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HOUSE BILL NO. 1383

Offered January 16, 2024

A *BILL to amend and reenact §§ 16.1-305.1 and 22.1-289 of the Code of Virginia, relating to public schools; transfer and management of scholastic records; disclosure of information in court notices; transfer of disciplinary records; requirements.*

Patrons—Milde and Cole; Senator: Durant

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-305.1 and 22.1-289 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-305.1. Disclosure of disposition in certain delinquency cases.

Upon a court's disposition of a proceeding where a juvenile is charged with a crime listed in subsection G of § 16.1-260 in which a juvenile is adjudicated delinquent, convicted, found not guilty or the charges are reduced, the clerk of the court in which the disposition is entered shall, within 15 days of the expiration of the appeal period, if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the disposition was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If the court defers disposition, or the charges are nolle prosequi, withdrawn, or dismissed the clerk shall, within 15 days of such action, provide written notice of such action to the superintendent of the school division in which the child is enrolled at such time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If charges are withdrawn in intake or handled informally without a court disposition, the intake officer shall, within 15 days of such action, provide written notification of the action to the superintendent of the school division in which the child is enrolled at that time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense.

If the child is not enrolled in the school division that receives notification under this section, the superintendent of that division ~~may~~ shall forward the notification to the superintendent of the school division where the child is enrolled *or where the child intends to enroll, as evidenced by the school division's receipt of a request from another school division for such child's scholastic record.*

A superintendent who receives notification under this section may disclose the information received to anyone to whom he or a principal disclosed that a petition had been filed. Further disclosure of information received under this section by the superintendent to school personnel is authorized only as provided in § 22.1-288.2.

§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty.

A. As used in this section:

"Scholastic record" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

A notice of adjudication or conviction received by a superintendent relating to an incident ~~which~~ that did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term "~~scholastic~~ "Scholastic record" also ~~shall~~ does not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record *and a copy of the complete student disciplinary record, including copies of any relevant correspondence sent to the pupil or such pupil's parent and copies of any correspondence and documentation relating to such pupil's placement in an alternative education program pursuant to § 22.1-209.1:2 or 22.1-277.2:1,* shall be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having

59 control or charge of the student shall not be required for transfer of such scholastic ~~record and~~
60 *disciplinary records* to another school or school division within or outside the Commonwealth.

61 C. Any notice of disposition received pursuant to § 16.1-305.1 shall not be retained after the student
62 has been awarded a diploma or a certificate as provided in § 22.1-253.13:4.

63 D. Every student's scholastic record shall be available to the student and his parent, guardian, or
64 other person having control or charge of the student for inspection during the regular school day.
65 Permission of the parent, guardian, or other person having control or charge of the student, or of a
66 student who is 18 years of age or older, shall not be required for transfer of such scholastic record to
67 another school or school division within or ~~without~~ *outside* this Commonwealth.

68 Consistent with federal law and regulation, each school shall annually notify parents of students
69 currently enrolled and in attendance of their rights under the federal Family Educational Rights and
70 Privacy Act (20 U.S.C. § 1232g) and related regulations.

71 A school responding to a request for the transfer of the scholastic record from another school
72 division need not provide written notice of the transfer of the record, including the identity of the
73 requester, to the parent, guardian, or other person having control or charge of the student, or to a student
74 who is 18 years of age or older, if the school has previously included in the annual notice required by
75 this subsection a statement that it forwards such records to such requesting school divisions.

76 E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant
77 to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a
78 detention center, that a pupil who last attended a school within the school division is a pupil in a school
79 of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational
80 program in a local jail or detention center, the school division superintendent or his designee shall
81 transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a
82 detention center, as the case may be, within five work days. The Department of Juvenile Justice shall
83 transfer the scholastic record of a student who has been discharged from a juvenile correctional center to
84 the relevant school division within five work days of the student's discharge.

85 The Board of Education shall adopt regulations concerning the transfer and management of scholastic
86 records from one school division to another, to the learning centers of the Department of Juvenile
87 Justice, and to educational programs in local jails and detention centers.

88 Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending
89 school division and the receiving school division, as such school divisions are defined in subsection D
90 of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

91 F. The division superintendent or his designee shall notify the local police or sheriff's department for
92 investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to
93 obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that
94 the pupil is a missing child.

95 G. Superintendents and their designees shall be immune from any civil or criminal liability in
96 connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or
97 failure to give such notice as required by this section.

98 H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee,
99 or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 ~~shall~~
100 ~~be~~ *is* guilty of a Class 3 misdemeanor.