

FILED MAR 18 1991

SENATE FILE 399  
BY TINSMAN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to school instruction and attendance of children  
2 of compulsory school attendance age.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 399

1 Section 1. Section 299.1, Code 1991, is amended to read as  
2 follows:

3 299.1 ATTENDANCE REQUIREMENTS.

4 The parent, guardian, or custodian of a child who is over  
5 ~~seven~~ six and under sixteen years of age by September 15, ~~in~~  
6 ~~proper-physical-and-mental-condition-to-attend-school,~~ shall  
7 ~~enroll~~ cause the child to attend some public school,  
8 ~~commencing-as-provided~~ accredited nonpublic school, or  
9 competent private instruction in accordance with the  
10 provisions of chapter 299B, for at least one hundred twenty  
11 days per school year, as defined under section 279.10.

12 ~~The board~~ A public or accredited nonpublic school may, by  
13 resolution, require attendance ~~in the public schools~~ by the  
14 school's pupils for the entire time when the schools are in  
15 session in any school year and adopt a policy or rules  
16 relating to the reasons considered to be valid or acceptable  
17 excuses for absence from school.

18 ~~A child shall attend an accredited or approved school for~~  
19 ~~at least one hundred twenty days each school year. The~~  
20 ~~requirement shall be met by attendance for at least thirty~~  
21 ~~days each school quarter, or a similar distribution of~~  
22 ~~attendance throughout the school year.~~

23 ~~In lieu of such attendance such child may attend upon~~  
24 ~~equivalent instruction by a licensed teacher elsewhere.~~

25 A child who fails to attend school or instruction for at  
26 least thirty days per school quarter, or a similar  
27 distribution of attendance throughout the school year, is  
28 presumed to be truant and the parent, guardian, or custodian  
29 of the child is presumed to have committed a violation of this  
30 chapter.

31 Sec. 2. Section 299.2, Code 1991, is amended to read as  
32 follows:

33 299.2 EXCEPTIONS.

34 Section 299.1 shall not apply to any child:

35 ~~1. Who is over the age of fourteen and is regularly~~

1 employed:

2 ~~2--Whose-educational-qualifications-are-equal-to-those-of~~  
3 ~~pupils-who-have-completed-the-eighth-grade.~~

4 3 1. Who is excused for sufficient reason by any court of  
5 record or judge.

6 4 2. While attending religious services or receiving  
7 religious instructions.

8 5 3. Who is attending a private college preparatory school  
9 accredited or probationally accredited under section 256.11,  
10 subsection 13, or whose parent, guardian, or custodian has  
11 been granted recognition and exemption by the state board of  
12 education from compliance with any or all of the provisions of  
13 this chapter under section 299.24.

14 Sec. 3. Section 299.3, Code 1991, is amended to read as  
15 follows:

16 299.3 REPORTS FROM PRIVATE NONPUBLIC SCHOOLS.

17 ~~Within-ten-days-from-receipt-of-notice-from~~ The principal  
18 of an accredited nonpublic school shall furnish to the  
19 secretary of the board of the school district within which any  
20 private the nonpublic school is conducted located, the  
21 principal-of-such-school-shall, once-during-each-school-year,  
22 by the third Friday in September and at any time when  
23 requested in individual cases, furnish-to-such-secretary a  
24 certificate and report in duplicate of the names, addresses,  
25 ages, and number of days-attendance-of-each-pupil-of-such  
26 school-over-seven-and-under-sixteen-years-of pupils of  
27 compulsory attendance age, the course of study pursued by each  
28 such child pupil, the texts used, and the names and  
29 assignments of the teachers, during the preceding year and  
30 from the time of the last preceding report to the time at  
31 which when a report is required. The secretary shall retain  
32 one of the reports and file the other with the secretary-of  
33 the-area department of education agency.

34 Sec. 4. Section 299.4, Code 1991, is amended to read as  
35 follows:

1        299.4    REPORTS AS TO PRIVATE INSTRUCTION.

2        The parent, guardian, or custodian of a child who-by  
3 ~~September 15 is over seven and under sixteen years of age, of~~  
4 compulsory attendance age who places the child under private  
5 ~~instruction, not in an accredited or approved school,~~ shall  
6 furnish a certificate and report in duplicate, to the board  
7 secretary of the school district by the earliest starting date  
8 ~~specified in section 279.19, subsection 1.~~ The secretary  
9 ~~shall retain and file one copy and forward the other copy to~~  
10 ~~the district's area education agency.~~ The report shall state  
11 in which the parent, guardian, or custodian resides, the name  
12 and age of the child, the period of time during which the  
13 child has been or will be under private instruction for the  
14 school year, ~~an outline of the course of study,~~ texts used,  
15 and the name and address of the licensed practitioner or other  
16 instructor. ~~The term "outline of course of study" shall~~  
17 ~~include, but is not limited to, subjects covered, weekly~~  
18 ~~lesson plans, and time spent on the areas of study.~~

19        The report shall be filed by the third Friday in September  
20 of the school year in which the private instruction takes  
21 place, or within three weeks of the commencement of private  
22 instruction of a child of compulsory attendance age, if the  
23 child is removed from a public or nonpublic school after the  
24 third Friday in September for purposes of entering private  
25 instruction.

