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SENATE BILL NO. 237

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 30, 2020)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact §§ 22.1-258 and 54.1-3900 of the Code of Virginia, relating to school attendance officers; petitions for violation of a school attendance order.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-258 and 54.1-3900 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school; plan; conference; court proceedings.

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee shall make a reasonable effort to ensure that direct contact is made with the parent in person, through telephone conversation, or through the use of other communications devices to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent for more than one additional day after direct contact with the pupil's parent, and school personnel have received no indication that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall schedule a conference with the pupil, his parent, and school personnel. Such conference may include the attendance officer and other community service providers to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 10 school days after the tenth absence of the pupil, regardless of whether his parent approves of the conference. The conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns and plan additional interventions if attendance does not improve. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the pupil is resisting parental efforts to comply with compulsory attendance requirements, the principal or his designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) institute proceedings against the parent pursuant to § 18.2-371 or 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

An attendance officer, or a division superintendent or his designee when acting as an attendance officer pursuant to § 22.1-258, may complete, sign, and file with the intake officer of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, a petition for a violation of a school attendance order entered by the juvenile and domestic relations district court pursuant to § 16.1-278.5 in response to the filing of a petition alleging the pupil is a child in need of supervision as defined in § 16.1-228.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer

60 or division superintendent to seek immediate compliance with the compulsory school attendance law as
61 set forth in this article.

62 Attendance officers, other school personnel or volunteers organized by the school administration for
63 this purpose shall be immune from any civil or criminal liability in connection with the notice to parents
64 of a pupil's absence or failure to give such notice as required by this section.

65 **§ 54.1-3900. Practice of law; student internship program; definition.**

66 Persons who hold a license or certificate to practice law under the laws of this Commonwealth and
67 have paid the license tax prescribed by law may practice law in the Commonwealth.

68 Any person authorized and practicing as counsel or attorney in any state or territory of the United
69 States, or in the District of Columbia, may for the purpose of attending to any case he may occasionally
70 have in association with a practicing attorney of this Commonwealth practice in the courts of this
71 Commonwealth, in which case no license fee shall be chargeable against such nonresident attorney.

72 Nothing herein shall prohibit the limited practice of law by military legal assistance attorneys who
73 are employed by a military program providing legal services to low-income military clients and their
74 dependents pursuant to rules promulgated by the Supreme Court of Virginia.

75 Nothing herein shall prohibit a limited practice of law under the supervision of a practicing attorney
76 by (i) third-year law students or (ii) persons who are in the final year of a program of study as
77 authorized in § 54.1-3926, pursuant to rules promulgated by the Supreme Court of Virginia.

78 Nothing herein shall prohibit an employee of a state agency in the course of his employment from
79 representing the interests of his agency in administrative hearings before any state agency, such
80 representation to be limited to the examination of witnesses at administrative hearings relating to
81 personnel matters and the adoption of agency standards, policies, rules and regulations.

82 Nothing herein shall prohibit designated nonattorney employees of the Department of Social Services
83 from completing, signing and filing petitions and motions relating to the establishment, modification, or
84 enforcement of support on forms approved by the Supreme Court of Virginia in Department cases in the
85 juvenile and domestic relations district courts.

86 Nothing herein shall prohibit designated nonattorney employees of a local department of social
87 services from appearing before an intake officer to initiate a case in accordance with subsection A of
88 § 16.1-260 on behalf of the local department of social services.

89 Nothing herein shall prohibit designated nonattorney employees of a local department of social
90 services from completing, signing, and filing with the clerk of the juvenile and domestic relations
91 district court, on forms approved by the Supreme Court of Virginia, petitions for foster care review,
92 petitions for permanency planning hearings, petitions to establish paternity, motions to establish or
93 modify support, motions to amend or review an order, or motions for a rule to show cause.

94 *Nothing herein shall prohibit a nonattorney attendance officer, or a local school division*
95 *superintendent or his designee when acting as an attendance officer pursuant to § 22.1-258, from*
96 *completing, signing, and filing with the intake officer of a juvenile and domestic relations district court,*
97 *on forms approved by the Supreme Court of Virginia, a petition for a violation of a school attendance*
98 *order entered by a juvenile and domestic relations district court pursuant to § 16.1-278.5 in response to*
99 *the filing of a petition alleging the pupil is a child in need of supervision as defined in § 16.1-228.*

100 As used in this chapter "attorney" means attorney-at-law.