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SENATE BILL NO. 1031  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Pekarsky)

*A BILL to amend and reenact §§ 22.1-7, 22.1-205, 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.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-7, 22.1-205, 22.1-254, and 22.1-254.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-7. Responsibility of each state board, agency, and institution having children in residence or in custody.**

A. Each state board, state agency, and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency, or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency, or institution.

B. The Board of Education shall supervise the education and training provided to school-age individuals in state training centers, and shall provide for and direct the education for school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services.

C. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency, or state institution.

D. Each state board, state agency, or state institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board.

E. If any child in the custody of any state board, state agency, or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency, or institution must contract with a private nonreligious

31 school to provide special education as defined in § 22.1-213 for such child, the state board, state agency, or  
32 state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

33 F. Any person of school age who is admitted pursuant to § 16.1-338, 16.1-339, or 16.1-340.1 or in  
34 accordance with an order of involuntary commitment entered pursuant to §§ 16.1-341 through 16.1-345 to a  
35 state facility for children and adolescents operated by the Department of Behavioral Health and  
36 Developmental Services shall, upon admission, be permitted to participate in any education program offered  
37 in the facility that is administered by the Department of Education, regardless of his enrollment status.  
38 Information required to enroll such person in any such education program may be disclosed in accordance  
39 with state and federal law. ~~Nothing in this subsection shall be construed to require enrollment in an education~~  
40 ~~program if such person has been excused from attendance at school pursuant to subdivision B 1 of § 22.1-254~~

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42 **§ 22.1-205. Driver education programs.**

43 A. The Board of Education shall establish for the public school system a standardized program of driver  
44 education in the safe operation of motor vehicles. Such program shall consist of classroom training and  
45 behind-the-wheel driver training. However, any student who participates in such a program of driver  
46 education shall meet the academic requirements established by the Board, and no student in a course shall be  
47 permitted to operate a motor vehicle without a license or other document issued by the Department of Motor  
48 Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction,  
49 authorizing the operation of a motor vehicle upon the highways.

50 1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b)  
51 aggressive driving; (c) the dangers of distracted driving and speeding; (d) motorcycle awareness; (e) organ  
52 and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-  
53 enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and  
54 appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) an additional  
55 minimum 90-minute parent/student driver education component as part of the classroom portion of the driver  
56 education curriculum. However, no student who is (1) at least 18 years of age, (2) an emancipated minor, or  
57 (3) an unaccompanied minor who is not in the physical custody of his parent or guardian shall be required to  
58 participate in the parent/student driver education component.

59 2. The parent/student driver education component shall be administered as part of the classroom portion of

60 the driver education curriculum. In Planning District 8, the parent/student driver education component shall  
61 be administered in-person. Outside Planning District 8, the parent/student driver education component may  
62 be administered either in-person or online by a public school or a driver training school that is licensed as a  
63 computer-based driver education provider. The participation of the student's parent or guardian in the  
64 parent/student driver education component shall be required in Planning District 8 unless the student is  
65 otherwise exempted from participation in the parent/student driver education component pursuant to the  
66 provisions of subdivision 1. Outside Planning District 8, the participation of the student's parent or guardian  
67 in the parent/student driver education component shall be encouraged, but shall not be required. The program  
68 shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving  
69 restrictions pursuant to this Code, (iii) the dangers of driving while intoxicated and underage consumption of  
70 alcohol, and (iv) the dangers of distracted driving. Such instruction shall be developed by the Department in  
71 cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department  
72 of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any  
73 school division from including a program of parental involvement as part of a driver education program in  
74 addition to the minimum 90-minute parent/student driver education component.

75 3. Any driver education program shall require a minimum number of miles driven during the behind-the-  
76 wheel driver training.

77 B. The Board shall assist school divisions by preparation, publication and distribution of competent driver  
78 education instructional materials to ensure a more complete understanding of the responsibilities and duties  
79 of motor vehicle operators.

80 C. Each school board shall determine whether to offer the program of driver education in the safe  
81 operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In  
82 addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local  
83 school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may  
84 authorize a local school board's request to assess a surcharge in order to further recover program costs that  
85 exceed state funds distributed through basic aid to school divisions offering driver education programs. Each  
86 school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay  
87 the fee or surcharge. Only school divisions complying with the standardized program and regulations  
88 established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the

89 distribution of state funds appropriated for driver education.

90 Each school board shall make the 90-minute parent/student driver education component available to all  
91 students and their parents or guardians who are in compliance with § 22.1-254.

92 D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be  
93 required by regulation of the Board of Education, on private or public property removed from public  
94 highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of  
95 Highways shall designate a suitable section of road near the school to be used for such instruction. Such  
96 section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice  
97 of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No  
98 vehicle other than those used for driver training shall be operated between such signs at a speed in excess of  
99 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

100 E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of  
101 paraprofessionals as teaching assistants in the driver education programs of school divisions.

102 F. The Board of Education shall approve correspondence courses for the classroom training component of  
103 driver education. These correspondence courses shall be consistent in quality with instructional programs  
104 developed by the Board for classroom training in the public schools. Students completing the correspondence  
105 courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive  
106 behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school  
107 division offers behind-the-wheel driver training and space is available, (ii) from a driver training school  
108 licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian  
109 instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 ~~or~~  
110 ~~subdivision B 1 of § 22.1-254~~, from a behind-the-wheel training course approved by the Board. Nothing  
111 herein shall be construed to require any school division to provide behind-the-wheel driver training to  
112 nonpublic school students.

