

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 964

An Act to amend and reenact §§ 22.1-254, 22.1-258, 22.1-261, 22.1-262 as it is currently effective and as it may become effective, 22.1-263, 22.1-265 and 22.1-280.1 of the Code of Virginia, relating to truancy; penalty.

[H 375]

Approved April 17, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-254, 22.1-258, 22.1-261, 22.1-262 as it is currently effective and as it may become effective, 22.1-263, 22.1-265 and 22.1-280.1 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-254. Ages of children required to attend.

A. Every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational or parochial school or by a public or private degree - granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational or parochial educational pre-kindergarten program.

B. Instruction in the home of a child or children by the parent, guardian or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

C. The requirements of this section shall not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion, or has otherwise complied with compulsory school attendance requirements as set forth in this article.

D. The requirements of this section shall apply to any child in the custody of the Department of Youth and Family Services, or any child who may have been adjudicated as an adult, and who has not passed his eighteenth birthday.

E. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance requirements of law and the enforcement procedures and policies established by the school board.

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

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 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 or guardian is aware of the pupil's absence, a reasonable effort to notify by telephone the parent or guardian shall be made by the attendance officer, other school personnel or volunteers organized by the school administration for this purpose. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for ~~five~~ *three* consecutive school days, *or for a total of five scheduled school days per month or an aggregate of seven scheduled school days per school calendar quarter, whichever occurs sooner*, and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, and a reasonable effort to notify the parent or guardian has failed, the school principal or his designee shall notify the parent or guardian by letter that such parent or guardian is requested to advise the school in writing of the reason for the pupil's absence or to accompany the pupil upon his return to school to explain the reason for his absence. Upon the failure of the parent or guardian to so advise the school or to return the child to school within three *school* days of the date of the notice, the school principal or his designee shall notify the attendance officer or the division superintendent, as the case may be, who shall enforce the provisions of this article.

However, nothing in this section shall be construed to limit in any way the authority of any

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

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

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

The *attendance officer or the* division superintendent shall check the reports submitted pursuant to § 22.1-260 with the last school census and with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the *attendance officer or the* division superintendent shall, within five days after receiving all reports submitted pursuant to § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, *on behalf of the local school board*, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

§ 22.1-262. Complaint to court when parent fails to comply with law.

A list of persons so notified shall be sent by the attendance officer to the appropriate school principal. If the parent, guardian, or other person having control of the child fails to comply with the law within the time specified in the notice, it shall be the duty of the attendance officer, *with the knowledge and approval of the division superintendent*, to make complaint in the name of the Commonwealth before the juvenile and domestic relations district court. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

§ 22.1-262. (Delayed effective date) Complaint to court when parent fails to comply with law.

A list of persons so notified shall be sent by the attendance officer to the appropriate school principal. If the parent, guardian, or other person having control of the child fails to comply with the law within the time specified in the notice, it shall be the duty of the attendance officer, *with the knowledge and approval of the division superintendent*, to make complaint in the name of the Commonwealth before the family court. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

§ 22.1-263. Violation constitutes misdemeanor.

Any person violating the provisions of either § 22.1-254, *except for subsection E*, § 22.1-255, or § 22.1-267 shall be guilty of a Class 4 3 misdemeanor. *Upon a finding that a person knowingly and willfully violated any provision of § 22.1-254, except for subsection E, or any provision of § 22.1-255 or § 22.1-267 and that such person has been convicted previously of a violation of any provision of § 22.1-254, except for subsection E, or any provision of § 22.1-255 or § 22.1-267, such person shall be guilty of a Class 2 misdemeanor.*

§ 22.1-265. Inducing children to absent themselves.

Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 4 3 misdemeanor and may be subject to the penalties provided by subdivision 5 a of subsection B of § 16.1-278.5 or § 18.2-371. *Upon a finding that a person knowingly and willfully violated the provisions of this section and that such person has been convicted previously of a violation of this section, such person shall be guilty of a Class 2 misdemeanor.*

§ 22.1-280.1. Reports of certain acts to school authorities.

A. Reports shall be made to the principal or his designee on all incidents involving (i) the assault, assault and battery, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity; (ii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity; (iii) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; or (iv) the illegal carrying of a firearm onto school property. The principal or his designee shall submit a report of all such incidents to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms which shall be provided by the Department *and shall make such information available to the public*. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65.

B. The principal or his designee shall notify the parent of any student involved in an incident required by subsection A to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the

superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - "Safe and Drug-Free Schools and Communities Act").

C. ~~Division superintendents~~ *The principal* shall report to the local law-enforcement agency any act enumerated in subsection A which may constitute a criminal offense.

D. All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events. Activities designed to prevent the recurrence of violence and crime may include such interventions as school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in the policy manual of all school divisions.

The Board of Education shall promulgate regulations to implement this section including, but not limited to, establishing reporting dates and report formats.

F. School boards are encouraged to develop and use a network of volunteer services in implementing the prevention activities required by subsection D.

G. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

H. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.