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SENATE BILL NO. 619

Offered January 10, 2024

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A BILL to amend and reenact §§ 16.1-228, 22.1-258, 22.1-261, 22.1-262, and 22.1-267 of the Code of Virginia, relating to public elementary and secondary schools; compulsory attendance policies and procedures; educational neglect defined.

Patron—Pillion

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 22.1-258, 22.1-261, 22.1-262, and 22.1-267 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Whose parents or other person responsible for his care commits educational neglect as defined in § 22.1-258; or

8. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

59 If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or
60 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the
61 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an
62 attended emergency medical services agency that employs emergency medical services personnel, or (iii) a
63 newborn safety device located at and operated by such hospital or emergency medical services agency. For
64 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find
65 such a child is a neglected child upon the ground of abandonment.

66 "Adoptive home" means the place of residence of any natural person in which a child resides as a member
67 of the household and in which he has been placed for the purposes of adoption or in which he has been
68 legally adopted by another member of the household.

69 "Adult" means a person 18 years of age or older.

70 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the
71 same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that
72 would be a felony if committed by an adult.

73 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes
74 of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger
75 than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

76 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a
77 serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose
78 behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of
79 another person; however, no child who in good faith is under treatment solely by spiritual means through
80 prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for
81 that reason alone be considered to be a child in need of services, nor shall any child who habitually remains
82 away from or habitually deserts or abandons his family as a result of what the court or the local child
83 protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be
84 considered a child in need of services for that reason alone.

85 However, to find that a child falls within these provisions, (i) the conduct complained of must present a
86 clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child
87 or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the
88 intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or
89 his family.

90 "Child in need of supervision" means:

91 1. A child who, while subject to compulsory school attendance, is habitually ~~and without justification~~
92 absent from school *as defined in § 22.1-258*, and (i) the child has been offered an adequate opportunity to
93 receive the benefit of any and all educational services and programs that are required to be provided by law
94 and which meet the child's particular educational needs, (ii) the school system from which the child is absent
95 or other appropriate agency has made a reasonable effort to effect the child's regular attendance without
96 success, and (iii) the school system has provided documentation that it has complied with the provisions of §
97 22.1-258; or

98 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
99 placement authority, remains away from or deserts or abandons his family or lawful custodian on more than
100 one occasion or escapes or remains away without proper authority from a residential care facility in which he
101 has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or
102 health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
103 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services
104 needed by the child or his family.

105 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster home
106 as defined in § 63.2-100.

107 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and
108 domestic relations district court of each county or city.

109 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance
110 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a
111 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of §
112 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

113 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed a
114 delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
115 terminated under the provisions of § 16.1-269.6.

116 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in
117 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties
118 imposed upon him under this law.

119 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the

120 comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

121 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places
122 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person
123 against such person's family or household member. Such act includes, but is not limited to, any forceful
124 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title
125 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,
126 sexual assault, or bodily injury.

127 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the same
128 home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with
129 the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-
130 sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the
131 person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and
132 sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common
133 with the person, whether or not the person and that individual have been married or have resided together at
134 any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the
135 person, and any children of either of them then residing in the same home with the person.

136 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
137 relationship with the child or his family.

138 "Foster care services" means the provision of a full range of casework, treatment and community services
139 for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of
140 services as defined in this section and his family when the child (i) has been identified as needing services to
141 prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between
142 the local board of social services or a public agency designated by the community policy and management
143 team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been
144 committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under
145 the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative
146 participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and
147 developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set
148 forth in § 63.2-1306.

149 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
150 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
151 or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
152 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
153 living arrangement in which such child or person does not have daily substitute parental supervision.

154 "Independent living services" means services and activities provided to a child in foster care 14 years of
155 age or older and who has been committed or entrusted to a local board of social services, child welfare
156 agency, or private child-placing agency. "Independent living services" may also mean services and activities
157 provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21
158 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department
159 of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of
160 age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice
161 immediately prior to placement in an independent living arrangement. "Independent living services" includes
162 counseling, education, housing, employment, and money management skills development and access to
163 essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

164 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
165 chapter.

166 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility
167 as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child
168 incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a
169 juvenile facility.

170 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of
171 each county or city.

172 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this
173 chapter.

174 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have
175 physical custody of the child, to determine and redetermine where and with whom he shall live, the right and
176 duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary
177 medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by
178 court order of joint custody as defined in § 20-107.2.

179 "Permanent foster care placement" means the place of residence in which a child resides and in which he
180 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement

181 between the placing agency and the place of permanent foster care that the child shall remain in the
 182 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to
 183 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural
 184 person or persons deemed appropriate to meet a child's needs on a long-term basis.

