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SENATE BILL NO. 1031

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 22.1-254 and 22.1-254.1 of the Code of Virginia, relating to public elementary and secondary schools; compulsory attendance requirements; religious exemption; requirements.

Patron—Pekarsky

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-254 and 22.1-254.1 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

A. As used in this subsection, "attend" includes participation in educational programs and courses at a site remote from the school with the permission of the school and in conformity with applicable requirements.

Except as otherwise provided in this article, 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, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board 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, the requirements of this section may also be satisfied by causing a child to attend 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 causing the child to attend any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

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.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school and is granted an exemption from school attendance in accordance with the provisions of subsection D of § 22.1-254.1. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award

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59 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or
60 examination, for any which he missed by reason of such absence, if the absence is verified in a manner
61 acceptable to the school board.

62 D. A school board may excuse from attendance at school:

63 1. On recommendation of the principal and the division superintendent and with the written consent of the
64 parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board,
65 cannot benefit from education at such school; or

66 2. On recommendation of the juvenile and domestic relations district court of the county or city in which
67 the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

68 E. Local school boards may allow the requirements of subsection A to be met under the following
69 conditions:

70 For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents,
71 and the principal or his designee of the school in which the student is enrolled in which an individual student
72 alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which
73 plan must include:

74 1. Career guidance counseling;

75 2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency
76 examination approved by the Board or other alternative education program approved by the local school
77 board with attendance requirements that provide for reporting of student attendance by the chief administrator
78 of such preparatory program or approved alternative education program to such principal or his designee;

79 3. Mandatory enrollment in a program to earn a Board-approved career and technical education credential,
80 such as the successful completion of an industry certification, a state licensure examination, a national
81 occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia
82 workplace readiness skills assessment;

83 4. Successful completion of the course in economics and personal finance required to earn a Board-
84 approved high school diploma;

85 5. Counseling on the economic impact of failing to complete high school; and

86 6. Procedures for reenrollment to comply with the requirements of subsection A.

87 A student for whom an individual student alternative education plan has been granted pursuant to this
88 subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory
89 school attendance law, and the division superintendent or attendance officer of the school division in which
90 such student was last enrolled shall seek immediate compliance with the compulsory school attendance law
91 as set forth in this article.

92 Students enrolled with an individual student alternative education plan shall be counted in the average
93 daily membership of the school division.

94 F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of
95 Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the
96 Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or
97 intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have
98 resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school
99 division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled
100 from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the
101 child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

102 G. Whenever a court orders any pupil into an alternative education program, including a program
103 preparing students for a high school equivalency examination approved by the Board, offered in the public
104 schools, the local school board of the school division in which the program is offered shall determine the
105 appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public
106 schools it supervises or resides within its school division.

107 The juvenile and domestic relations district court of the county or city in which a pupil resides or in which
108 charges are pending against a pupil, or any court in which charges are pending against a pupil, may require
109 the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii)
110 a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession
111 or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program,
112 including, but not limited to, night school, adult education, or any other education program designed to offer
113 instruction to students for whom the regular program of instruction may be inappropriate.

114 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
115 students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in
116 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
117 pupil.

118 H. Within one calendar month of the opening of school, each school board shall send to the parents or
119 guardian of each student enrolled in the division a copy of the compulsory school attendance law and the

120 enforcement procedures and policies established by the school board.

121 I. The provisions of this article shall not apply to:

122 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

123 2. Children whose immunizations against communicable diseases have not been completed as provided in
124 § 22.1-271.2;

125 3. Children under 10 years of age who live more than two miles from a public school unless public
126 transportation is provided within one mile of the place where such children live;

127 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school
128 unless public transportation is provided within 1.5 miles of the place where such children live; and

129 5. Children excused pursuant to subsections B and D.

130 Further, any child who will not have reached his sixth birthday on or before September 30 of each school
131 year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend
132 school until the following year because the child, in the opinion of the parent or guardian, is not mentally,
133 physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

134 The distances specified in subdivisions 3 and 4 shall be measured or determined from the child's residence
135 to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such
136 children by the nearest practical routes which are usable for walking or riding. Disease shall be established by
137 the certificate of a reputable practicing physician in accordance with regulations adopted by the Board.