26        If a parent, guardian, or custodian of a child fails to  
27 provide a report required by this section, the parent,  
28 guardian, or custodian is presumed to have violated this  
29 chapter or chapter 299B.

30        Sec. 5. Section 299.6, Code 1991, is amended to read as  
31 follows:

32        299.6    VIOLATIONS -- COMMUNITY SERVICE IN LIEU OF FINE OR  
33 IMPRISONMENT.

34        Any person who ~~shall violate~~ violates any of the provisions  
35 of sections 299.1 to 299.5, ~~inclusive~~ through 299.4, shall be

1 is guilty of a simple misdemeanor and the court shall order  
2 the person to perform not more than forty hours of unpaid  
3 community service instead of any fine or imprisonment.

4 Sec. 6. Section 299.8, Code 1991, is amended to read as  
5 follows:

6 299.8 "TRUANT" DEFINED.

7 Any child ~~over-seven-and-under-sixteen-years-of-age,~~ in  
8 ~~proper-physical-and-mental-condition-to-attend-school,~~ of  
9 compulsory attendance age who fails to attend school regularly  
10 as provided in this chapter, or competent private instruction  
11 under chapter 299B for at least one hundred twenty days per  
12 year without reasonable excuse for the absence, shall be  
13 deemed to be a truant.

14 Sec. 7. Section 299.9, Code 1991, is amended to read as  
15 follows:

16 299.9 TRUANT-SCHOOLS TRUANTS -- RULES FOR PUNISHMENT.

17 The board of directors ~~may-provide-for-the-confinement,~~  
18 ~~maintenance,-and-instruction-of-truant-children-and-may-for~~  
19 ~~that-purpose-establish-truant-schools-or-set-apart-separate~~  
20 ~~rooms-in-any-public-school-building,-and-it~~ of a public school  
21 district or the authorities in charge of an accredited  
22 nonpublic school shall prescribe reasonable rules for the  
23 punishment of truants.

24 Sec. 8. Section 299.10, Code 1991, is amended to read as  
25 follows:

26 299.10 TRUANCY OFFICERS -- APPOINTMENT -- COMPENSATION.

27 The board of each school district ~~may,-and-in-school~~  
28 ~~districts-having-a-population-of-twenty-thousand~~ shall,  
29 appoint a truancy officer.

30 In districts ~~having-therein~~ in which a city is located, the  
31 board may appoint a member of the police force or marshal as  
32 ~~such~~ the officer, and other districts may appoint a constable  
33 or other suitable person.

34 ~~Such~~ Truancy officers shall be paid a reasonable  
35 compensation by the board.

1 Sec. 9. Section 299.11, Code 1991, is amended by striking  
2 the section and inserting in lieu thereof the following:

3 299.11 DUTIES OF TRUANCY OFFICER.

4 The truancy officer shall determine the name of each truant  
5 child and the name and address of the parent, guardian, or  
6 custodian of the truant child and shall promptly provide the  
7 information to the secretary of the school board.

8 Sec. 10. Section 299.18, Code 1991, is amended to read as  
9 follows:

10 299.18 EDUCATION -- STATE SCHOOL.

11 Children over ~~seven~~ six and under nineteen years of age who  
12 are so deaf or blind or severely handicapped as to be unable  
13 to obtain an education in the common schools shall be sent to  
14 the proper state school therefor, unless exempted, and any  
15 person having such a child under the person's control or  
16 custody shall see that ~~such~~ the child attends ~~such~~ the school  
17 during the ~~scholastic~~ school year.

18 Sec. 11. Section 299.19, Code 1991, is amended to read as  
19 follows:

20 299.19 PROCEEDING AGAINST PARENT.

21 Upon the failure of ~~any~~ a person having the custody and  
22 control of ~~such~~ a deaf, blind, or severely handicapped child  
23 to require ~~its~~ the child's attendance as provided in section  
24 299.18, the state board of regents may make application to the  
25 district court or the juvenile court of the county in which  
26 ~~such~~ the person resides for an order requiring ~~such~~ the person  
27 to compel the attendance of ~~such~~ the child at the proper state  
28 institution.

29 Sec. 12. Section 299.20, Code 1991, is amended to read as  
30 follows:

31 299.20 ORDER.

