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SENATE BILL NO. 4009

Offered July 9, 2019

Prefiled July 8, 2019

A *BILL to amend the Code of Virginia by adding sections numbered 2.2-2817.3, 15.2-1505.1:1, 22.1-79.9, 23.1-102.1, and 40.1-22.2, relating to the duties of state agencies, localities, local school boards, public institutions of higher education, and employers with respect to incidents of workplace violence; liability for damages.*

Patron—Stanley

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.2-2817.3, 15.2-1505.1:1, 22.1-79.9, 23.1-102.1, and 40.1-22.2 as follows:

§ 2.2-2817.3. Incidents of workplace violence; duties; liability.

A. As used in this section:

"Incident of workplace violence" means an act of violence, act of aggression, or threat by any employee of a state agency against another individual, whether or not the individual is also employed by the agency, occurring within the Commonwealth while the employee is engaged in work-related activities.

"Offending employee" means an employee of an agency who reportedly perpetrated or participated in an incident of workplace violence.

B. Immediately after (i) the head of a state agency becomes aware of an incident of workplace violence or (ii) an incident of workplace violence is made known to the head of a state agency, the head of the state agency or a designated employee of the state agency shall:

1. Conduct an assessment of the likelihood that the offending employee may subject other individuals to future harm; and

2. Report the incident of workplace violence to the appropriate local law-enforcement agency for the locality in which the incident of workplace violence occurs.

C. Within a reasonable time following the state agency's conduct of the risk assessment required by subdivision B 1, the state agency shall:

1. Commence providing, and thereafter continue to provide for, mental health counseling or other appropriate resources for the offending employee; and

2. Take whatever steps necessary to protect its other employees and members of the public from future harm by the offending employee.

D. A state agency that fails to take any action required by subsection B or C shall be liable for any damages sustained by any individual as the result of any incident of workplace violence, occurring after the date of the state agency's failure, that is perpetrated by the offending employee or in which the offending employee participates.

E. A state agency's failure to take any action required by subsection B or C shall constitute a waiver or relinquishment of any sovereign immunity to which the state agency, its employees including the head of the state agency, or its agents are otherwise entitled, in any action for damages sustained by any individual as the result of any incident of workplace violence for which liability is assessed as provided in subsection D.

§ 15.2-1505.1:1. Incidents of workplace violence; duties; liability.

A. As used in this section:

"Incident of workplace violence" means an act of violence, act of aggression, or threat by any employee of a locality against another individual, whether or not the individual is also employed by the locality, occurring within the applicable locality while the employee is engaged in work-related activities.

"Offending employee" means an employee of a locality who reportedly perpetrated or participated in an incident of workplace violence.

B. Immediately after (i) a locality becomes aware of an incident of workplace violence or (ii) an incident of workplace violence is made known to a locality, the locality shall:

1. Conduct an assessment of the likelihood that the offending employee may subject other individuals to future harm; and

2. Report the incident of workplace violence to the appropriate local law-enforcement agency for the locality in which the incident of workplace violence occurs.

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SB4009

59 C. Within a reasonable time following the locality's conduct of the risk assessment required by
60 subdivision B 1, the locality shall:

61 1. Commence providing, and thereafter continue to provide for, mental health counseling or other
62 appropriate resources for the offending employee; and

63 2. Take whatever steps necessary to protect its other employees and members of the public from
64 future harm by the offending employee.

65 D. A locality that fails to take any action required by subsection B or C shall be liable for any
66 damages sustained by any individual as the result of any incident of workplace violence, occurring after
67 the date of the locality's failure, that is perpetrated by the offending employee or in which the offending
68 employee participates.

69 E. A locality's failure to take any action required by subsection B or C shall constitute a waiver or
70 relinquishment of any sovereign immunity to which the locality, the members of its governing body, its
71 employees, or its agents are otherwise entitled, in any action for damages sustained by any individual as
72 the result of any incident of workplace violence for which liability is assessed as provided in subsection
73 D.

74 **§ 22.1-79.9. Incidents of workplace violence; duties; liability.**

75 A. As used in this section:

76 "Incident of workplace violence" means an act of violence, act of aggression, or threat by any
77 employee of a local school board against another individual, whether or not the individual is also
78 employed by the local school board, occurring at school property within the applicable school division.

79 "Offending employee" means an employee of a local school board who reportedly perpetrated or
80 participated in an incident of workplace violence.

