

23103060D

HOUSE BILL NO. 1507

Offered January 11, 2023

Prefiled January 4, 2023

A BILL to amend and reenact §§ 22.1-1, as it is currently effective and as it shall become effective, and 22.1-279.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-2.01, relating to public elementary and secondary schools; fundamental right of parents.

Patron—McGuire

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-1, as it is currently effective and as it shall become effective, and 22.1-279.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-2.01 as follows:

§ 22.1-1. (For Expiration Date, see 2022 Acts cc. 549, 550, cl. 2) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child *who shall retain the fundamental right set forth in § 1-240.1.*

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Superintendent" means the Superintendent of Public Instruction.

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"Evidence-based literacy instruction" means structured instructional practices, including sequential, systematic, explicit, and cumulative teaching, that (i) are based on reliable, trustworthy, and valid evidence consistent with science-based reading research; (ii) are used in core or general instruction, supplemental instruction, intervention services, and intensive intervention services; (iii) have a demonstrated record of success in adequately increasing students' reading competency, vocabulary, oral language, and comprehension and in building mastery of the foundational reading skills of phonological and phonemic awareness, alphabetic principle, phonics, spelling, and text reading fluency; and (iv) are able to be differentiated in order to meet the individual needs of students.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

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59 September 30 of the school year and who has not reached twenty years of age on or before August 1 of
60 the school year.

61 "School board" means the school board that governs a school division.

62 "Science-based reading research" means research that (i) applies rigorous, systematic, and objective
63 observational or experimental procedures to obtain valid knowledge relevant to reading development,
64 reading instruction, and reading and writing difficulties and (ii) explains how proficient reading and
65 writing develop, why some children have difficulties developing key literacy skills, and how schools can
66 best assess and instruct early literacy, including the use of evidence-based literacy instruction practices
67 to promote reading and writing achievement.

68 "Superintendent" means the Superintendent of Public Instruction.

69 **§ 22.1-2.01. Proper rights of parents in the education of their children; enforcement.**

70 A. Each school board that amends or adopts a policy shall (i) document the reasons that the
71 amended or adopted policy either impacts or does not impact the fundamental right of parents as
72 established by § 1-240.1 and (ii) if the school board determines that the amended or adopted policy
73 impacts such fundamental right, ensure that the amended or adopted policy is subsequently amended in
74 such a way as to be in compliance with § 1-240.1.

75 B. If any school board fails to comply with any requirement set forth in subsection A, any parent of
76 a student enrolled in the local school division or any individual member of the school board may bring
77 a cause of action against the school board for appropriate relief in the circuit court that has
78 jurisdiction in the local school division and any such parent or individual member who prevails in such
79 a cause of action is entitled to an award of reasonable attorney fees and costs.

80 **§ 22.1-279.3. Parental responsibility and involvement requirements.**

81 A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing
82 the standards of student conduct and compulsory school attendance in order that education may be
83 conducted in an atmosphere free of disruption and threat to persons or property, and supportive of
84 individual rights.

85 B. A school board shall provide, consistent with § 1-240.1:

86 1. Provide opportunities for parental and community involvement in every school in the school
87 division, including providing to parents of students enrolled in the local school division:

88 a. Direct access to and an opportunity to review, upon request, the complete curricular content in
89 the local school division, including all supplemental materials used in any educational program and its
90 underlying courses of instruction and any procedures in effect for the educational program's
91 documentation, review, or approval by the principal, teachers, or administrators;

92 b. Public access on the local school division's website to a summary of each educational program in
93 the local school division that is designed to assist parents in understanding the relationship between the
94 educational program's objectives, courses of instruction, course content, content extensions, textbooks,
95 library references, supplemental material references, student participation requirements, and required or
96 suggested instructional methods;

97 c. Timely access to all personal, academic, discipline, and health care records that pertain to his
98 child; and

99 d. The option to opt out of policies, surveys, research studies, or programs of instruction that are
100 inconsistent with the parent's beliefs, values, or goals and standards for his child; and

101 2. Ensure that procedures are in place that require the written consent of the parent of any student
102 enrolled in the local school division in advance and prior to:

103 a. Taking photographs or video or voice recordings of his child, subject to applicable and explicit
104 public safety and security exceptions or those exceptions related to an immediate health emergency;

105 b. Transmitting data or information that uniquely identifies the parent's child to a third party, subject
106 to applicable and explicit public safety and security exceptions or those exceptions related to an
107 immediate health emergency; or

108 c. Creating, storing, scanning, or sharing any record of his child's blood or deoxyribonucleic acid
109 (DNA), except as required by general law or authorized pursuant to a court order.

110 C. Within one calendar month of the opening of school, each school board shall, simultaneously with
111 any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a
112 notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct;
113 and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the
114 parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly
115 reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth
116 and that a parent shall have the right to express disagreement with a school's or school division's
117 policies or decisions.

118 Each parent of a student shall sign and return to the school in which the student is enrolled a
119 statement acknowledging the receipt of the school board's standards of student conduct, the notice of the
120 requirements of this section, and the compulsory school attendance law. Each school shall maintain

121 records of such signed statements.

122 D. The school principal may request the student's parent or parents, if both parents have legal and
123 physical custody of such student, to meet with the principal or his designee to review the school board's
124 standards of student conduct and the parent's or parents' responsibility to participate with the school in
125 disciplining the student and maintaining order, to ensure the student's compliance with compulsory
126 school attendance law, and to discuss improvement of the child's behavior, school attendance, and
127 educational progress.

128 E. In accordance with the due process procedures set forth in this article and the guidelines required
129 by § 22.1-279.6, the school principal may notify the parents of any student who violates a school board
130 policy or the compulsory school attendance requirements when such violation could result in the
131 student's suspension or the filing of a court petition, whether or not the school administration has
132 imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of
133 the violation; (ii) the obligation of the parent to take actions to assist the school in improving the
134 student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is
135 suspended, the parent may be required to accompany the student to meet with school officials; and (iv)
136 that a petition with the juvenile and domestic relations court may be filed under certain circumstances to
137 declare the student a child in need of supervision.

138 F. No suspended student shall be admitted to the regular school program until such student and his
139 parent have met with school officials to discuss improvement of the student's behavior, unless the school
140 principal or his designee determines that readmission, without parent conference, is appropriate for the
141 student.

142 G. Upon the failure of a parent to comply with the provisions of this section, the school board may,
143 by petition to the juvenile and domestic relations court, proceed against such parent for willful and
144 unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as
145 follows:

146 1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a
147 request of the principal as set forth in subsection D of this section, to review the school board's
148 standards of student conduct and the parent's responsibility to assist the school in disciplining the student
149 and maintaining order, and to discuss improvement of the child's behavior and educational progress, it
150 may order the parent to so meet; or

151 2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended
152 student to meet with school officials pursuant to subsection F, or upon the student's receiving a second
153 suspension or being expelled, it may order the student or his parent, or both, to participate in such
154 programs or such treatment, including, but not limited to, extended day programs, summer school, other
155 educational programs and counseling, as the court deems appropriate to improve the student's behavior
156 or school attendance. The order may also require participation in a parenting, counseling or a mentoring
157 program, as appropriate or that the student or his parent, or both, shall be subject to such conditions and
158 limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or
159 his parent. In addition, the court may order the parent to pay a civil penalty not to exceed \$500.

160 H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and
161 domestic relations court in which the student's school is located and shall be paid into a fund maintained
162 by the appropriate local governing body to support programs or treatments designed to improve the
163 behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed
164 by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such
165 civil penalties.

166 I. All references in this section to the juvenile and domestic relations court shall be also deemed to
167 mean any successor in interest of such court.