32 Upon the filing of the application mentioned in section  
33 299.19, the time of hearing shall be determined by the  
34 juvenile court or the district court. If, upon hearing, the  
35 court determines that the person required to appear has the

1 custody and control of a child who should be required to  
2 attend a state school under section 299.18, the court shall  
3 make an order requiring such the person to keep such the child  
4 in attendance at such the state school.

5 Sec. 13. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

6 The parent, guardian, or custodian of a child of compulsory  
7 attendance age who places the child under private instruction  
8 shall provide, unless otherwise exempted, competent private  
9 instruction in accordance with this chapter. A parent,  
10 guardian, or custodian of a child of compulsory attendance age  
11 who places the child under private instruction which is not  
12 competent private instruction, or otherwise fails to comply  
13 with the requirements of this chapter, shall be presumed to  
14 have violated the provisions of sections 299.1 through 299.4  
15 and is subject to the penalties provided in section 299.6.

16 For purposes of this chapter, "competent private  
17 instruction" means private instruction provided on a daily  
18 basis for at least one hundred twenty days during a school  
19 year by a licensed practitioner, or other person under section  
20 299B.3, which results in the student making adequate progress.

21 For purposes of this chapter and chapter 299, "private  
22 instruction" means formal instruction in a setting other than  
23 and not affiliated with a public or organized accredited  
24 nonpublic school.

25 Sec. 14. NEW SECTION. 299B.2 COMPETENT PRIVATE  
26 INSTRUCTION BY LICENSED PRACTITIONER.

27 If a licensed practitioner provides competent instruction  
28 to a child of compulsory attendance age, the practitioner  
29 shall possess a valid license or certificate which has been  
30 issued by the state board of educational examiners under  
31 chapter 260 and which is appropriate to the ages and grade  
32 levels of the children to be taught. Sections 299B.3 through  
33 299B.7 do not apply to competent private instruction provided  
34 by a licensed practitioner under this section.

35 Sec. 15. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY

1 NONLICENSED PERSON.

2 A parent, guardian, or custodian of a child of compulsory  
3 attendance age providing competent private instruction to the  
4 child shall meet all of the following requirements:

5 1. Complete and send, in a timely manner, the report  
6 required under section 299.4 to the school district of  
7 residence of the child.

8 2. Ensure that the child under the parent's, guardian's,  
9 or custodian's instruction is tested annually to determine  
10 whether the child is making adequate progress, as defined in  
11 section 299B.6.

12 3. Report the child's annual test results to the school  
13 district of residence of the child and to the department of  
14 education by a date not later than June 30 of each year in  
15 which the child is under private instruction.

16 Sec. 16. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS --  
17 REQUIREMENTS AND PROCEDURE.

18 1. Each child of compulsory attendance age who is  
19 receiving competent private instruction shall be tested  
20 annually by May 1, using a nationally recognized standardized  
21 achievement test chosen by the child's parent, guardian, or  
22 custodian from a list of approved tests provided by the  
23 department of education.

24 2. A child, who is seven years of age and is receiving  
25 competent private instruction or who is placed under competent  
26 private instruction for the first time, shall be administered  
27 a test for purposes of obtaining educational baseline data.

28 3. The director of the department of education, or the  
29 director's designee, which may include a school district or an  
30 area education agency, shall administer each test required of  
31 children under competent private instruction.

32 4. The parent, guardian, or custodian of a child receiving  
33 competent private instruction may be present when the child is  
34 tested, but only if both the parent, guardian, or custodian  
35 and the child are under the supervision of the test

1 administrator.

2 5. The administration of tests shall include, but is not  
3 limited to, purchasing of test materials, giving the tests,  
4 scoring and interpreting the tests, and reporting the test  
5 results.

6 6. The parent, guardian, or custodian of the child being  
7 tested shall reimburse the entity providing the test  
8 administration for the cost of testing required by this  
9 chapter. However, the parent, guardian, or custodian is not  
10 required to reimburse the testing entity for costs incurred as  
11 a result of testing and evaluation under section 299B.8.

12 Sec. 17. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.

13 The results of tests administered to children of compulsory  
14 attendance age who are under competent private instruction  
15 shall be reported by the test administrator to the child's  
16 parent, guardian, or custodian, the school district of  
17 residence of the child, and the department of education.  
18 Personally identifiable information relating to or contained  
19 in the test scores is confidential and shall not be released  
20 without the prior consent of the child's parent, guardian, or  
21 custodian except as otherwise permitted by law.

