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JAN 20 2017

BILL NO. 31-0391

GOVERNOR

THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2016

An Act repealing and reenacting with amendments title 17 Virgin Islands Code, chapter 9, section 84 relating to instruction of children at home

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 17 Virgin Islands Code, chapter 9, section 84 is repealed and reenacted with amendments to read as follows:

“§ 84. Home instruction

(a) As used in this section “parent” means a child’s biological parents or “a person in parental relation” as defined in section 86.

(b) Children may be taught at home as provided in this section.

(c) A parent retains full control over a home instruction of a child, including the teaching and testing methods, the selection of curriculum, the instructors, and the location of instruction. However, the instructional curriculum must include the subjects of English, Mathematics, Science and Social Studies.

(d) Neither the Commissioner, the Board of Education, the Department of Education, nor a school district may adopt regulations pertaining to home instruction, unless provided in this section.

(e) A parent of a child of compulsory school attendance age shall submit by either mail, fax or hand delivery to the Commissioner a notice of the intent to provide home instruction each year by September 1. If home instruction begins after the school year commences, notice must be filed not later than ten days after home instruction begins.

(f) The notice must include the following information:

- (1) the parent's
 - (A) name;
 - (B) physical and mailing address;
 - (C) phone numbers; and
 - (D) email addresses;
- (2) A statement by the parent, made under penalty of perjury, that no person residing in the home where the instruction is being taught is a registered sex offender;
- (3) the full name and age of the child;
- (4) the subjects to be taught during the school year; and
- (5) the preferred method of communication between parent and the Department of Education.

(g) The Commissioner shall confirm receipt of the notice or supplemental notice by the method of communication indicated in the notice not later than 30 calendar days after receipt of the notice. Notice is presumed if the Commissioner fails to confirm receipt of the notice within the specified time.

(h) A notice is deficient if it does not contain all the information listed in subsection (f). If the notice is deficient, the Commissioner shall state the nature of the deficiency in the confirmation of receipt and advise the parent that the parent has 10 days from the date of the confirmation of receipt to submit a corrected notice. If the deficiency is not addressed within the specified time and deficiency is an item listed in subsection (f), the Commissioner may commence enforcement of the compulsory attendance requirements under section 86(d) or section 88(a). Section 89 of this title, and title 5 VIC §§ 2501 through 2555 are not applicable to a proceeding under this subsection. Notwithstanding the ruling of a court or other administrative body, a parent is not prohibited from filing a notice of home instruction at a later date.

(i) Not more than once per school year, the Commissioner shall request a portfolio of the work of the child, and the portfolio must consist of no fewer than 10 samples of work that have been completed within the current school year and must be submitted to the Commissioner not later than 30 days after the date the Commissioner requested the portfolio. If the parent does not provide the portfolio within the 30 days, a second notice must be sent by certified mail providing a minimum of 10 business days to comply. If the portfolio is not provided to the Commissioner within the time specified in the second notice, the Commissioner may initiate enforcement of the compulsory attendance law under section 82 of this chapter. The Department of Education may interview a child as part of the annual review process. A parent may choose to be present at any interview conducted by the Commissioner or the Commissioner's designee. A

parent shall retain a copy of all portfolios submitted to the Department of Education until the child has received a high school diploma.

(j) The Commissioner may request that a child take a standardized test at grade levels 3, 5, 8 and 11. The test results must be submitted to the Commissioner not later than 30 days after the parent has received the results.

(k) If a child who has received home instruction enrolls in public school, the Commissioner may test to determine the grade level in which the child should be enrolled. The testing must be conducted not later than 30 days after enrollment and at no cost to the parent or student.

(l) If the child scores at or above the average Virgin Islands public school test score for the grade level in which the parent is requesting the child be placed, then the child shall receive credit for the courses taken through home instruction and must be enrolled in that grade level.

(m) If the child scores below the average Virgin Islands public school test score for any subject, the Commissioner may review the child's previous work, textbooks, or other evidence of achievement in that subject area and determine which classes completed in the subject that child will receive credit for and the grade level in which the child must be enrolled.

(n) A high school diploma awarded upon completion of a home instruction course of study that has complied with the all requirements of this section must be accepted by the agencies, departments and institutions of the Virgin Islands.

(o) A student who has earned a diploma through home instruction is exempt from further compliance with the compulsory school attendance laws. A parent shall submit to the Department of Education a copy of the high school diploma awarded to the student upon completion of home instruction.

(p) The Commissioner may extend the deadlines established in this section when a parent is off island, or when a natural or other disaster prevents the normal operation of the government or disrupts the usual mode of transportation or communication.

(q) All records provided to the Commissioner, including personally identifiable and directory information, transcripts, portfolios, ACT, SAT and PSAT scores, and any other standardized test scores, are subject to the confidentiality requirements of section 98 and may be released only to the parents of the student, the student who has attained the age of 18, or to a student enrolled in an institution of postsecondary education. The Department of Education shall retain the records of home instructed children as it does for children attending public schools."

(r) Compliance with this section satisfies the requirements of sections 82, 93 and 96.

Thus passed by the Legislature of the Virgin Islands on December 20, 2016.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 5th Day of
January, A.D., 2017.



Neville A. James

Neville A. James
President

Myron D. Jackson

Myron D. Jackson
Legislative Secretary