138 J. Subject to guidelines established by the Department, any student who is absent from school due to his
139 mental or behavioral health shall be granted an excused absence.

140 K. Subject to guidelines established by the Department, each school board (i) shall permit one school day-
141 long excused absence per school year for any middle school or high school student in the local school
142 division who is absent from school to engage in a civic event and (ii) may permit additional excused absences
143 for such students who are absent for such purpose. Local school boards may require that the student provide
144 advance notice of the intended absence and require that the student provide documentation of participation in
145 a civic event.

146 L. Subject to guidelines established by the Department, any student who is a member of a state-recognized
147 or federally recognized tribal nation that is headquartered in the Commonwealth and who is absent from
148 school to attend such tribal nation's pow wow gathering shall be granted one excused absence per academic
149 year, provided that the parent of such student provides to the student's school advance notice of such absence
150 in the manner required by the school.

151 **§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.**

152 A. When the requirements of this section have been satisfied, instruction of children by their parents is an
153 acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of
154 any child who will have reached the fifth birthday on or before September 30 of any school year and who has
155 not passed the eighteenth birthday may elect to provide home instruction in lieu of school attendance if he (i)
156 holds a high school diploma; (ii) is a teacher of qualifications prescribed by the Board; (iii) provides the child
157 with a program of study or curriculum, which may be delivered through a correspondence course or distance
158 learning program or in any other manner; or (iv) provides evidence that he is able to provide an adequate
159 education for the child.

160 B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the
161 division superintendent in August of his intention to so instruct the child and provide a description of the
162 curriculum, limited to a list of subjects to be studied during the coming year, and evidence of having met one
163 of the criteria for providing home instruction as required by subsection A. Parents electing to provide home
164 instruction shall provide such annual notice no later than August 15. Any parent who moves into a school
165 division or begins home instruction after the school year has begun shall notify the division superintendent of
166 his intention to provide home instruction as soon as practicable and shall thereafter comply with the
167 requirements of this section within 30 days of such notice. The division superintendent shall notify the
168 Superintendent of the number of students in the school division receiving home instruction.

169 C. The parent who elects to provide home instruction shall provide the division superintendent by August
170 1 following the school year in which the child has received home instruction with either (i) evidence that the
171 child has attained a composite score in or above the fourth stanine on any nationally normed standardized
172 achievement test, or an equivalent score on the ACT, SAT, or PSAT test or (ii) an evaluation or assessment
173 that the division superintendent determines to indicate that the child is achieving an adequate level of
174 educational growth and progress, including (a) an evaluation letter from a person licensed to teach in any
175 state, or a person with a master's degree or higher in an academic discipline, having knowledge of the child's
176 academic progress, stating that the child is achieving an adequate level of educational growth and progress or
177 (b) a report card or transcript from an institution of higher education, college distance learning program, or
178 home-education correspondence school.

179 In the event that evidence of progress as required in this subsection is not provided by the parent, the
180 home instruction program for that child may be placed on probation for one year. Parents shall file with the

181 division superintendent evidence of their ability to provide an adequate education for their child in
182 compliance with subsection A and a remediation plan for the probationary year that indicates their program is
183 designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division
184 superintendent, the home instruction may continue for one probationary year. If the remediation plan and
185 evidence are not accepted or the required evidence of progress is not provided by August 1 following the
186 probationary year, home instruction shall cease and the parent shall make other arrangements for the
187 education of the child that comply with § 22.1-254. The requirements of this subsection shall not apply to
188 children who are under the age of six as of September 30 of the school year.