113 **§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program**  
114 **attendance; exemptions from article.**

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

117 Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth

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

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

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

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

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

146 ~~1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is~~

147 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious  
148 training or belief" does not include essentially political, sociological or philosophical views or a merely  
149 personal moral code; and

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

156 C. Each local school board shall develop policies for excusing students who are absent by reason of  
157 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award  
158 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or  
159 examination, for any which he missed by reason of such absence, if the absence is verified in a manner  
160 acceptable to the school board.

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

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

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

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

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

173 1. Career guidance counseling;

174 2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency  
175 examination approved by the Board or other alternative education program approved by the local school

176 board with attendance requirements that provide for reporting of student attendance by the chief administrator  
177 of such preparatory program or approved alternative education program to such principal or his designee;

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

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

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

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

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

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

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

201 G. Whenever a court orders any pupil into an alternative education program, including a program  
202 preparing students for a high school equivalency examination approved by the Board, offered in the public  
203 schools, the local school board of the school division in which the program is offered shall determine the  
204 appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public

205 schools it supervises or resides within its school division.

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

213 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude  
214 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  
215 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a  
216 pupil.

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

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

- 221 1. Children suffering from contagious or infectious diseases while suffering from such diseases;
- 222 2. Children whose immunizations against communicable diseases have not been completed as provided in  
223 § 22.1-271.2;
- 224 3. Children under 10 years of age who live more than two miles from a public school unless public  
225 transportation is provided within one mile of the place where such children live;
- 226 4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school  
227 unless public transportation is provided within 1.5 miles of the place where such children live; and
- 228 5. Children excused pursuant to subsections B and D.

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

233 The distances specified in subdivisions 3 and 4 shall be measured or determined from the child's residence



234 to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such  
235 children by the nearest practical routes which are usable for walking or riding. Disease shall be established by  
236 the certificate of a reputable practicing physician in accordance with regulations adopted by the Board.

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

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

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

250 **§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.**

251 A. When the requirements of this section have been satisfied, instruction of children by their parents is an  
252 acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of  
253 any child who will have reached the fifth birthday on or before September 30 of any school year and who has  
254 not passed the eighteenth birthday may, *for any reason, including being conscientiously opposed to*  
255 *attendance at school by reason of bona fide religious training or belief*, elect to provide home instruction in  
256 lieu of school attendance if he (i) holds a high school diploma; (ii) is a teacher of qualifications prescribed by  
257 the Board; (iii) provides the child with a program of study or curriculum, which may be delivered through a  
258 correspondence course or distance learning program or in any other manner; or (iv) provides evidence that he  
259 is able to provide an adequate education for the child.

260 B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the  
261 division superintendent in August of his intention to so instruct the child and provide a description of the  
262 curriculum, limited to a list of subjects to be studied during the coming year, and evidence of having met one

263 of the criteria for providing home instruction as required by subsection A. Parents electing to provide home  
264 instruction shall provide such annual notice no later than August 15. Any parent who moves into a school  
265 division or begins home instruction after the school year has begun shall notify the division superintendent of  
266 his intention to provide home instruction as soon as practicable and shall thereafter comply with the  
267 requirements of this section within 30 days of such notice. The division superintendent shall notify the  
268 Superintendent of the number of students in the school division receiving home instruction.

269 C. The parent who elects to provide home instruction shall provide the division superintendent by August  
270 1 following the school year in which the child has received home instruction with either (i) evidence that the  
271 child has attained a composite score in or above the fourth stanine on any nationally normed standardized  
272 achievement test, or an equivalent score on the ACT, SAT, or PSAT test or (ii) an evaluation or assessment  
273 that the division superintendent determines to indicate that the child is achieving an adequate level of  
274 educational growth and progress, including (a) an evaluation letter from a person licensed to teach in any  
275 state, or a person with a master's degree or higher in an academic discipline, having knowledge of the child's  
276 academic progress, stating that the child is achieving an adequate level of educational growth and progress or  
277 (b) a report card or transcript from an institution of higher education, college distance learning program, or  
278 home-education correspondence school.

279 In the event that evidence of progress as required in this subsection is not provided by the parent, the  
280 home instruction program for that child may be placed on probation for one year. Parents shall file with the  
281 division superintendent evidence of their ability to provide an adequate education for their child in  
282 compliance with subsection A and a remediation plan for the probationary year that indicates their program is  
283 designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division  
284 superintendent, the home instruction may continue for one probationary year. If the remediation plan and  
285 evidence are not accepted or the required evidence of progress is not provided by August 1 following the  
286 probationary year, home instruction shall cease and the parent shall make other arrangements for the  
287 education of the child that comply with § 22.1-254. The requirements of this subsection shall not apply to  
288 children who are under the age of six as of September 30 of the school year.

289 D. ~~Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school~~  
290 ~~attendance by reason of bona fide religious training or belief pursuant to subdivision B 1 of § 22.1-254.~~

291 E. Any party aggrieved by a decision of the division superintendent may appeal his decision within 30

292 days to an independent hearing officer. The independent hearing officer shall be chosen from the list  
293 maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of  
294 children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing  
295 officer in a manner consistent with his findings.

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

302 ~~G. No division superintendent or local school board shall disclose to the Department or any other person~~  
303 ~~or entity outside of the local school division information that is provided by a parent or student to satisfy the~~  
304 ~~requirements of this section or subdivision B 1 of § 22.1-254. However, a division superintendent or local~~  
305 ~~school board may disclose, with the written consent of a student's parent, such information to the extent~~  
306 ~~provided by the parent's consent.~~ *F.* Nothing in this subsection shall prohibit a division superintendent from  
307 notifying the Superintendent of the number of students in the school division receiving home instruction as  
308 required by subsection B.