81 B. Immediately after (i) a local school board becomes aware of an incident of workplace violence or
82 (ii) an incident of workplace violence is made known to a local school board, the local school board
83 shall:

84 1. Conduct an assessment of the likelihood that the offending employee may subject other individuals
85 to future harm; and

86 2. Report the incident of workplace violence to the appropriate local law-enforcement agency for the
87 locality in which the incident of workplace violence occurs.

88 C. Within a reasonable time following the local school board's conduct of the risk assessment
89 required by subdivision B 1, the local school board shall:

90 1. Commence providing, and thereafter continue to provide for, mental health counseling or other
91 appropriate resources for the offending employee; and

92 2. Take whatever steps necessary to protect students and its other employees from future harm by the
93 offending employee.

94 D. A local school board that fails to take any action required by subsection B or C shall be liable
95 for any damages sustained by any individual as the result of any incident of workplace violence,
96 occurring after the date of the local school board's failure, that is perpetrated by the offending employee
97 or in which the offending employee participates.

98 E. A local school board's failure to take any action required by subsection B or C shall constitute a
99 waiver or relinquishment of any sovereign immunity to which the local school board or its members,
100 employees, or agents are otherwise entitled, in any action for damages sustained by any individual as
101 the result of any incident of workplace violence for which liability is assessed as provided in subsection
102 D.

103 **§ 23.1-102.1. Incidents of workplace violence; duties; liability.**

104 A. As used in this section:

105 "Incident of workplace violence" means an act of violence, act of aggression, or threat by any
106 student enrolled at, or employee of, a public institution of higher education against another individual,
107 whether or not the individual is also a student enrolled at or an employee of the public institution of
108 higher education, occurring at the public institution of higher education.

109 "Offending individual" means a student enrolled at or an employee of a public institution of higher
110 education who reportedly perpetrated or participated in an incident of workplace violence.

111 B. Immediately after the chief executive officer of a public institution of higher education (i) becomes
112 aware of an incident of workplace violence or (ii) an incident of workplace violence is made known to
113 such officer, the chief executive officer shall require a designated employee of the public institution of
114 higher education to:

115 1. Conduct an assessment of the likelihood that the offending individual may subject other
116 individuals to future harm; and

117 2. Report the incident of workplace violence to the appropriate local law-enforcement agency for the
118 locality in which the public institution of higher education is located.

119 C. Within a reasonable time following the conduct of the risk assessment required by subdivision B
120 1, the chief executive officer shall require a designated employee of the public institution of higher

education to:

1. Commence providing, and thereafter continue to provide for, mental health counseling or other appropriate resources for the offending individual; and

2. Take whatever steps necessary to protect students and other employees of the public institution of higher education from future harm by the offending individual.

D. A public institution of higher education that fails to take any action required by subsection B or C shall be liable for any damages sustained by any individual as the result of any incident of workplace violence, occurring after the date of the public institution of higher education's failure, that is perpetrated by the offending individual or in which the offending individual participates.

E. A public institution of higher education's failure to take any action required by subsection B or C shall constitute a waiver or relinquishment of any sovereign immunity to which the public institution of higher education, its chief executive officer, the members of its governing board, its employees, or its agents are otherwise entitled, in any action for damages sustained by any individual as the result of any incident of workplace violence for which liability is assessed as provided in subsection D.

§ 40.1-22.2. Incidents of workplace violence; duties; liability.

A. As used in this section:

"Incident of workplace violence" means an act of violence, act of aggression, or threat by any of an employer's employees against another individual, whether or not the individual is also employed by the employer, occurring at a place where the employer conducts business in the Commonwealth.

"Offending employee" means an employee who reportedly perpetrated or participated in an incident of workplace violence.

B. Immediately after (i) an employer becomes aware of an incident of workplace violence or (ii) an incident of workplace violence is made known to an employer, the employer shall:

1. Conduct an assessment of the likelihood that the offending employee may subject other individuals to future harm; and

2. Report the incident of workplace violence to the appropriate local law-enforcement agency for the locality in which the incident of workplace violence occurs.

C. Within a reasonable time following the employer's conduct of the risk assessment required by subdivision B 1, the employer shall:

1. Commence providing, and thereafter continue to provide for, mental health counseling or other appropriate resources for the offending employee; and

2. Take whatever steps necessary to protect its other employees from future harm by the offending employee.

D. An employer that fails to take any action required by subsection B or C shall be liable for any damages sustained by any individual as the result of any incident of workplace violence, occurring after the date of the employer's failure, that is perpetrated by the offending employee or in which the offending employee participates.