

SENATE BILL NO. 444

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Durant)

A BILL to amend and reenact §§ 16.1-305.1 and 22.1-277.2:1 of the Code of Virginia, relating to school boards; placement in alternative education programs; disclosure of certain information in delinquency cases.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-305.1 and 22.1-277.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-305.1. Disclosure of disposition in certain delinquency cases.**

Upon a court's disposition of a proceeding where a juvenile is charged with a crime listed in subsection G of § 16.1-260 in which a juvenile is adjudicated delinquent, convicted, found not guilty, or the charges are reduced, the clerk of the court in which the disposition is entered shall, within 15 days of the expiration of the appeal period, if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the disposition was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. If the court defers disposition, or the charges are nolle prosequi, withdrawn, or dismissed, the clerk shall, within 15 days of such action, provide written notice of such action to the superintendent of the school division in which the child is enrolled at such time or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. The clerk of the court in which such disposition was entered or deferred shall, upon written request of the superintendent of the school division to which written notice of the disposition or deferred disposition was provided pursuant to this section, provide a copy of the court order ordering any conditions upon such disposition or deferred disposition to such superintendent. If charges are withdrawn in intake or handled informally without a court disposition, the intake officer shall,

27 within 15 days of such action, provide written notification of the action to the superintendent of the school  
28 division in which the child is enrolled at that time or, if he is not then enrolled in school, the division in  
29 which he was enrolled at the time of the offense.

30 If the child is not enrolled in the school division that receives notification under this section, the  
31 superintendent of that division may forward the notification to the superintendent of the school division  
32 where the child is enrolled.

33 A superintendent who receives notification under this section may disclose the information  
34 received to anyone to whom he or a principal disclosed that a petition had been filed. Further disclosure  
35 of information received under this section by the superintendent to school personnel is authorized only as  
36 provided in § 22.1-288.2.

37 **§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances;**  
38 **alternative education program.**

39 A. A school board may, in accordance with the procedures set forth in this article, require any  
40 student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation  
41 of school board policies, on weapons, alcohol, or drugs, or intentional injury to another person, or with an  
42 offense that is required to be disclosed to the superintendent of the school division pursuant to subsection  
43 G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on  
44 weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of  
45 an offense that is required to be disclosed to the superintendent of the school division pursuant to  
46 subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in  
47 violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to §  
48 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection C of § 22.1-277, to attend an alternative education  
49 program. A school board may require such student to attend such programs regardless of where the crime  
50 occurred. School boards may require any student who has been found, in accordance with the procedures  
51 set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a  
52 school bus, on school property, or at a school-sponsored activity in violation of school board policies, to  
53 undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the

54 consent of the student's parent, to participate in a treatment program. The division superintendent may,  
55 upon receiving written notification of the offense and disposition of the court pursuant to § 16.1-260 for  
56 any student who was charged with an offense listed in subsection G of § 16.1-260 and who is required to  
57 attend an alternative education program, request from the intake officer of the court services unit in which  
58 the disposition was entered or deferred additional information that may be relevant to such student's  
59 placement in an alternative education program, including the circumstances surrounding the disposition  
60 or deferred disposition and any conditions ordered in relation to a deferred disposition but not specified  
61 in the court order.

62 As used in this section, the term "charged" means that a petition or warrant has been filed or is  
63 pending against a pupil.

64 B. A school board may adopt regulations authorizing the division superintendent or his designee  
65 to require students to attend an alternative education program consistent with the provisions of subsection  
66 A after (i) written notice to the student and his parent that the student will be required to attend an  
67 alternative education program and (ii) notice of the opportunity for the student or his parent to participate  
68 in a hearing to be conducted by the division superintendent or his designee regarding such placement. The  
69 decision of the superintendent or his designee regarding such alternative education placement shall be  
70 final unless altered by the school board, upon timely written petition, as established in regulation, by the  
71 student or his parent, for a review of the record by the school board.

72 C. A school board may adopt regulations authorizing the principal or his designee to impose a  
73 short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense  
74 involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same  
75 school pending a decision as to whether to require that such student attend an alternative education  
76 program.

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