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HOUSE BILL NO. 1385

Offered January 16, 2024

A BILL to amend and reenact §§ 16.1-305.1 and 22.1-277.2:1 of the Code of Virginia, relating to school boards; placement in alternative education programs; disclosure of certain information in delinquency cases.

Patron—Milde

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-305.1 and 22.1-277.2:1 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 If the court defers disposition, or the charges are nolle prosequi, withdrawn, or dismissed, the clerk shall, within 15 days of such action, provide written notice of such action to the superintendent of the school division in which the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. The clerk of any court in which such disposition was entered or deferred or a juvenile services intake officer shall, upon request of the superintendent of the applicable school division pursuant to subsection A of § 22.1-277.2:1, disclose additional information relating to the disposition or deferred disposition that may be relevant to such child's placement in an alternative education program pursuant to § 22.1-277.2:1, including the circumstances surrounding the disposition or deferred disposition and any conditions ordered in relation to a deferred disposition. If charges are withdrawn in intake or handled informally without a court disposition, the intake officer shall, within 15 days of such action, provide written notification of the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 forward the notification to the superintendent of the school division where the child is enrolled.

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.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol, or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection C of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program. The division superintendent may, upon receiving written notification of the offense and disposition of the court pursuant to § 16.1-260 for any student who was charged with an offense listed in subsection G of § 16.1-260 and who is required to attend an alternative education program, request from the

59 *clerk of the court in which the disposition was entered or deferred or, if applicable, from a juvenile services*
60 *intake officer, additional information that may be relevant to such student's placement in an alternative*
61 *education program, including the circumstances surrounding the disposition or deferred disposition and any*
62 *conditions ordered in relation to a deferred disposition.*

63 As used in this section, the term "charged" means that a petition or warrant has been filed or is pending
64 against a pupil.

65 B. A school board may adopt regulations authorizing the division superintendent or his designee to require
66 students to attend an alternative education program consistent with the provisions of subsection A after (i)
67 written notice to the student and his parent that the student will be required to attend an alternative education
68 program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be
69 conducted by the division superintendent or his designee regarding such placement. The decision of the
70 superintendent or his designee regarding such alternative education placement shall be final unless altered by
71 the school board, upon timely written petition, as established in regulation, by the student or his parent, for a
72 review of the record by the school board.

73 C. A school board may adopt regulations authorizing the principal or his designee to impose a short-term
74 suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense involving
75 intentional injury enumerated in subsection G of § 16.1-260, to another student in the same school pending a
76 decision as to whether to require that such student attend an alternative education program.