

## 1 HOUSE BILL NO. 829

## 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Education

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

5 (Patron Prior to Substitute--Delegate Wilt)

6 A BILL to amend and reenact § 22.1-253.13:2 of the Code of Virginia, relating to school counselors;  
7 staffing ratios; flexibility.

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted as follows:**10 **§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

11 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents,  
12 and other professional personnel.

13 B. School boards shall employ licensed instructional personnel qualified in the relevant subject  
14 areas.

15 C. Each school board shall assign licensed instructional personnel in a manner that produces  
16 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,  
17 excluding special education teachers, principals, assistant principals, school counselors and other licensed  
18 counseling professionals, and librarians, that are not greater than the following ratios: (i) 24 to one in  
19 kindergarten with no class being larger than 29 students; if the average daily membership in any  
20 kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one  
21 in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four  
22 through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six  
23 through 12. After September 30 of any school year, anytime the number of students in a class exceeds the  
24 class size limit established by this subsection, the local school division shall notify the parent of each  
25 student in such class of such fact no later than 10 days after the date on which the class exceeded the class  
26 size limit. Such notification shall state the reason that the class size exceeds the class size limit and

27 describe the measures that the local school division will take to reduce the class size to comply with this  
28 subsection.

29         Within its regulations governing special education programs, the Board shall seek to set  
30 pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for  
31 self-contained classes for pupils with specific learning disabilities.

32         Further, school boards shall assign instructional personnel in a manner that produces schoolwide  
33 ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in  
34 middle schools and high schools. School divisions shall provide all middle and high school teachers with  
35 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

36         D. (Effective until July 1, 2022) Each local school board shall employ with state and local basic,  
37 special education, gifted, and career and technical education funds a minimum number of licensed, full-  
38 time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as  
39 set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day  
40 kindergarten programs. Beginning with the March 31 report of average daily membership, those school  
41 divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their  
42 average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily  
43 memberships, as provided in the appropriation act.

44         D. (Effective July 1, 2022) Each local school board shall employ with state and local basic, special  
45 education, gifted, and career and technical education funds a minimum number of licensed, full-time  
46 equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set  
47 forth in the appropriation act.

48         E. In addition to the positions supported by basic aid and in support of regular school year programs  
49 of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be  
50 provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K  
51 through 12 who are identified as needing prevention, intervention, and remediation services. State funding  
52 for prevention, intervention, and remediation programs provided pursuant to this subsection and the

53 appropriation act may be used to support programs for educationally at-risk students as identified by the  
54 local school boards.

55 To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions  
56 may employ mathematics teacher specialists to provide the required algebra readiness intervention  
57 services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this  
58 manner shall only employ instructional personnel licensed by the Board of Education.

59 F. In addition to the positions supported by basic aid and those in support of regular school year  
60 programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation  
61 act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021  
62 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time  
63 equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students  
64 identified as having limited English proficiency, which positions may include dual language teachers who  
65 provide instruction in English and in a second language.

66 To provide flexibility in the instruction of English language learners who have limited English  
67 proficiency and who are at risk of not meeting state accountability standards, school divisions may use  
68 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to  
69 employ additional English language learner teachers or dual language teachers to provide instruction to  
70 identified limited English proficiency students. Using these funds in this manner is intended to supplement  
71 the instructional services provided in this section. School divisions using the SOQ Prevention,  
72 Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by  
73 the Board of Education.

74 G. In addition to the full-time equivalent positions required elsewhere in this section, each local  
75 school board shall employ the following reading specialists in elementary schools, one full-time in each  
76 elementary school at the discretion of the local school board. One reading specialist employed by each  
77 local school board that employs a reading specialist shall have training in the identification of and the  
78 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related  
79 disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have

80 an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student  
81 on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages  
82 and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit,  
83 systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and  
84 assistive technology supports for students with dyslexia.

85 To provide reading intervention services required by § 22.1-253.13:1, school divisions may  
86 employ reading specialists to provide the required reading intervention services. School divisions using  
87 the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel  
88 licensed by the Board of Education.

89 H. Each local school board shall employ, at a minimum, the following full-time equivalent  
90 positions for any school that reports fall membership, according to ~~the type of school and~~ student  
91 enrollment:

92 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students;  
93 principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools,  
94 one full-time, to be employed on a 12-month basis;

95 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900  
96 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in  
97 high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of  
98 assistant principals to meet this staffing requirement may assign assistant principals to schools within the  
99 division according to the area of greatest need, regardless of whether such schools are elementary, middle,  
100 or secondary;

101 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;  
102 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at  
103 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two  
104 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet  
105 this staffing requirement may assign librarians to schools within the division according to the area of  
106 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

107 4. School counselors:

108 a. ~~Effective with the 2020-2021 school year, in elementary schools, one hour per day per 75~~  
109 ~~students, one full-time at 375 students, one hour per day additional time per 75 students or major fraction~~  
110 ~~thereof; in middle schools, one period per 65 students, one full-time at 325 students, one additional period~~  
111 ~~per 65 students or major fraction thereof; in high schools, one period per 60 students, one full-time at 300~~  
112 ~~students, one additional period per 60 students or major fraction thereof.~~

113 b. Effective with the 2021-2022 school year or other licensed counseling professionals employed  
114 by the school board or provided through contracted services, local school boards shall employ one full-  
115 time equivalent school counselor position per 325 students in grades kindergarten through 12. However,  
116 (i) each school board is encouraged to (a) employ as many individuals as possible who are licensed by the  
117 Department as school counselors in order to meet such staffing ratio and (b) support any other licensed  
118 counseling professional employed by the school board or provided through contracted services in order to  
119 meet such staffing ratio to obtain a provisional license as a school counselor or pursue any route to full  
120 licensure as a school counselor that may be available to such individual and (ii) no school board shall  
121 reemploy or renew the contract of any such other licensed counseling professional employed by the school  
122 board or provided through contracted services who has been employed or under contract for two school  
123 years unless such individual obtains full licensure as a school counselor from the Department.

