

SENATE BILL NO. 552

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

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

(Patron Prior to Substitute--Senator Peake)

A BILL to amend and reenact §§ 22.1-5, 22.1-7.1, and 22.1-7.2 of the Code of Virginia, relating to public schools; out-of-zone attendance policies and best practices.

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

**1. That §§ 22.1-5, 22.1-7.1, and 22.1-7.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges.**

A. Consistent with Article VIII, Section 1 of the Constitution of Virginia, no person may be charged tuition for admission or enrollment in the public schools of the Commonwealth, whether on a full-time or part-time basis, who meets the residency criteria set forth in § 22.1-3 or is enrolled through an out-of-zone attendance policy pursuant to § 22.1-7.1. No person of school age shall be charged tuition for enrollment in a program preparing students to pass a high school equivalency examination approved by the Board of Education or alternative program offered as a regional or divisionwide initiative by the local school division in which such person is deemed to reside pursuant to § 22.1-3 or is enrolled pursuant to § 22.1-7.1. Further, no person of school age shall be denied admission or charged tuition when (i) such person's custodial parent has been deployed outside the United States as a member of the Virginia National Guard or as a member of the United States armed forces; and (ii) such person's custodial parent has executed a Special Power of Attorney under Title 10, United States Code, § 1044b providing for the care of the person of school age by an individual who is defined as a parent in § 22.1-1 during the time of his deployment outside the United States. The person of school age shall be allowed to attend a school in the school division in which the individual providing for his care, pursuant to the Special Power of Attorney under Title 10, United States Code, § 1044b, resides. Furthermore, when practicable, such persons of

27 school age may continue to attend school in the Virginia school division they attended immediately prior  
28 to the deployment and shall not be charged tuition for attending such division.

29 The following persons may, however, in the discretion of the school board of a school division  
30 and pursuant to regulations adopted by the school board, be admitted into the public schools of the division  
31 and may, in the discretion of the school board, be charged tuition:

- 32 1. Persons who reside within the school division but who are not of school age.
- 33 2. Persons of school age who are residents of the Commonwealth but who do not reside within the  
34 school division, except as provided in this section.
- 35 3. Persons of school age who are attending school in the school division pursuant to a foreign  
36 student exchange program approved by the school board.
- 37 4. Persons of school age who reside beyond the boundaries of the Commonwealth but near thereto  
38 in a state or the District of Columbia which grants the same privileges to residents of the Commonwealth.
- 39 5. Persons of school age who reside on a military or naval reservation located wholly or partly  
40 within the geographical boundaries of the school division and who are not domiciled residents of the  
41 Commonwealth of Virginia; however, no person of school age residing on a military or naval reservation  
42 located wholly or partly within the geographical boundaries of the school division may be charged tuition  
43 if federal funds provided under P.L. 874 of 1950, commonly known as Impact Aid, shall fund such  
44 students at not less than 50 percent of the total per capita cost of education, exclusive of capital outlay and  
45 debt service, for elementary or secondary pupils, as the case may be, of such school division.  
46 Notwithstanding any other provision of law to the contrary, such persons of school age who reside on a  
47 military or naval reservation with military-owned housing located wholly or partly within the geographical  
48 boundaries of multiple school divisions shall be deemed eligible for interscholastic programs immediately  
49 upon enrollment in a public elementary or secondary school in any of the aforementioned school divisions,  
50 provided that such persons (i) satisfy all other requirements for eligibility and (ii) are dependents of a  
51 military service member required by the military to live on the military installation as evidenced by a  
52 statement on command letterhead signed by, or by direction of, the service member's commanding officer.

53           6. Persons of school age who, as domiciled residents of the Commonwealth who were enrolled in  
54 a public school within the school division, are required as a result of military or federal orders issued to  
55 their parents to relocate and reside on federal property in another state or the District of Columbia, if the  
56 school division subsequently enrolling such persons is contiguous to such state or District of Columbia.

57           7. Persons of school age who reside in the school division and who are enrolled in summer  
58 programs, exclusive of required remediation as provided in § 22.1-253.13:1, or in local initiatives or  
59 programs not required by the Standards of Quality or the Standards of Accreditation.

60           For the purposes of determining the residency of persons described in subdivisions 1 and 2, local  
61 school boards shall adopt regulations consistent with the residency requirements regarding persons  
62 residing in housing or temporary shelter, or on property located in multiple jurisdictions, as articulated in  
63 § 22.1-3.

64           B. Persons of school age who are not residents of the Commonwealth but are living temporarily  
65 with persons residing within a school division may, in the discretion of the school board and pursuant to  
66 regulations adopted by it, be admitted to the public schools of the school division. Tuition shall be charged  
67 such persons.

68           C. No tuition charge authorized or required in this section shall exceed the total per capita cost of  
69 education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case  
70 may be, of such school division and the actual, additional costs of any special education or gifted and  
71 talented program provided the pupil, except that if the tuition charge is payable by the school board of the  
72 school division of the pupil's residence pursuant to a contract entered into between the two school boards,  
73 the tuition charge shall be that fixed by such contract.

74           D. School boards may accept and provide programs for students for whom English is a second  
75 language who entered school in Virginia for the first time after reaching their twelfth birthday, and who  
76 have not reached 22 years of age on or before August 1 of the school year. No tuition shall be charged  
77 such students, if state funding is provided for such programs.

78           **§ 22.1-7.1. Out-of-zone attendance policy.**

79           A. ~~Any~~ As used in this section:

80 "Enrollment capacity" means the total number of available seats within the total seating capacity  
81 of a school.

82 "Out-of-zone attendance" means a policy adopted and implemented by a local school board that  
83 allows any student, with limited exceptions relating to enrollment capacity and student disciplinary record,  
84 from within such school division to access available seats and enroll in any public school within the school  
85 division of attendance regardless of the location of the student's residence.

