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SENATE BILL NO. 448

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 18.2-56 and 22.1-279.6 of the Code of Virginia, relating to hazing; penalty and institution policies; penalty.

Patron—Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-56 and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials; penalty.

It shall be unlawful to haze so as to cause bodily injury, any student at any school, college, or university.

Any person found guilty thereof shall be guilty of a Class 4 misdemeanor or 6 felony.

Any person receiving bodily injury by hazing shall have a right to sue, civilly, the person or persons guilty thereof, whether adults or infants.

The president or other presiding official of any school, college or university receiving appropriations from the state treasury shall, upon satisfactory proof of the guilt of any student hazing another student, sanction and discipline such student in accordance with the institution's policies and procedures. The institution's policies and procedures shall provide for expulsions or other appropriate discipline based on the facts and circumstances of each case and shall be consistent with the model policies established by the Department of Education or the State Council of Higher Education for Virginia, as applicable. The president or other presiding official of any school, college or university receiving appropriations from the state treasury shall report hazing which causes bodily injury to the attorney for the Commonwealth of the county or city in which such school, college or university is, who shall take such action as he deems appropriate.

For the purposes of this section, "hazing" means to recklessly or intentionally endanger the health or safety of a student or students or to inflict bodily injury on a student or students in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes

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59 of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially
60 review the model student conduct code to incorporate discipline options and alternatives to preserve a
61 safe, nondisruptive environment for effective teaching and learning.

62 C. Each school board shall include in its code of student conduct prohibitions against hazing and
63 profane or obscene language or conduct. School boards shall also cite in their codes of student conduct
64 the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 4 misdemeanor or
65 felony penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not
66 more than \$2,500, either or both.

67 D. Each school board shall include in its code of student conduct, by July 1, 2014, policies and
68 procedures that include a prohibition against bullying. Such policies and procedures shall be consistent
69 with the standards for school board policies on bullying and the use of electronic means for purposes of
70 bullying developed by the Board pursuant to subsection A.

71 Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of
72 students and are not intended to prohibit expression of religious, philosophical, or political views,
73 provided that such expression does not cause an actual, material disruption of the work of the school.

74 E. A school board may regulate the use or possession of beepers or other portable communications
75 devices and laser pointers by students on school property or attending school functions or activities and
76 establish disciplinary procedures pursuant to this article to which students violating such regulations will
77 be subject.

78 F. Nothing in this section shall be construed to require any school board to adopt policies requiring
79 or encouraging any drug testing in schools. However, a school board may, in its discretion, require or
80 encourage drug testing in accordance with the Board of Education's guidelines and model student
81 conduct policies required by subsection A and the Board's guidelines for student searches required by
82 § 22.1-279.7.

83 G. The Board of Education shall establish standards to ensure compliance with the federal Improving
84 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
85 § 22.1-277.07.

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

89 **2. That the Department of Education and the State Council of Higher Education for Virginia shall**
90 **establish model policies regarding the prevention of and appropriate disciplinary action for hazing**
91 **as defined in § 18.2-56 of the Code of Virginia.**

92 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**
93 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is**
94 **\$105,292 for periods of imprisonment in state adult correctional facilities and cannot be**
95 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**