

20105280D

## HOUSE BILL NO. 257

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on January 29, 2020)

(Patrons Prior to Substitute—Delegates Mullin and Simonds [HB 695])

A BILL to amend and reenact §§ 8.01-47 and 22.1-279.3:1 of the Code of Virginia, relating to school principals; incident reports.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-47 and 22.1-279.3:1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-47. Immunity of persons investigating or reporting certain incidents at schools.

In addition to any other immunity he may have, any person who, in good faith with reasonable cause and without malice, acts to report, investigate, or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials, or other similar devices as described in clauses (vi) and (vii) of subsection subdivisions A 6 and 7 of § 22.1-279.3:1, alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, or information that an individual poses any credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation, or disclosure.

§ 22.1-279.3:1. Reports of certain acts to school authorities; reports of certain acts by school authorities to parents; reports of certain acts by school authorities to law enforcement.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the:

1. Alcohol, marijuana, a controlled substance, an imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;

2. The assault and battery that results in bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity;

3. The sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any

4. Any threats against school personnel while on a school bus, on school property, or at a school-sponsored activity; (v) the

5. The illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any

6. Any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any

7. Any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the

8. The arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Except as may otherwise be required by federal law, regulation, or jurisprudence, each principal:

1. Shall immediately report to the local law-enforcement agency any incident described in subdivision A 1 that may constitute a felony offense;

2. Shall immediately report to the local law-enforcement agency any incident described in subdivisions A 3 through 7;

3. May report to the local law-enforcement agency any other incident described in subsection A that is not required to be reported pursuant to subdivision 1 or 2; and

4. Shall immediately report any act enumerated in subdivisions A 1 through 5 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 whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident has been so reported, that the parents may contact local law enforcement for further information, if they so desire.

C. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1,

60 local law-enforcement authorities shall report, and the principal or his designee and the division  
61 superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the  
62 school if the offense would be a felony if committed by an adult or would be a violation of the Drug  
63 Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a  
64 school-sponsored activity, or would be an adult misdemeanor involving any incidents described in  
65 clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his  
66 parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense  
67 that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of  
68 subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized  
69 to disclose information regarding terms of release from detention, court dates, and terms of any  
70 disposition orders entered by the court, to the superintendent of such student's school division, upon  
71 request by the superintendent, if, in the determination of the law-enforcement authority or attorney for  
72 the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case.  
73 No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of  
74 subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further,  
75 any school superintendent who receives notification that a juvenile has committed an act that would be a  
76 crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to  
77 the principal of the school in which the juvenile is enrolled.

78 ~~C.~~ D. The principal or his designee shall submit a report of all incidents required to be reported  
79 pursuant to this section to the superintendent of the school division. The division superintendent shall  
80 annually report all such incidents to the Department of Education for the purpose of recording the  
81 frequency of such incidents on forms that shall be provided by the Department and shall make such  
82 information available to the public.

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

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

91 The principal or his designee shall also notify the parent of any student involved in an incident  
92 required pursuant to this section to be reported, regardless of whether disciplinary action is taken against  
93 such student or the nature of the disciplinary action. Such notice shall relate to only the relevant  
94 student's involvement and shall not include information concerning other students.

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

100 ~~D.~~ Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal  
101 shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through  
102 (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement  
103 agency any incident described in clause (i) of subsection A. Nothing in this section shall require  
104 delinquency charges to be filed or prevent schools from dealing with school-based offenses through  
105 graduated sanctions or educational programming before a delinquency charge is filed with the juvenile  
106 court.

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

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

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

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

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

**122**     *H. Nothing in this section shall require delinquency charges to be filed or prevent schools from*  
**123**     *dealing with school-based offenses through graduated sanctions or educational programming before a*  
**124**     *delinquency charge is filed with the juvenile court.*