediation for disputes as appropriate.

#### Article XIV.

##### Financing of the Interstate Commission.

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### Article XV.

##### Member States, Effective Date, and Amendment.

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a

1167 nonvoting basis prior to adoption of the compact by all states.

1168 C. The Interstate Commission may propose amendments to the compact for enactment by the  
1169 member states. No amendment shall become effective and binding upon the Interstate Commission and  
1170 the member states unless and until it is enacted into law by unanimous consent of the member states.

1171 Article XVI.

1172 Withdrawal and Dissolution.

1173 A. Withdrawal.

1174 1. Once effective, the compact shall continue in force and remain binding upon each and every  
1175 member state, provided that a member state may withdraw from the compact specifically by repealing  
1176 the statute that enacted the compact into law.

1177 2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

1178 3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in  
1179 writing upon the introduction of legislation repealing this compact in the withdrawing state. The  
1180 Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw  
1181 within 60 days of its receipt thereof.

1182 4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred  
1183 through the effective date of withdrawal, including obligations the performance of which extends beyond  
1184 the effective date of withdrawal.

1185 5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state  
1186 reenacting the compact or upon such later date as determined by the Interstate Commission.

1187 B. Dissolution of compact.

1188 1. This compact shall dissolve effective upon the date of the withdrawal or default of the member  
1189 state that reduces the membership in the compact to one member state.

1190 2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no  
1191 further force or effect and the business and affairs of the Interstate Commission shall be concluded and  
1192 surplus funds shall be distributed in accordance with the bylaws.

1193 Article XVII.

1194 Severability and Construction.

1195 A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision  
1196 is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

1197 B. The provisions of this compact shall be liberally construed to effectuate its purposes.

1198 C. Nothing in this compact shall be construed to prohibit the applicability of other interstate  
1199 compacts to which the states are members.

1200 Article XVIII.

1201 Binding Effect of Compact and Other Laws.

1202 A. Other laws.

1203 1. Nothing herein prevents the enforcement of any other law of a member state that is not  
1204 inconsistent with this compact.

1205 2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

1206 B. Binding effect of the compact.

1207 1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the  
1208 Interstate Commission, are binding upon the member states.

1209 2. All agreements between the Interstate Commission and the member states are binding in  
1210 accordance with their terms.

1211 3. In the event any provision of this compact exceeds the constitutional limits imposed on the  
1212 legislature of any member state, such provision shall be ineffective to the extent of the conflict with the  
1213 constitutional provision in question in that member state.