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HOUSE BILL NO. 398**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations

on February 7, 2024)

(Patron Prior to Substitute—Delegate McQuinn)

A *BILL to amend and reenact § 22.1-277 of the Code of Virginia, relating to public elementary and secondary schools; student discipline; alternatives to suspension, expulsion, and exclusion.*

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-277 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-277. Suspensions and expulsions of students generally.**

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or in § 22.1-277.07 or 22.1-277.08, no student ~~in~~:

1. *In preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department; or*

2. *Shall be suspended, expelled, or excluded from attendance at school without first considering the leveled administrative responses to student behavior as set out in the Department's "Model Guidance for Positive, Preventive Code of Student Conduct Policy and Alternatives to Suspension," and any amendments thereto, unless the offense is listed in subsection G of § 16.1-260 or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.*

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in accordance with § 4.1-1601 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

F. *Prior to imposing a short-term suspension, a school division shall consider the use of in-school suspension in accordance with the leveled administrative responses to student behavior as set out in the Department's "Model Guidance for Positive, Preventive Code of Student Conduct Policy and Alternatives to Suspension," and any amendments thereto.*