185 "Qualified individual" means a trained professional or licensed clinician who is not an employee of the
 186 local board of social services or licensed child-placing agency that placed the child in a qualified residential
 187 treatment program and is not affiliated with any placement setting in which children are placed by such local
 188 board of social services or licensed child-placing agency.

189 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
 190 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
 191 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
 192 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
 193 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
 194 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
 195 members, including efforts to maintain connections between the child and his siblings and other family;
 196 documents and maintains records of such outreach efforts; and maintains contact information for any known
 197 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,
 198 facilitates participation by family members in the child's treatment program before and after discharge and
 199 documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-
 200 based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. §
 201 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human
 202 Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of
 203 such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-
 204 appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
 205 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
 206 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
 207 qualified residential treatment program, that would provide the most effective and appropriate level of care
 208 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
 209 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-
 210 term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed
 211 with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or
 212 16.1-282.2.

213 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
 214 parent after the transfer of legal custody or guardianship of the person, including but not limited to the right
 215 of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

216 "Secure facility" or "detention home" means a local, regional or state public or private locked residential
 217 facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of
 218 children held in lawful custody.

219 "Shelter care" means the temporary care of children in physically unrestricting facilities.

220 "State Board" means the State Board of Juvenile Justice.

221 "Status offender" means a child who commits an act prohibited by law which would not be criminal if
 222 committed by an adult.

223 "Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

224 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-
 225 269.1 when committed by a juvenile 14 years of age or older.

226 **§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school;
 227 plan; conference; court proceedings; educational neglect.**

228 *A. As used in this section, unless the context requires a different meaning:*

229 "Chronically absent" means any student who is subject to compulsory education requirements pursuant to
 230 § 22.1-254 who has missed 10 percent or more of the academic year for any reason, including excused
 231 absences and unexcused absences.

232 "Educational neglect" means failure or refusal to provide necessary education for a child subject to
 233 compulsory attendance pursuant to § 22.1-254 and who is enrolled in a public school and who has missed 10
 234 percent or more of the academic year, including failure or refusal to:

235 1. Comply with compulsory attendance requirements by causing or allowing the child to become
 236 chronically absent; and

237 2. Enroll a child in any public school or otherwise meet the compulsory attendance requirements pursuant
 238 to § 22.1-254, including any failure to comply with the requirements set forth in § 22.1-254.1, if such failure
 239 or refusal to enroll such child continues after the school notifies and institutes proceedings against the parent
 240 and the time elapsed between the institution of proceedings and the continued noncompliance exceeds 10
 241 percent of the academic year, pursuant to § 22.1-262.

242 "Educational neglect" does not include any situation in which a child who becomes chronically absent is

243 also a student with disabilities or has a Section 504 Plan in place in relation to documented medical needs
244 that would prohibit or preclude regular attendance.

245 "Habitually absent" means any student who is subject to compulsory education requirements pursuant to
246 § 22.1-254 and who has missed more than one additional school day after the school made efforts to make
247 direct contact with such student's parent after such student's fifth unexcused absence and either (i) such
248 efforts to make direct contact and resolve such student's nonattendance failed or (ii) circumstances exist in
249 which the parent is intentionally noncompliant with compulsory attendance requirements.

250 B. Every school board shall have power to appoint one or more attendance officers, who shall be charged
251 with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school
252 board, the division superintendent or his designee shall act as attendance officer.

253 Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has
254 been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a
255 reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be
256 made by either the school principal or his designee, the attendance officer, other school personnel, or
257 volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for
258 any civil damages for any acts or omissions resulting from making such reasonable efforts to notify parents
259 and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or
260 omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to
261 limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect
262 any claim occurring prior to the effective date of this law. School divisions are encouraged to use
263 noninstructional personnel for this notice.

264 Whenever any pupil fails to report to school for a total of five scheduled school days for the school year
265 and no indication has been received by school personnel that the pupil's parent is aware of and supports the
266 pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee
267 shall make a reasonable effort to ensure that direct contact is made with the parent in person, through
268 telephone conversation, or through the use of other communications devices to obtain an explanation for the
269 pupil's absence and to explain to the parent the consequences of continued nonattendance, *including the point*
270 *at which continued nonattendance amounts to being chronically absent, a form of educational neglect.* The
271 school principal or his designee, the pupil, and the pupil's parent shall jointly develop a plan to resolve the
272 pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

273 If the pupil is absent for more than one additional day after direct contact with the pupil's parent, and
274 school personnel have received no indication that the pupil's parent is aware of and supports the pupil's
275 absence, the school principal or his designee shall schedule a conference with the pupil, his parent, and
276 school personnel. Such conference may include the attendance officer and other community service providers
277 to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 10 school
278 days after the tenth absence of the pupil, regardless of whether his parent approves of the conference. The
279 conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns
280 and plan additional interventions if attendance does not improve. In circumstances in which the parent is
281 intentionally noncompliant with compulsory attendance requirements ~~or~~, the pupil is resisting parental efforts
282 to comply with compulsory attendance requirements, *or previous efforts to contact the parent have failed, the*
283 *student shall be considered habitually absent and* the principal or his designee shall make a referral to the
284 attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10
285 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the
286 pupil is a child in need of supervision as defined in § 16.1-228 or (ii) institute proceedings against the parent
287 pursuant to § 18.2-371 or 22.1-262. In filing a complaint against the student, the attendance officer shall
288 provide written documentation of the efforts to comply with the provisions of this section. In the event that
289 both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received
290 notice of such order, both parents shall be notified at the last known addresses of the parents.