86 "Out-of-zone student" means any student who is enrolled in a public school within such student's  
87 school division but outside of the attendance zone area to which the student is assigned.

88 B. The Board shall develop and make available to each school board guidance on best practices  
89 relating to out-of-zone attendance policies. Such guidance shall detail best practices for:

- 90 1. The application process for out-of-zone students, including an exemplar application;
- 91 2. The maintenance of a waitlist and for the random selection of applicants in the event out-of-  
92 zone student applications exceed a given school's enrollment capacity or available seats by grade level;
- 93 3. Processes for reporting and making publicly available the out-of-zone enrollment capacity of  
94 each school or program;
- 95 4. School transportation for out-of-zone students;
- 96 5. Processes for reviewing disciplinary actions that may disqualify students from utilizing the out-  
97 of-zone attendance policy; and
- 98 6. Continued enrollment for any out-of-zone student enrolled in a school pursuant to this section.

99 C. Each local school board may, in accordance with the best practices guidelines developed by the  
100 Board pursuant to subsection B, establish and implement policies an out-of-zone attendance policy to  
101 provide for the open enrollment to any school of any student residing within the school division, upon the  
102 request application of a parent or guardian access to available seats at any school with enrollment capacity  
103 as an out-of-zone student. In developing such Such policies, a local school board may include the  
104 following conditions and limitations shall provide:

- 105 1. An application process whereby a parent or guardian indicates a school preference for purposes  
106 of his child attending a school in the child's school division but outside of the attendance area in which

107 ~~the child resides~~ In the event that any student's application for access as an out-of-zone student to a specific  
108 school is denied as a result of such school having insufficient enrollment capacity to accept such student,  
109 for (i) timely notification to the student and his parent of the denial and (ii) reasonable opportunity to  
110 resubmit his application for access as an out-of-zone student to another school;

111 ~~2. A requirement that the parent or guardian provide transportation for the student attending a~~  
112 ~~school other than his assigned school~~ That a student shall be disqualified from utilizing the out-of-zone  
113 attendance policy as a result of certain disciplinary actions, in accordance with subdivision B 5; and

114 ~~3. A requirement that a student may be disqualified from attending a school other than his assigned~~  
115 ~~school if he has been subject to a specified disciplinary action;~~

116 ~~4. A prohibition on the recruitment of a student from one school to another by a school division~~  
117 ~~employee;~~

118 ~~5. A limitation on participation in certain athletic activities for a student who chooses to attend a~~  
119 ~~school other than his assigned school;~~

120 ~~6. A random, unbiased selection process in the event open enrollment requests exceed the capacity~~  
121 ~~of a school;~~

122 ~~7. A provision that a student shall be permitted to remain at the receiving school until the student~~  
123 ~~has completed the highest grade level in the school; and~~

124 ~~8. A preference to a student (i) who resides in a location that has been subject to a change in school~~  
125 ~~attendance area during the previous two years, (ii) who has a sibling attending the receiving school, or~~  
126 ~~(iii) whose parent or guardian is an employee of the receiving school~~ That any student residing within a  
127 school division shall not be charged tuition as a result of utilizing the out-of-zone attendance policy.

128 ~~B. D.~~ A copy of the school division's policies for open enrollment, if any, out-of-zone attendance  
129 policy shall be posted on the division's and each school's official website and shall be available to the  
130 public upon request. Each school division and each individual school shall post and biannually update by  
131 January 15 and July 1 its available enrollment capacity, disaggregated by school level and by grade level.

132 ~~C. E.~~ Nothing in this section shall interfere with a local school board's authority to adopt a pupil  
133 assignment plan pursuant to § 22.1-79.

134 D. For the purposes of this section, "~~open enrollment~~" means a policy adopted and implemented  
 135 by a local school board to allow any student to enroll in any school within the school division of attendance  
 136 regardless of the location of the student's residence. F. The Department shall collect and annually publish  
 137 by December 1 each year, data relating to the utilization of the out-of-zone attendance policy throughout  
 138 the Commonwealth for the preceding school year, including the total number of out-of-zone student  
 139 applications submitted, the total number of out-of-zone student applications accepted, and the total number  
 140 of out-of-zone student applications rejected and the reasons for rejection, disaggregated by school division  
 141 and school level.

142 **§ 22.1-7.2. Enrollment for students residing on a military installation or in military housing.**

143 A. As used in this section, "military installation" means a base, camp, post, station, yard, center,  
 144 homeport facility for any ship, fort, or other activity under the jurisdiction of the Department of Defense,  
 145 including any leased facility, that is located in whole or in part within the Commonwealth. "Military  
 146 installation" does not include any facility used primarily for civil works, rivers and harbors projects, or  
 147 flood control projects.

148 B. Any local school board of a school division in which a military installation or other military  
 149 housing is located shall establish and implement policies to provide for the enrollment to any school of  
 150 any student residing on a military installation or in military housing within the school division upon the  
 151 request of his parent if space in the school is available. In developing such policies, a local school board  
 152 may include any of ~~conditions~~ the best practices and policies listed in subsection A subsections B and C  
 153 of § 22.1-7.1 or any other condition deemed appropriate by the local school board.

154 C. A copy of the school division's policies for enrollment for students residing on a military  
 155 installation or in military housing within the school division shall be posted on the division's website and  
 156 shall be available to the public upon request.

157 **2. That the Board of Education shall develop and make available to each school board the guidelines**  
 158 **on best practices relating to the out-of-zone attendance policy pursuant to subsection B of § 22.1-7.1**  
 159 **of the Code of Virginia, as amended by this act, no later than December 1, 2024.**

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