

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by*
3 *adding a section numbered 22.1-79.3:1, relating to public elementary and secondary schools; student*
4 *discipline; student cell phone and smart device possession and use policies; development and*
5 *implementation.*

6 [S 738]

7 Approved

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**
10 **amended by adding a section numbered 22.1-79.3:1 as follows:**11 **§ 22.1-79.3:1. Student cell phone and smart device possession and use policies; development and**
12 **implementation.**13 *A. As used in this section, "smart device" means any personal electronic device that can connect to the*
14 *Internet and wirelessly collect, process, and transmit data, including smart watches and tablets.*15 *B. Each school board shall develop and each public elementary and secondary school shall implement*
16 *age-appropriate and developmentally appropriate policies relating to student cell phone and smart device*
17 *possession and use on school property during regular school hours. Such policies shall:*18 *1. Except as provided in subdivision 4, restrict, to the fullest extent possible, student cell phone and smart*
19 *device possession and use in the classroom during regular school hours;*20 *2. To the extent that student cell phone or smart device possession and use is otherwise permitted on*
21 *school property outside of the classroom during regular school hours, regulate such possession and use with*
22 *the objective of reducing any distractions in or disruptions to the learning environment, including bullying*
23 *and harassment;*24 *3. Ensure that implementation and enforcement of such policies (i) is the responsibility of the school*
25 *administration; (ii) minimizes, to the extent possible, any conflict with the instructional responsibilities of*
26 *teachers or any disturbance to instructional time; and (iii) does not involve any school resource officer, as*
27 *defined in § 9.1-101, that may be employed in any school in the school division;*28 *4. Permit any student, pursuant to an Individualized Education Plan or Section 504 Plan or if otherwise*
29 *determined appropriate by the school board, to possess and use a cell phone or smart device on school*
30 *property, including in the classroom, during regular school hours to monitor or address a health concern or*
31 *as an accommodation or assistive technology support; and*32 *5. Expressly prohibit any student from being suspended or expelled as a consequence of any violation of*
33 *such policies.*34 *C. Subsection B shall not be construed to require any school board to develop or any public elementary*
35 *or secondary school to implement student cell phone and smart device possession and use policies that*
36 *prohibit all cell phone and smart device use by students during regular school hours.*37 *D. No violation of any student cell phone and smart device possession and use policy developed or*
38 *implemented in accordance with subsection B shall alone constitute sufficient cause for a student's*
39 *suspension or expulsion from attendance at school pursuant to § 22.1-277. Any violation of any such student*
40 *cell phone and smart device possession and use policy that involves, coincides with, or results in an instance*
41 *of disruptive behavior, as that term is defined in § 22.1-276.01, shall be addressed in accordance with the*
42 *regulations on codes of student conduct adopted by each school board pursuant to subsection B of §*
43 *22.1-279.6.*44 **§ 22.1-277. Suspensions and expulsions of students generally.**45 *A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no*
46 *cases may sufficient cause for suspensions include only instances of truancy or only a violation of any student*
47 *cell phone and smart device possession and use policy developed and implemented pursuant to § 22.1-79.3:1.*48 *B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through*
49 *grade three shall be suspended for more than three school days or expelled from attendance at school, unless*
50 *(i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school*
51 *board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by*
52 *the Department.*53 *C. Any student for whom the division superintendent of the school division in which such student is*
54 *enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for*
55 *an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance*
56 *pursuant to this article.*

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

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