

**CHAPTER 174****SCHOOL ATTENDANCE REQUIREMENTS AND FAMILY  
INVESTMENT PROGRAM***H.F. 597*

**AN ACT** relating to school attendance by applying school attendance requirements under the family investment program, and providing a civil penalty for truancy, applicability provisions, and an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

**Section 1. NEW SECTION. 239.5B SCHOOL ATTENDANCE.**

1. As a condition of eligibility for an applicant for or a recipient of assistance under this chapter, the department shall require a child's parent or other specified relative whose needs are included in the cash assistance grant payable to the child's family to cooperate with efforts to ensure children receiving assistance under this chapter complete educational requirements through the sixth grade. As a further condition of eligibility, an applicant or recipient shall provide written authorization for release of information to a school concerning the receipt of assistance and for release of information by a school concerning the child's compliance with attendance requirements.

2. If the department of human services receives written notification from a school truancy officer under section 299.12 that a child receiving assistance under this chapter is deemed to be truant, the child's family shall be subject to sanction as provided in this section. The sanction shall continue to apply until the department of human services receives written notification from the school truancy officer of any of the following:

a. The child is complying with the attendance policy applicable to the child's school.

b. The child has satisfactorily completed educational requirements through the sixth grade.

c. The child's school has determined there is good cause for the child's nonattendance and the school withdraws the written notification.

d. The child is no longer enrolled in the school for which the written notification was provided and the child's family demonstrates that the child is enrolled in and is attending another school or is otherwise receiving equivalent schooling as authorized under state law.

3. The sanction under this section shall be a deduction of twenty-five percent from the net cash assistance grant amount payable to the child's family prior to any deduction for recoupment of prior overpayment. If more than one child in the family is deemed to be truant, the sanction shall continue to apply until the department receives written notification from the school truancy officer, as provided in subsection 2 concerning each child.

4. Notwithstanding any contrary provision of chapter 239, unless prohibited by federal law, the department may release or make information available to a school truancy officer, as defined in section 299.12, regarding persons applying for or receiving assistance under this chapter as necessary to verify the family investment program assistance status of a child of a family who may be subject to sanction under this section. The department shall implement protocols restricting information access under this section by region or other means to provide for the minimum access to information necessary to implement the purposes of this section. The department may adopt rules as necessary to administer this section.

**Sec. 2.** Section 299.5A, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. For a child who has completed educational requirements through the

sixth grade, the means may include but are not limited to the use of an attendance cooperation process which substantially conforms with the provisions of section 299.12. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

Sec. 3. Section 299.6, Code 1997, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If a child's parent, guardian, or legal or actual custodian who is found guilty and is subject to a penalty as provided in this section has been subject to a sanction under section 239.5B as a result of the child's truancy, the court may waive the penalty under this section.

Sec. 4. **NEW SECTION.** 299.6A CIVIL PENALTY — DISTRIBUTION OF FUNDS.

1. In lieu of a criminal proceeding under section 299.6, a county attorney may bring a civil action against a parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, has not completed educational requirements, and is truant, if the parent, guardian, or legal or actual custodian has failed to cause the child to attend a public school, an accredited nonpublic school, or competent private instruction in the manner provided in this chapter. If the court finds that the parent, guardian, or legal or actual custodian has failed to cause the child to attend as required in this section, the court shall assess a civil penalty of not less than one hundred but not more than one thousand dollars, for each violation established. However, if the court finds that the parent, guardian, or legal or actual custodian of the child has been subject to sanction under section 239.5B as a result of the child's truancy, the court may waive the civil penalty under this section.

2. Funds received from civil penalties assessed pursuant to this section shall be paid to the school district of residence or school district of enrollment, if open enrolled, of the person against whom the court assessed the penalty. The school district shall use moneys received under this subsection to support programs for students who meet the definition of at-risk children adopted by the department of education.

Sec. 5. **NEW SECTION.** 299.12 VIOLATION OF ATTENDANCE POLICY — FAMILY INVESTMENT PROGRAM.

1. For the purposes of this section, "school truancy officer" means a truancy officer appointed under section 299.10 or any other person designated by a public school board or a governing body of an accredited nonpublic school to administer provisions of this section.

2. This section is not applicable to a child who is receiving competent private instruction in accordance with the requirements of chapter 299A. If a child is not in compliance with the attendance requirements established under section 299.1, and has not completed educational requirements through the sixth grade, and the school has used every means available to assure the child does attend, the school truancy officer shall contact the child's parent, guardian, or legal or actual custodian to participate in an attendance cooperation meeting. The parties to the attendance cooperation meeting may include the child and shall include the child's parent, guardian, or legal or actual custodian and the school truancy officer. If the child is a member of a family receiving assistance under the family investment program, the department of human services shall be notified and shall make the contacts for participation in the attendance cooperation meeting in lieu of the school truancy officer. For a child who is a member of a family receiving assistance under the family investment program, the attendance cooperation meeting shall include the child's parent or specified relative whose needs are included in the child's assistance grant and a representative of the department of human services. The school truancy officer or the representative of the department of human services contacting the participants in the attendance cooperation meeting may invite other school officials, a designee of the juvenile court, the county attorney or

the county attorney's designee, or other persons deemed appropriate to participate in the attendance cooperation meeting.