124 e. ~~Local school divisions that employ a sufficient number of school counselors~~ or other licensed  
125 counseling professionals to meet the ~~school counselor~~ staffing requirements set forth in this subdivision  
126 may assign school counselors or other licensed counseling professionals to schools within the division  
127 according to the area of greatest need, regardless of whether such schools are elementary, middle, or high  
128 schools.

129 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
130 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

131 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades  
132 kindergarten through 12, one to provide technology support and one to serve as an instructional technology  
133 resource teacher.

134 To provide flexibility, school divisions may use the state and local funds for instructional  
135 technology resource teachers to employ a data coordinator position, an instructional technology resource  
136 teacher position, or a data coordinator/instructional resource teacher blended position. The data  
137 coordinator position is intended to serve as a resource to principals and classroom teachers in the area of  
138 data analysis and interpretation for instructional and school improvement purposes, as well as for overall  
139 data management and administration of state assessments. School divisions using these funds in this  
140 manner shall employ only instructional personnel licensed by the Board of Education.

141 K. Local school boards may employ additional positions that exceed these minimal staffing  
142 requirements. These additional positions may include, but are not limited to, those funded through the  
143 state's incentive and categorical programs as set forth in the appropriation act.

144 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
145 requirements for the highest grade level in that school; this requirement shall apply to all staff, except for  
146 school counselors and other licensed counseling professionals, and shall be based on the school's total  
147 enrollment; ~~school counselor staff requirements shall, however, be based on the enrollment at the various~~  
148 ~~school organization levels, i.e., elementary, middle, or high school.~~ The Board of Education may grant  
149 waivers from these staffing levels upon request from local school boards seeking to implement  
150 experimental or innovative programs that are not consistent with these staffing levels.

151 M. School boards shall, however, annually, on or before December 31, report to the public (i) the  
152 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the  
153 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local  
154 school division by school for the current school year. Actual pupil/teacher ratios shall include only the  
155 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School  
156 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any  
157 classes funded through the voluntary kindergarten through third grade class size reduction program shall  
158 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection  
159 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to  
160 ensure the confidentiality of all teacher and pupil identities.

161 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in  
162 the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving  
163 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time  
164 basis in any mathematics, science, English, history, social science, career and technical education, fine  
165 arts, foreign language, or health education or physical education course shall be counted in the ADM in  
166 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course  
167 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home  
168 school student shall be counted as more than one-half a student for purposes of such pro rata calculation.  
169 Such calculation shall not include enrollments of such students in any other public school courses.

170 O. Each school board shall provide at least three specialized student support positions per 1,000  
171 students. For purposes of this subsection, specialized student support positions include school social  
172 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior  
173 analysts, and other licensed health and behavioral positions, which may either be employed by the school  
174 board or provided through contracted services.

175 P. Each local school board shall provide those support services that are necessary for the efficient  
176 and cost-effective operation and maintenance of its public schools.

177 For the purposes of this title, unless the context otherwise requires, "support services positions"  
178 shall include the following:

179 1. Executive policy and leadership positions, including school board members, superintendents  
180 and assistant superintendents;

181 2. Fiscal and human resources positions, including fiscal and audit operations;

182 3. Student support positions, including (i) social work administrative positions not included in  
183 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)  
184 homebound administrative positions supporting instruction; (iv) attendance support positions related to  
185 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in  
186 subsection O;

187 4. Instructional personnel support, including professional development positions and library and  
188 media positions not included in subdivision H 3;

189 5. Technology professional positions not included in subsection J;

190 6. Operation and maintenance positions, including facilities; pupil transportation positions;  
191 operation and maintenance professional and service positions; and security service, trade, and laborer  
192 positions;

193 7. Technical and clerical positions for fiscal and human resources, student support, instructional  
194 personnel support, operation and maintenance, administration, and technology; and

195 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time  
196 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each  
197 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in  
198 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and  
199 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of  
200 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to  
201 schools within the division according to the area of greatest need, regardless of whether such schools are  
202 elementary, middle, or secondary.

203 Pursuant to the appropriation act, support services shall be funded from basic school aid.

204 School divisions may use the state and local funds for support services to provide additional  
205 instructional services.

206 Q. Notwithstanding the provisions of this section, when determining the assignment of  
207 instructional and other licensed personnel in subsections C through J, a local school board shall not be  
208 required to include full-time students of approved virtual school programs.

209 **2. That the Department of Education shall consider and make recommendations to the Chairmen**  
210 **of the House Committee on Education and the Senate Committee on Education and Health no later**  
211 **than December 1, 2022, regarding the establishment of a Provisional (Career Switcher) License or**  
212 **other alternate routes to licensure for school counselors that are similar to the Provisional (Career**



**213 Switcher) License and other alternate routes to licensure for teachers established by the Board of**  
**214 Education pursuant to 8VAC20-23-670 of the Virginia Administrative Code.**

**215 #**