

26109729D

SENATE BILL NO. 394**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee

on March 12, 2026)

(Patron Prior to Substitute—Senator Pekarsky)

A *BILL* to amend the Code of Virginia by adding a section numbered 22.1-20.2:1, relating to Department of Education; artificial intelligence use in instructional settings; development of AIS safety guidance required; AIS Innovation in Education Pilot Program established; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-20.2:1 as follows:

§ 22.1-20.2:1. Artificial intelligence use and safety in instructional settings; AIS Innovation in Education Pilot Program established; guidance.

A. As used in this section:

"AIS in instructional settings" means the use of artificial intelligence systems to support teaching, learning, assessment, or school operations.

"Artificial intelligence system" or "AIS" means any machine learning-based system that, for any explicit or implicit objective, infers from the inputs such system receives how to generate outputs, including content, decisions, predictions, and recommendations, that can influence physical or virtual environments. "Artificial intelligence system" or "AIS" does not include any artificial intelligence system or general purpose artificial intelligence model that is used for development, prototyping, and research activities before such artificial intelligence system or general purpose artificial intelligence model is made available to deployers or consumers.

"Division-managed AIS platform" means an AIS technology solution deployed within a division-managed environment that (i) aligns with the Standards of Learning and high-quality instructional materials; (ii) provides administrators visibility into platform usage; and (iii) prohibits the use of school or student data for model training outside of the school division's control.

"Division-managed environment" means use of an AIS that is administered within and by a school division through role-based access controls, administrative oversight, audit logging, and configurable moderation, consistent with school board policy.

"Pilot Program" means the AIS Innovation in Education Pilot Program established pursuant to subsection D.

B. The Department, in consultation with local school divisions and other relevant stakeholders, shall (i) compile information on current uses of artificial intelligence systems for student instruction in public schools in the Commonwealth and (ii) establish and post in a publicly accessible location on its website guidance for the safe, ethical, and equitable use of an AIS in instructional settings in public elementary and secondary schools. Such guidance shall:

1. Address:

a. Student data privacy and security in general and in the context of artificial intelligence systems, including compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and the Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.), and any other applicable federal and state laws relating to student privacy;

b. Resources and training for teachers;

c. Transparency and explicability of the use of an AIS in instructional settings;

d. Data privacy agreements with the applicable school division that prohibits the use of any division-level or student data for training or improving any external AIS models;

e. Best practices for (i) guarding against bias and discrimination in the use of any AIS; (ii) developing clear protocols for AIS use by teachers and students in public elementary and secondary schools and embedded professional development resources designed to strengthen educator literacy in the ethical, responsible, and effective use of an AIS, including prohibitions on relying solely on an AIS to make certain high-stakes decisions, as defined by the Department; and (iii) ensuring the accessibility of and equitable access to AIS resources in the school setting; and

f. How school divisions can ensure that any approved use of an AIS in instruction aligns with the Standards of Learning and supports use of high-quality instructional materials;

2. Include suggestions for functional guardrails that prioritize the use of division-managed AIS platforms operated within division-managed environments; and

3. Ensure that any approved use of an AIS in instruction provides teachers with access to transcripts of student interactions with an AIS and allows teachers and administrators to monitor use through dashboards, automated alerts, and audit logs.

C. Each school board shall establish, implement, and enforce policies consistent with the guidance

60 developed by the Department pursuant to subsection B.

61 D. With such funds as are appropriated for such purpose, the Department shall establish and oversee the
62 AIS Innovation in Education Pilot Program for the purpose of funding, evaluating, and scaling safe and
63 innovative uses of an AIS in public elementary and secondary schools by providing support to school
64 divisions in piloting AIS applications for instruction, tutoring, student engagement, operational efficiency,
65 and teacher support. In establishing and overseeing the Pilot Program, the Department shall:

66 1. Develop guidelines for the administration of the Pilot Program;

67 2. In selecting school divisions for participation in the Pilot Program, prioritize proposals from school
68 divisions serving diverse student populations, including high-poverty, rural, and under-resourced school
69 divisions;

70 3. Require each school division selected for participation in the Pilot Program to (i) include professional
71 development for educators on AIS literacy and responsible use and (ii) develop and submit evaluation plans
72 for measuring the impact of AIS use on student learning, teacher workload, and equity outcomes; and

73 4. Submit to the Chairs of the House Committee on Education and the Senate Committee on Education
74 and Health by December 1 of each year a report on the Pilot Program established pursuant to this
75 subsection, which shall include, as applicable, (i) a description of projects funded and implemented in school
76 divisions participating in the Pilot Program; (ii) a description and evaluation of the effectiveness, safety,
77 equity, risks, and adverse impacts of the outcomes of individual school divisions participating in the Pilot
78 Program and across all participating school divisions as a whole; and (iii) recommendations regarding the
79 expansion or regulation of AIS use in public schools in the Commonwealth.

80 **2. That the provisions of subsection D of § 22.1-20.2:1 of the Code of Virginia, as created by this act,**
81 **shall expire on July 1, 2030.**