

1 SENATE BILL NO. 738  
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 3 (Proposed by the House Committee on Education  
 4 on February 5, 2025)  
 5 (Patron Prior to Substitute—Senator Pekarsky)

6 *A BILL to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by*  
 7 *adding a section numbered 22.1-79.3:1, relating to public elementary and secondary schools; student*  
 8 *discipline; student cell phone and smart device possession and use policies; development and*  
 9 *implementation.*

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

11 **1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**  
 12 **amended by adding a section numbered 22.1-79.3:1 as follows:**

13 **§ 22.1-79.3:1. *Student cell phone and smart device possession and use policies; development and***  
 14 ***implementation.***

15 *A. As used in this section:*

16 *"Bell to bell" means after the first bell rings at the start of the school day to begin instructional time until*  
 17 *the dismissal bell rings at the end of the school day.*

18 *"Smart device" means any personal electronic device that can connect to the Internet and wirelessly*  
 19 *collect, process, and transmit data, including smart watches and tablets.*

20 *B. Each school board shall develop and each public elementary and secondary school shall implement*  
 21 *age-appropriate and developmentally appropriate policies relating to student cell phone and smart device*  
 22 *possession and use on school property from bell to bell. Such policies shall:*

23 *1. Except as provided in subdivision 4, restrict, to the fullest extent possible, student cell phone and smart*  
 24 *device possession and use in the classroom from bell to bell;*

25 *2. To the extent that student cell phone or smart device possession and use is otherwise permitted on*  
 26 *school property outside of the classroom from bell to bell, regulate such possession and use with the*  
 27 *objective of reducing any distractions in or disruptions to the learning environment, including bullying and*  
 28 *harassment;*

29 *3. Ensure that implementation and enforcement of such policies (i) is the responsibility of the school*  
 30 *administration; (ii) minimizes, to the extent possible, any conflict with the instructional responsibilities of*

31 *teachers or any disturbance to instructional time; and (iii) does not involve any school resource officer, as*  
32 *defined in § 9.1-101, that may be employed in any school in the school division;*

33 *4. Permit any student, pursuant to an Individualized Education Plan or Section 504 Plan or if otherwise*  
34 *determined appropriate by the school board, to possess and use a cell phone or smart device on school*  
35 *property, including in the classroom, from bell to bell to monitor or address a health concern or as an*  
36 *accommodation or assistive technology support; and*

37 *5. Expressly prohibit any student from being suspended or expelled as a consequence of any violation of*  
38 *such policies.*

39 *C. Subsection B shall not be construed to require any school board to develop or any public elementary*  
40 *or secondary school to implement student cell phone and smart device possession and use policies that*  
41 *prohibit all cell phone and smart device use by students from bell to bell.*

42 *D. No violation of any student cell phone and smart device possession and use policy developed or*  
43 *implemented in accordance with subsection B shall alone constitute sufficient cause for a student's*  
44 *suspension or expulsion from attendance at school pursuant to § 22.1-277. Any violation of any such student*  
45 *cell phone and smart device possession and use policy that involves, coincides with, or results in an instance*  
46 *of disruptive behavior, as that term is defined in § 22.1-276.01, shall be addressed in accordance with the*  
47 *regulations on codes of student conduct adopted by each school board pursuant to subsection B of §*  
48 *22.1-279.6.*

49 **§ 22.1-277. Suspensions and expulsions of students generally.**

50 *A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no*  
51 *cases may sufficient cause for suspensions include only instances of truancy or only a violation of any student*  
52 *cell phone and smart device possession and use policy developed and implemented pursuant to § 22.1-79.3:1.*

53 *B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through*  
54 *grade three shall be suspended for more than three school days or expelled from attendance at school, unless*  
55 *(i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school*  
56 *board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by*  
57 *the Department.*

58 *C. Any student for whom the division superintendent of the school division in which such student is*  
59 *enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for*

60 an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance  
61 pursuant to this article.

62 D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain  
63 instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05,  
64 or 22.1-277.06.

65 E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel  
66 any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in  
67 accordance with § 4.1-1601 for the possession or use of such oil in accordance with the student's  
68 individualized health plan and in compliance with a policy adopted by the school board.