3. The purpose of the attendance cooperation meeting is for the parties participating in the meeting to attempt to ascertain the cause of the child's nonattendance, to cause the parties to arrive at an agreement relative to addressing the child's attendance, and to initiate referrals to any services or counseling that the parties believe to be appropriate under the circumstances. The terms agreed to shall be reduced to writing in an attendance cooperation agreement and signed by the parties to the agreement. Each party signing the agreement shall receive a copy of the agreement, which shall set forth the cause identified for the child's nonattendance and future responsibilities of each party.

4. If the parties to an attendance cooperation meeting determine that a monitor would improve compliance with the attendance cooperation agreement, the parties may designate a person to monitor the agreement. The monitor shall be a designee of the public school board or governing body of the accredited nonpublic school, or a designee of the department of human services, if the department made the contacts for the attendance cooperation meeting. The monitor may be a volunteer if the volunteer is approved by all parties to the agreement and receives a written authorization for access to confidential information and for performing monitor activities from the child's parent, guardian, or custodian. A monitor shall contact parties to the attendance cooperation agreement on a periodic basis as appropriate to monitor performance of the agreement.

5. If the parties fail to enter into an attendance cooperation agreement, or the child's parent, guardian, or custodian acting as a party violates a term of the attendance cooperation agreement or fails to participate in an attendance cooperation meeting, the child shall be deemed to be truant.

6. a. If a child deemed to be truant under this section is a member of a family receiving family investment program assistance under chapter 239 and has not completed the sixth grade, the school truancy officer shall provide notification to the department of human services. An initial and any subsequent notification shall be made in writing. The form of the notification shall be mutually determined by the departments of human services and education.

b. Notwithstanding any other provision of this chapter to the contrary, unless prohibited by federal law, a school truancy officer may release information to the department of human services and may receive information from the department of human services regarding a child described in paragraph "a". In addition, the school truancy officer may utilize other sources available to the officer as necessary to verify whether a child is a member of a family receiving family investment program assistance. Release of information under this section shall be limited to the minimum access to information necessary to achieve the purposes of this section.

7. A public school board or governing body of an accredited nonpublic school shall exercise the authority granted under this section as a means of increasing and ensuring school attendance of young children, as education is a critical element in the success of individuals and good attendance habits should be developed and reinforced at an early age.

**Sec. 6. NEW SECTION. 299.13 CIVIL ENFORCEMENT.**

A person shall not disseminate or redisseminate information shared with the person pursuant to section 235.5B,\* 299.5A, or 299.12, unless specifically authorized to do so by section 217.30, 235.5B,\* 299.5A, or 299.12. Unless a prohibited dissemination or redissemination of information is subject to injunction or sanction under other state or federal law, an action for judicial enforcement may be brought in accordance with this section. An aggrieved person, the attorney general, or a county attorney may seek judicial enforcement of the requirements of this section in an action brought against the public school or accredited nonpublic school or any other person who has been granted access to information pursuant to section 235.5B,\* 299.5A, or 299.12. Suits to enforce this section

\* Section 239.5B probably intended

shall be brought in the district court for the county in which the information was disseminated or redisseminated. Upon a finding by a preponderance of the evidence that a person has violated this section, the court shall issue an injunction punishable by civil contempt ordering the person in violation of this section to comply with the requirements of, and to refrain from any violations of section 235.5B,\* 299.5A, or 299.12 with respect to the dissemination or redissemination of information shared with the person pursuant to section 235.5B,\* 299.5A, or 299.12.

**Sec. 7. EFFECTIVE DATE — APPLICABILITY — EMERGENCY RULES — CODE EDITOR.**

1. a. Section 239.5B, as enacted by this Act, being deemed of immediate importance, takes effect upon enactment.

b. The department of human services shall begin implementing the provisions of section 239.5B, as enacted by this Act, which require written authorization for release of information as a condition of eligibility for family investment program assistance, effective July 1, 1997, and shall complete implementation not later than December 31, 1997.

c. The provisions of sections 239.5B and 299.12 authorizing information release or access between the department of human services and school truancy officers shall apply beginning January 1, 1998.

2. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of section 239.5B, as enacted by this Act, in accordance with this section and the rules shall be effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this subsection shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

3. If Senate File 516\*\* or other legislation providing for the repeal of chapters 239 and 249C and codification of the family investment program in chapter 239B is enacted by the Seventy-seventh General Assembly, 1997 Session, the repeal of chapter 239 shall not be deemed to repeal section 239.5B, as enacted by this Act, and the Code editor shall codify section 239.5B, as enacted by this Act, as part of chapter 239B and shall revise internal references to that section necessary to conform with the designation codified by the Code editor.

Approved May 21, 1997

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\* Section 239.5B probably intended

\*\* Chapter 41 herein