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HOUSE BILL NO. 1

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 1, 2018)

(Patron Prior to Substitute—Delegate Wilt)

*A BILL to amend and reenact §§ 22.1-287, 22.1-287.1, and 23.1-405 of the Code of Virginia, relating to scholastic records; directory information.***Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-287, 22.1-287.1, and 23.1-405 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-287. Limitations on access to records.**

A. No teacher, principal or employee of any public school nor any school board member shall permit access to any records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Either parent of such pupil or such pupil; provided that a school board may require that such pupil, if he be less than 18 years of age, as a condition precedent to access to such records, furnish written consent of his or her parent for such access;

2. A person designated in writing by such pupil if the pupil is 18 years of age or older or by either parent of such pupil if the pupil is less than 18 years of age;

3. The principal, or someone designated by him, of a school where the pupil attends, has attended, or intends to enroll;

4. The current teachers of such pupil;

5. State or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties;

6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of schools where the pupil attends, has attended, or intends to enroll or a member of his staff;

7. An officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

B. A parent or pupil entitled to see the records pursuant to subdivision A 1 shall have access to all records relating to such pupil maintained by the school except as otherwise provided by law and need only appear in person during regular hours of the school day and request to see such records. No material concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent or pupil shall be entitled to read such material personally.

C. ~~The restrictions imposed by this section shall not apply to the giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information shall be governed by the provisions of § 22.1-287.1.~~

D. Notwithstanding the restrictions imposed by this section:

1. A division superintendent of schools may, in his discretion, provide information to the staff of an institution of higher education or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the institution of higher education or educational research and development organization or laboratory and if no pupil will be identified by name in the information provided for research;

2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of his duties when the pupil is a veteran of military service with the United States, an orphan or dependent of such veteran, or an alien;

3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an employee of a local department of social services who needs the record to determine the eligibility of the pupil's family for public assistance and social services;

4. The principal or his designee may disclose identifying information from a pupil's scholastic record for the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil prior to adjudication. In addition to those agencies or personnel identified in subdivisions A 5 and 7, the principal or his designee may disclose identifying information from a pupil's scholastic record to attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the

60 persons to whom the records are to be disclosed shall certify in writing to the principal or his designee
61 that the information will not be disclosed to any other party, except as provided under state law, without
62 the prior written consent of the parent of the pupil or by such pupil if the pupil is 18 years of age or
63 older.

64 **§ 22.1-287.1. Directory information.**

65 A. Notwithstanding §§ 22.1-287 and 22.1-288, directory information, *as defined by regulations of the*
66 *Board of Education, and which may include a student's name, sex, address, telephone listing, date and*
67 *place of birth, major field of study, participation in officially recognized activities and sports, weight*
68 *and height as a member of an athletic team, dates of attendance, degrees and awards received, and*
69 *other similar information may be publicly released in accordance with state and federal law and*
70 *regulations and the regulations of the Board of Education. Such directory information may include the*
71 *student's name, sex, address, telephone listing, date and place of birth, major field of study, participation*
72 *in officially recognized activities and sports, weight and height of members of athletic teams, dates of*
73 *attendance, degrees and awards received, and other similar information only as follows:*

74 1. Except as set forth in subdivision 2, school personnel may publicly release directory information
75 about a student if the school has given notice to the parent, legal guardian, or eligible student of (i) the
76 types of information that the school has designated as directory information; (ii) the right of the parent,
77 legal guardian, or eligible student to refuse the designation of any or all of the types of information
78 about the student as directory information; and (iii) the period of time within which a parent, legal
79 guardian, or eligible student must notify the school in writing that he does not want any or all of the
80 types of information about the student designated as directory information.

81 2. Notwithstanding the provisions of subsection 1, school personnel shall not publicly release the
82 address, phone number, or email address of a student unless the parent, legal guardian, or eligible
83 student has affirmatively consented in writing to the designation of any or all of such information as
84 directory information.

85 B. For purposes of this section, an "eligible student" is a student 18 years or age or older or a
86 student under the age of 18 who is emancipated.

87 **§ 23.1-405. Student records and personal information; social media.**

88 A. As used in this section:

89 "Social media account" means a personal account with an electronic medium or service through
90 which users may create, share, or view user-generated content, including, without limitation, videos,
91 photographs, blogs, podcasts, messages, emails, or website profiles or locations. "Social media account"
92 does not include an account (i) opened by a student at the request of a public or private institution of
93 higher education or (ii) provided to a student by a public or private institution of higher education such
94 as the student's email account or other software program owned or operated exclusively by a public or
95 private institution of higher education.

96 B. Each public institution of higher education and private institution of higher education may require
97 any student who attends, or any applicant who has been accepted to and has committed to attend, such
98 institution to provide, to the extent available, from the originating secondary school and, if applicable,
99 any institution of higher education he has attended a complete student record, including any mental
100 health records held by the previous school or institution. Such records shall be kept confidential as
101 required by state and federal law, including the federal Family Educational Rights and Privacy Act (20
102 U.S.C. § 1232g) (*FERPA*).

103 C. Student directory information, *as defined by FERPA, and which may include a student's name,*
104 *sex, address, telephone listing, date and place of birth, major field of study, participation in officially*
105 *recognized activities and sports, weight and height as a member of an athletic team, dates of*
106 *attendance, degrees and awards received, and other similar information may be publicly released in*
107 *accordance with state and federal law and regulations only as follows:*

108 1. Except as set forth in subdivision 2, a public institution of higher education or a private
109 institution of higher education may publicly release directory information about a student if the
110 institution has given notice to the student of (i) the types of information that the school has designated
111 as directory information, (ii) the right of the student to refuse the designation of any or all of the types
112 of information about the student as directory information, and (iii) the period of time within which the
113 student must notify the school in writing that he does not want any or all of the types of information
114 about the student designated as directory information.

115 2. Notwithstanding the provisions of subsection 1, a public institution of higher education or a
116 private institution of higher education shall not publicly release the address, phone number, or email
117 address of a student unless the student has affirmatively consented in writing to the designation of any
118 or all of such information as directory information.

119 D. No public institution of higher education shall sell students' personal information, including
120 names, addresses, phone numbers, and email addresses, to any person. This subsection shall not apply to
121 transactions involving credit, debit, employment, finance, identity verification, risk assessment, fraud

122 prevention, or other transactions initiated by the student.

123 ~~D.~~ *E.* No public or private institution of higher education shall require a student to disclose the
124 username or password to any of such student's personal social media accounts. Nothing in this
125 subsection shall prevent a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
126 Chapter 8 from performing his official duties.