

HOUSE BILL NO. 653
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Education
on _____)
(Patron Prior to Substitute—Delegate Kent)

A BILL to amend and reenact § 22.1-254 of the Code of Virginia, relating to excused student absences for visitation of immediate family members; active duty military; scheduled for deployment, on leave from deployment, or returning from deployment outside the United States.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-254 of the Code of Virginia is 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

31 school.

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

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

44 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
45 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
46 training or belief" does not include essentially political, sociological or philosophical views or a merely
47 personal moral code; and

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

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

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

60 1. On recommendation of the principal and the division superintendent and with the written consent of the

parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board, cannot benefit from education at such school; or

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

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

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

1. Career guidance counseling;
2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;
3. Mandatory enrollment in a program to earn a Board-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment;
4. Successful completion of the course in economics and personal finance required to earn a Board-approved high school diploma;
5. Counseling on the economic impact of failing to complete high school; and
6. Procedures for reenrollment to comply with the requirements of subsection A.

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

Students enrolled with an individual student alternative education plan shall be counted in the average

90 daily membership of the school division.

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

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

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

111 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
112 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
113 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
114 pupil.

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

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

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

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

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

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

5. Children excused pursuant to subsections B and D.

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

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

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

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

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

M. A student whose immediate family member is an active duty member of the uniformed services as

149 *defined in § 22.1-360, and whose family member has received orders for, is on leave from, or has recently*
150 *returned from deployment outside the United States, shall be allotted five excused absences to visit with the*
151 *family member in connection with such leave or deployment, provided that the student provides written*
152 *documentation verifying such leave or deployment if requested by the local school division. The Board shall*
153 *adopt regulations to provide that no excused absence granted pursuant to this subsection shall be counted*
154 *toward the student's total absences for purposes of calculating chronic absenteeism or any other attendance-*
155 *based indicator used in the state accountability system for public schools, including the School Performance*
156 *and Support Framework.*