

# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 2

*An Act to amend the Code of Virginia by adding a section numbered 22.1-2.1, relating to public elementary and secondary schools and public school-based early childhood care and education programs; student instruction; emergency.*

[S 739]

Approved February 16, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-2.1 as follows:**

**§ 22.1-2.1. Provision of in-person instruction.**

*A. As used in this section, "in-person instruction" means instructional interaction between teachers and students that occurs in person and in real time. "In-person instruction" does not include the act of proctoring remote online learning in a classroom.*

*B. Except as otherwise permitted in subdivision C 4 of § 22.1-98 or Article 3 (§ 22.1-276.01 et seq.) of Chapter 14, each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program.*

*C. Notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, may elect for such child to not wear a mask while on school property. A parent making such an election shall not be required to provide a reason or any certification of the child's health or education status. No student shall suffer any adverse disciplinary or academic consequences as a result of this parental election. Nothing in this section shall be construed to affect the Governor's authority under Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 to accomplish the purposes of such chapter with regard to a communicable disease of public health threat as defined in § 44-146.16.*

**2. That each local school division must comply with the provisions of subsection C of § 22.1-2.1 of the Code of Virginia, as created by this act, no later than March 1, 2022.**

**3. That an emergency exists and this act is in force from its passage.**