189 D. ~~Nothing in this section shall prohibit a pupil~~ Any child and his parents ~~from obtaining an excuse may~~
190 *receive an exemption* from school attendance by reason of bona fide religious training or belief pursuant to
191 subdivision B 1 of § 22.1-254, *provided that a parent of such child:*

192 1. *Either (i) holds a high school diploma; (ii) is a teacher of qualifications prescribed by the Board; (iii)*
193 *provides his child with a program of study or curriculum, which may be delivered through a correspondence*
194 *course or distance learning program or in any other manner; or (iv) provides evidence that he is able to*
195 *provide an adequate education for his child;*

196 2. *Annually notifies the division superintendent by August 15 of the intention to receive an exemption from*
197 *school attendance by reason of bona fide religious training or belief pursuant to subdivision B 1 of §*
198 *22.1-254 and certifies that, upon receiving such exemption, he shall cause his child to receive alternative*
199 *instruction in lieu of school attendance. Such certification shall include a description of the curriculum,*
200 *limited to a list of subjects to be studied during the coming year, and evidence of having met one of the*
201 *criteria set forth in subdivision a. Any child and his parents who move into a school division or seek to*
202 *receive an exemption in accordance with subdivision B 1 of § 22.1-254 after the school year has begun shall*
203 *notify the division superintendent of their intention to seek such exemption as soon as practicable and shall*
204 *thereafter comply with the requirements of this subsection within 30 days of such notice. The division*
205 *superintendent shall notify the Superintendent of the number of children in the school division who have been*
206 *granted an exemption from school attendance in accordance with subdivision B 1 of § 22.1-254; and*

207 3. *Provides to the division superintendent by August 1 following the school year in which such child and*
208 *his parents received such exemption (i) evidence that the child has attained a composite score in or above the*
209 *fourth stanine on any nationally normed standardized achievement test, or an equivalent score on the ACT,*
210 *SAT, or PSAT test, or (ii) an evaluation or assessment that the division superintendent determines to indicate*
211 *that the child is achieving an adequate level of educational growth and progress, including (a) an evaluation*
212 *letter from a person licensed to teach in any state, or a person with a master's degree or higher in an*
213 *academic discipline, having knowledge of the child's academic progress, stating that the child is achieving an*
214 *adequate level of educational growth and progress or (b) a report card or transcript from an institution of*
215 *higher education, college distance learning program, or home-education correspondence school. In the event*
216 *that evidence of progress as required in this subdivision is not provided by the parent, the parent shall be*
217 *required, in order to be granted an exemption from school attendance pursuant to subdivision B 1 of §*
218 *22.1-254 for the subsequent year, to file with the division superintendent evidence of his ability to provide an*
219 *adequate education for the child in compliance with this subsection and a remediation plan for the*
220 *subsequent year that is designed to address any educational deficiency. Upon acceptance of such evidence*
221 *and plan by the division superintendent, the child and his parents shall be granted such exemption for the*
222 *subsequent year, provided that, if the parent fails to provide the required evidence of progress by August 1 of*
223 *the following year, the parent shall be required to make other arrangements for the education of his child*
224 *that comply with § 22.1-254. If such evidence and plan are not accepted, the parent shall make other*
225 *arrangements for the education of the child that comply with § 22.1-254.*

226 *The requirements of this subsection shall not apply to children who are younger than the age of six as of*
227 *September 30 of the school year.*

228 E. Any party aggrieved by a decision of the division superintendent may appeal his decision within 30
229 days to an independent hearing officer. The independent hearing officer shall be chosen from the list
230 maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of
231 children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing
232 officer in a manner consistent with his findings.

233 F. School boards shall make Advanced Placement (AP), Preliminary SAT/National Merit Scholarship
234 Qualifying Test (PSAT/NMSQT), and PreACT examinations available to students receiving home instruction
235 pursuant to this section. School boards shall adopt written policies that specify the date by which such
236 students shall register to participate in such examinations. School boards shall notify such students and their
237 parents of such registration deadline and the availability of financial assistance to low-income and needy
238 students to take such examinations.

239 G. No division superintendent or local school board shall disclose to the Department or any other person
240 or entity outside of the local school division information that is provided by a parent or student to satisfy the
241 requirements of this section or subdivision B 1 of § 22.1-254. However, a division superintendent or local

242 school board may disclose, with the written consent of a student's parent, such information to the extent
243 provided by the parent's consent. Nothing in this subsection shall prohibit a division superintendent from
244 notifying the Superintendent of the number of students in the school division receiving home instruction as
245 required by subsection B.

INTRODUCED

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