22 Sec. 18. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE  
23 PROGRESS.

24 If the results of tests, administered to a child of  
25 compulsory attendance age who is under competent private  
26 instruction, indicate that the student has failed to make  
27 adequate progress, the parent, guardian, or custodian shall  
28 provide competent instruction under a plan for remediation,  
29 which has been approved by the director of the department of  
30 education, during the next school year. If the results of the  
31 tests taken during the next school year indicate that the  
32 child has failed to make adequate progress under the  
33 remediation plan, the parent, guardian, or custodian shall  
34 cause the child to attend an accredited public or nonpublic  
35 school at the beginning of the next school year.

1 A child who is required to attend an accredited public or  
2 nonpublic school under this section shall continue attendance  
3 at an accredited public or nonpublic school until the child  
4 achieves adequate progress.

5 For purposes of this chapter, "adequate progress" means,  
6 for children in all grade levels of competent private  
7 instruction, test scores which are above the thirtieth  
8 percentile, nationally normed, in each of the areas of  
9 reading, mathematics, and language arts, and which indicate  
10 either that the child has made six months' progress from the  
11 previous test results or that the child is at or above grade  
12 level for the child's age. For children in grade levels six  
13 and above, "adequate progress" also means that the child has  
14 achieved test scores in both science and social studies which  
15 are above the thirtieth percentile, nationally normed, and  
16 which either indicate that the child has made six months'  
17 progress from the previous test results or that the child is  
18 at or above grade level for the child's age.

19 Sec. 19. NEW SECTION. 299B.7 NOTICE TO PARENTS --  
20 REMEDIATION.

21 If a child is placed under competent private instruction  
22 and the child fails to make adequate progress under competent  
23 private instruction, the director of the department of  
24 education, or the director's designee, shall notify the  
25 parent, guardian, or custodian of the child that the child is  
26 required to attend an accredited public or nonpublic school,  
27 unless approval for competent private instruction under a  
28 remediation plan is granted. The director, or the director's  
29 designee, may provisionally approve continued competent  
30 private instruction under an approved remediation plan  
31 designed to improve instruction for up to one year.

32 Sec. 20. NEW SECTION. 299B.8 CHILDREN REQUIRING SPECIAL  
33 EDUCATION.

34 A child of compulsory attendance age who is identified as  
35 requiring special education under chapter 281 is not eligible

1 for placement under competent private instruction without  
2 prior approval of the placement by the director of the  
3 department of education, in cooperation with the director of  
4 special education of the area education agency of the child's  
5 district of residence.

6 A child who has been placed under competent private  
7 instruction, whose performance on the tests required under  
8 this chapter indicates that the child may require special  
9 education, shall be referred for evaluation under chapter 281  
10 and the rules of the state board of education.

11 Sec. 21. NEW SECTION. 299B.9 RULEMAKING.

12 The department of education shall develop and recommend and  
13 the state board shall adopt rules to implement this chapter.

14 Sec. 22. Sections 299.5, 299.13, 299.14, and 299.22, Code  
15 1991, are repealed.

16 EXPLANATION

17 This bill makes changes in the compulsory attendance law  
18 and creates a new competent private instruction law. The  
19 compulsory attendance age has been modified to lower the age  
20 at which children must first start school. Persons who are 14  
21 years of age and gainfully employed or whose educational  
22 qualifications are those of a person who has completed the  
23 eighth grade may no longer be excepted from the attendance  
24 requirements. Reports from accredited nonpublic schools must  
25 now be filed by the third Friday in September, with copies to  
26 be forwarded to the department of education instead of the  
27 area education agencies. Reports on competent private  
28 instruction must also be filed by the third Friday in  
29 September, unless a child is placed under private instruction  
30 after that date. The term "truant" is defined as a child who  
31 fails to attend school for at least 120 days per school year.  
32 Development of rules relating to excuses from attendance at  
33 school and punishment of truants is made the duty of the  
34 boards of school districts. All districts must hire a truancy  
35 officer who is to determine which children are truant and

1 provide the district with information about the truant child  
2 and the names and locations of the child's parents. The  
3 compulsory attendance law is made applicable to even severely  
4 handicapped children.

5 The competent private instruction law legalizes two forms  
6 of competent private instruction: instruction by licensed  
7 practitioners and instruction by parents, guardians, or  
8 custodians of children. If a child is instructed by a parent,  
9 however, the child must be tested on at least an annual basis  
10 for adequate progress in learning. If the child fails to make  
11 adequate progress, the child will be required to attend  
12 competent instruction under a plan for remediation during the  
13 next year. If the child fails to make adequate progress after  
14 the year's placement under remediation, the child will be  
15 required to attend an accredited public or nonpublic school.  
16 The costs of testing, except for testing related to special  
17 education, must be reimbursed by the parent, guardian, or  
18 custodian to the entity which provides the test  
19 administration. Children requiring special education may not  
20 be placed under competent private instruction unless special  
21 permission is granted by the department of education, in  
22 cooperation with the director of special education for the  
23 area education agency of the child's district of residence.

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35