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HOUSE BILL NO. 866

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 18.2-11, 22.1-279.6, and 36-85.12 of the Code of Virginia, relating to misdemeanor; maximum term of confinement.

 Patron—Lopez

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-11, 22.1-279.6, and 36-85.12 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-11. Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

(a) 1. For Class 1 misdemeanors, confinement in jail for not more than ~~twelve months~~ 364 days and a fine of not more than \$2,500, either or both.

(b) 2. For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.

(c) 3. For Class 3 misdemeanors, a fine of not more than \$500.

(d) 4. For Class 4 misdemeanors, a fine of not more than \$250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than ~~12 months~~ 364 days and a fine of not more than \$2,500, either or both.

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59 D. Each school board shall include in its code of student conduct policies and procedures that
60 include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the
61 standards for school board policies on bullying and the use of electronic means for purposes of bullying
62 developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any
63 student involved in an alleged incident of bullying of the status of any investigation within five school
64 days of the allegation of bullying.

65 Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of
66 students and are not intended to prohibit expression of religious, philosophical, or political views,
67 provided that such expression does not cause an actual, material disruption of the work of the school.

68 E. A school board may regulate the use or possession of beepers or other portable communications
69 devices and laser pointers by students on school property or attending school functions or activities and
70 establish disciplinary procedures pursuant to this article to which students violating such regulations will
71 be subject.

72 F. Nothing in this section shall be construed to require any school board to adopt policies requiring
73 or encouraging any drug testing in schools. However, a school board may, in its discretion, require or
74 encourage drug testing in accordance with the Board of Education's guidelines and model student
75 conduct policies required by subsection A and the Board's guidelines for student searches required by
76 § 22.1-279.7.

77 G. The Board of Education shall establish standards to ensure compliance with the federal Improving
78 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
79 § 22.1-277.07.

80 This subsection shall not be construed to diminish the authority of the Board of Education or to
81 diminish the Governor's authority to coordinate and provide policy direction on official communications
82 between the Commonwealth and the United States government.

83 H. Each school board shall include in its code of student conduct a prohibition on possessing any
84 tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus,
85 on school property, or at an on-site or off-site school-sponsored activity.

86 I. Any school board may include in its code of student conduct a dress or grooming code. Any dress
87 or grooming code included in a school board's code of student conduct or otherwise adopted by a school
88 board shall (i) permit any student to wear any religiously and ethnically specific or significant head
89 covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain
90 gender neutrality by subjecting any student to the same set of rules and standards regardless of gender;
91 (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective
92 in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming
93 code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board
94 employee from requiring a student to undress in front of any other individual, including the enforcing
95 school board employee, to comply with the dress or grooming code.

96 **§ 36-85.12. Violation; civil and criminal penalties.**

97 It shall be unlawful for any person, firm, or corporation, to violate any provisions of this law, the
98 rules and regulations enacted under authority of this law, or ~~the Federal Law~~ *federal law* and
99 ~~Regulations~~ *regulations*. Any person, firm, or corporation violating any provision of said laws, rules, and
100 regulations, or any final order issued thereunder, shall be liable for civil penalty not to exceed \$1,000
101 for each violation. Each violation shall constitute a separate violation with respect to each manufactured
102 home or with respect to each failure or refusal to allow or to perform an act required by the legislation
103 or regulations. The maximum civil penalty may not exceed ~~one \$1 million dollars~~ for any related series
104 of violations occurring within one year from the date of the first violation.

105 An individual or a director, officer, or agent of a corporation who knowingly and willfully violates
106 Section 610 of the National Manufactured Housing Construction and Safety Standards Act in a manner
107 ~~which that~~ threatens the health or safety of any purchaser ~~shall be deemed~~ *is* guilty of a Class 1
108 misdemeanor and, upon conviction, ~~shall be~~ *shall be* fined not more than \$1,000 or imprisoned not more than
109 ~~one year~~ *364 days*, or both.