

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 653]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 22.1-254 of the Code of Virginia is amended and reenacted as follows:**9 **§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program**
 10 **attendance; exemptions from article.**11 A. As used in this subsection, "attend" includes participation in educational programs and courses at a site
 12 remote from the school with the permission of the school and in conformity with applicable requirements.13 Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth
 14 having control or charge of any child who will have reached the fifth birthday on or before September 30 of
 15 any school year and who has not passed the eighteenth birthday shall, during the period of each year the
 16 public schools are in session and for the same number of days and hours per day as the public schools, cause
 17 such child to attend a public school or a private, denominational, or parochial school or have such child
 18 taught by a tutor or teacher of qualifications prescribed by the Board and approved by the division
 19 superintendent, or provide for home instruction of such child as described in § 22.1-254.1.20 As prescribed in the regulations of the Board, the requirements of this section may also be satisfied by
 21 causing a child to attend an alternative program of study or work/study offered by a public, private,
 22 denominational, or parochial school or by a public or private degree-granting institution of higher education.
 23 Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the
 24 requirements of this section may be alternatively satisfied by causing the child to attend any public
 25 educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or
 26 parochial educational pre-kindergarten program.27 Instruction in the home of a child or children by the parent, guardian, or other person having control or
 28 charge of such child or children shall not be classified or defined as a private, denominational or parochial
 29 school.30 The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile
 31 Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom
 32 the division superintendent has required to take a special program of prevention, intervention, or remediation
 33 as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall
 34 not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when
 35 such person is actively pursuing the achievement of a passing score on a high school equivalency
 36 examination approved by the Board but is not enrolled in an individual student alternative education plan
 37 pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a
 38 certificate of completion, or has achieved a passing score on a high school equivalency examination approved
 39 by the Board, or who has otherwise complied with compulsory school attendance requirements as set forth in
 40 this article.

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

42 1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is
 43 conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious
 44 training or belief" does not include essentially political, sociological or philosophical views or a merely
 45 personal moral code; and46 2. On the recommendation of the juvenile and domestic relations district court of the county or city in
 47 which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together
 48 with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified
 49 by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety
 50 when such concern or apprehension in that pupil's specific case is determined by the court, upon
 51 consideration of the recommendation of the principal and division superintendent, to be justified.52 C. Each local school board shall develop policies for excusing students who are absent by reason of
 53 observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award
 54 or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or
 55 examination, for any which he missed by reason of such absence, if the absence is verified in a manner
 56 acceptable to the school board.

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

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

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

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

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

69 1. Career guidance counseling;

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

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

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

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

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

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

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

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

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

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

109 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude
110 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
111 this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a
112 pupil.

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

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

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

118 2. Children whose immunizations against communicable diseases have not been completed as provided in

119 § 22.1-271.2;

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

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

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

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

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

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

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

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

146 *M. A student whose immediate family member is an active duty member of the uniformed services as*
147 *defined in § 22.1-360, and whose family member has received orders for, is on leave from, or has recently*
148 *returned from deployment outside the United States, shall be allotted five excused absences to visit with the*
149 *family member in connection with such leave or deployment, provided that the student provides written*
150 *documentation verifying such leave or deployment if requested by the local school division.*