291 An attendance officer, or a division superintendent or his designee when acting as an attendance officer
292 pursuant to § 22.1-258, may complete, sign, and file with the intake officer of the juvenile and domestic
293 relations district court, on forms approved by the Supreme Court of Virginia, a petition for a violation of a
294 school attendance order entered by the juvenile and domestic relations district court pursuant to § 16.1-278.5
295 in response to the filing of a petition alleging the pupil is a child in need of supervision as defined in § 16.1-
296 228.

297 *In the event that the school has followed the procedures in this section and such nonattendance continues*
298 *until such student becomes chronically absent, such continued nonattendance shall constitute educational*
299 *neglect and the school shall report such neglect to the appropriate authorities in accordance with §§ 22.1-*
300 *291.3 and 63.2-1509.*

301 Nothing in this section shall be construed to limit in any way the authority of any attendance officer or
302 division superintendent to seek immediate compliance with the compulsory school attendance law as set forth
303 in this article.

304 Attendance officers, other school personnel or volunteers organized by the school administration for this

305 purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a
306 pupil's absence or failure to give such notice as required by this section.

307 **§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.**

308 The attendance officer or the division superintendent or his designee shall check the reports submitted
309 pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records and Health
310 Statistics. From these reports and from any other reliable source the attendance officer or the division
311 superintendent or his designee shall, within five days after receiving all reports submitted pursuant to
312 subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who
313 are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local
314 school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify
315 the parent, ~~guardian or other person having control of the child~~ to require the attendance of such child at the
316 school within three days from the date of such notice *and inform the parent of the consequences of continued*
317 *noncompliance set forth in § 22.1-262, including that failure to enroll such child for more than one*
318 *additional day after the third day following the receipt of such notice shall result in the institution of court*
319 *proceedings against such parent and that continued failure to enroll such child for a period of time*
320 *amounting to 10 percent or more of the academic year after the institution of court proceedings shall*
321 *constitute educational neglect pursuant to § 22.1-258.*

322 **§ 22.1-262. Complaint to court when parent fails to comply with law.**

323 A list of persons notified pursuant to § 22.1-261 shall be sent by the attendance officer to the appropriate
324 school principal. If the parent (i) fails to comply with the provisions of § 22.1-261 within the time specified in
325 the notice or (ii) fails to comply with the provisions of § 22.1-254, it shall be the duty of the attendance
326 officer, with the knowledge and approval of the division superintendent, to make complaint against the pupil's
327 parent in the name of the Commonwealth before the juvenile and domestic relations district court. If
328 proceedings are instituted against the parent for failure to comply with the provisions of § 22.1-258 *resulting*
329 *in such pupil becoming habitually absent*, the attendance officer is to provide documentation to the court
330 regarding the school division's compliance with § 22.1-258. In addition thereto, such child may be proceeded
331 against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226
332 et seq.) of Title 16.1. *If, after instituting proceedings against the parent for failure to comply with the*
333 *provisions of (i) § 22.1-258 resulting in such pupil becoming habitually absent, such nonattendance*
334 *continues, and such pupil becoming chronically absent or (ii) § 22.1-254 or 22.1-261, such parent continues*
335 *to refuse or fails to comply and the time elapsed between the institution of the proceedings and the continued*
336 *noncompliance to date amounts to 10 percent or more of the academic year, the continued noncompliance*
337 *shall constitute educational neglect pursuant to § 22.1-258 and the school shall be obligated to report it to*
338 *the appropriate authorities in accordance with §§ 22.1-291.3 and 63.2-1509, notwithstanding the pending or*
339 *ongoing proceedings against the parent.*

340 **§ 22.1-267. Proceedings against habitually absent child.**

341 Any child permitted by any parent, guardian, or other person having control thereof to be habitually
342 absent, *as defined in § 22.1-258*, from school contrary to the provisions of this article may be proceeded
343 against as a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

344 **2. That the Department of Social Services shall amend its regulations in 22VAC40-705-30 of the**
345 **Virginia Administrative Code to include the definition of "educational neglect" in accordance with the**
346 **provisions of this act.**

347 **3. That the Board of Education shall amend its regulations in accordance with the provisions of this**
348 **act.**