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SENATE BILL NO. 36

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 10, 2022)

(Patron Prior to Substitute—Senator Norment)

A BILL to amend and reenact §§ 8.01-47, 22.1-279.3:1, and 22.1-279.3:3 of the Code of Virginia, relating to school principals; incident reports.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-47, 22.1-279.3:1, and 22.1-279.3:3 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-47. Immunity of persons investigating or reporting certain incidents at schools.

In addition to any other immunity he may have, any person who, in good faith with reasonable cause and without malice, acts to report, investigate, or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials, or other similar devices as described in clauses (vi) and (vii) of subsection subdivisions A 6 and 7 of § 22.1-279.3:1, alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, or information that an individual poses any credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation, or disclosure.

§ 22.1-279.3:1. Reports of certain acts to school authorities; reports of certain acts by school authorities to parents; reports of certain acts by school authorities to law enforcement.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) ~~the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity;~~ (ii) the:

1. *Alcohol, marijuana, a controlled substance, an imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;*

2. *The assault and battery that results in bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity;*

3. *The sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any*

4. *Any threats against school personnel while on a school bus, on school property, or at a school-sponsored activity; (v) the*

5. *The illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any*

6. *Any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any*

7. *Any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the*

8. *The arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.*

B. *Except as may otherwise be required by federal law, regulation, or jurisprudence, each principal:*

1. *Shall immediately report to the local law-enforcement agency any incident described in subdivision A 1 that may constitute a felony offense;*

2. *Shall immediately report to the local law-enforcement agency any incident described in subdivisions A 3 through 7;*

3. *May report to the local law-enforcement agency any other incident described in subsection A that is not required to be reported pursuant to subdivision 1 or 2; and*

4. *Shall immediately report any act enumerated in subdivisions A 1 through 5 that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident has been so reported, that the parents may contact local law enforcement for further information, if they so desire.*

60 C. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1,
61 local law-enforcement authorities shall report, and the principal or his designee and the division
62 superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the
63 school if the offense would be a felony if committed by an adult or would be a violation of the Drug
64 Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a
65 school-sponsored activity, or would be an adult misdemeanor involving any incidents described in
66 clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his
67 parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense
68 that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of
69 subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized
70 to disclose information regarding terms of release from detention, court dates, and terms of any
71 disposition orders entered by the court, to the superintendent of such student's school division, upon
72 request by the superintendent, if, in the determination of the law-enforcement authority or attorney for
73 the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case.
74 No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of
75 subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further,
76 any school superintendent who receives notification that a juvenile has committed an act that would be a
77 crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to
78 the principal of the school in which the juvenile is enrolled.

79 ~~C.~~ D. The principal or his designee shall submit a report of all incidents required to be reported
80 pursuant to this section to the superintendent of the school division. The division superintendent shall
81 annually report all such incidents to the Department of Education for the purpose of recording the
82 frequency of such incidents on forms that shall be provided by the Department and shall make such
83 information available to the public.

84 In submitting reports of such incidents, principals and division superintendents shall accurately
85 indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be
86 reported by such authorities pursuant to subsection B C.

87 A division superintendent who knowingly fails to comply or secure compliance with the reporting
88 requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who
89 knowingly fails to comply or secure compliance with the reporting requirements of this section shall be
90 subject to sanctions prescribed by the local school board, which may include, but need not be limited to,
91 demotion or dismissal.

92 The principal or his designee shall also notify the parent of any student involved in an incident
93 required pursuant to this section to be reported, regardless of whether disciplinary action is taken against
94 such student or the nature of the disciplinary action. Such notice shall relate to only the relevant
95 student's involvement and shall not include information concerning other students.

96 Whenever any student commits any reportable incident as set forth in this section, such student shall
97 be required to participate in such prevention and intervention activities as deemed appropriate by the
98 superintendent or his designee. Prevention and intervention activities shall be identified in the local
99 school division's drug and violence prevention plans developed pursuant to the federal Improving
100 America's Schools Act of 1994 (Title IV — Safe and Drug-Free Schools and Communities Act).

101 ~~D.~~ Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal
102 shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through
103 (vii) of subsection A that may constitute a felony offense and may report to the local law-enforcement
104 agency any incident described in subsection A. Nothing in this section shall require delinquency charges
105 to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or
106 educational programming before a delinquency charge is filed with the juvenile court.

107 Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall
108 also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may
109 constitute a criminal offense to the parents of any minor student who is the specific object of such act.
110 Further, the principal shall report whether the incident has been reported to local law enforcement
111 pursuant to this subsection and, if the incident is so reported, that the parents may contact local law
112 enforcement for further information, if they so desire.

113 E. A statement providing a procedure and the purpose for the requirements of this section shall be
114 included in school board policies required by § 22.1-253.13:7.

115 The Board of Education shall promulgate regulations to implement this section, including, but not
116 limited to, establishing reporting dates and report formats.

117 F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person
118 having control or charge of a child.

119 G. This section shall not be construed to diminish the authority of the Board of Education or to
120 diminish the Governor's authority to coordinate and provide policy direction on official communications
121 between the Commonwealth and the United States government.

H. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

§ 22.1-279.3:3. Alternative school discipline process for certain incidents.

A. A school board may establish an alternative school discipline process to provide the parties involved in an incident ~~described in clause (i) of subsection A of § 22.1-279.3:1~~ of assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity the option to enter into a mutually agreed-upon process between the involved parties. Such process shall be designed to hold the student accountable for a noncriminal offense through a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report ~~pursuant to subsection D of § 22.1-279.3:1~~ to the local law-enforcement agency a party who successfully completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency ~~pursuant to subsection D of § 22.1-279.3:1~~.