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EDUCATION

HOUSE FILE 146  
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MAY, and WARNSTADT

WITHDRAWN  
3/24/97 (P.755)

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

A BILL FOR

1 An Act relating to a reduction in aid to a recipient of the  
2 family investment program for continued truancy by a  
3 recipient's child, defining truancy as a delinquent act in  
4 certain cases and providing a penalty, establishing a penalty  
5 for providing aid, support, or shelter to a runaway, and  
6 providing for a civil penalty for truancy and a conditional  
7 effectiveness provision.

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

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WITHDRAWN

HF 146

1 Section 1. Section 232.2, subsection 12, Code 1997, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. The violation of the statutory  
4 compulsory attendance age requirement or the attendance policy  
5 of a public or an accredited nonpublic school by a child who  
6 has reached the age of twelve and is under the age of sixteen  
7 and who has run away from home to avoid attending school or is  
8 refusing to attend school, or who has been deemed truant under  
9 section 299.8 six or more school days in one semester, where  
10 the child's parent, guardian, or legal or actual custodian and  
11 the school in which the child is enrolled have made every  
12 reasonable effort to cause the child to attend school. This  
13 provision shall not apply to a child attending a nonaccredited  
14 nonpublic school or receiving competent private instruction.

15 Sec. 2. NEW SECTION. 232.52B DISPOSITION OF DELINQUENT  
16 TRUANTS.

17 Notwithstanding section 232.52, if the evidence received at  
18 an adjudicatory or dispositional hearing indicates that the  
19 child is a delinquent truant as provided under section 232.2,  
20 subsection 12, paragraph "c", the court shall order the child  
21 to perform unpaid community service at a nonprofit  
22 organization exempt from federal income taxation under section  
23 501(c)(3) of the Internal Revenue Code. If the child fails to  
24 perform the unpaid community service as ordered under this  
25 section, the court may modify the order to include any of the  
26 dispositional alternatives in section 232.52, with the  
27 exception of secure custody.

28 Sec. 3. NEW SECTION. 239.11 ASSISTANCE REDUCTION FOR  
29 TRUANCY.

30 The superintendent of a school district, the authorities in  
31 charge of a nonpublic school, or a school truancy officer may  
32 request and receive information from the department of human  
33 services indicating whether a child who is under the age of  
34 twelve and who may be truant as defined in section 299.8 has a  
35 parent, guardian, or legal or actual custodian who is

1 participating in the family investment program or who  
2 otherwise receives federal temporary assistance for needy  
3 family program funds. If referral of the truancy matter to  
4 the county attorney pursuant to section 299.5A does not assure  
5 the child's attendance, the superintendent, authorities, or  
6 school truancy officer may notify the department of the  
7 truancy matter and the department may apply a sanction to the  
8 parent. The sanction shall be to reduce the amount of the  
9 grant paid to the child's family under the family investment  
10 program by reducing by one the family size used to compute the  
11 grant amount. The sanction shall continue until the truancy  
12 matter is resolved.

13 However, the provisions of this section shall not apply if  
14 a parent, guardian, or legal or actual custodian of a child  
15 who is truant has made reasonable efforts to comply with the  
16 provisions of sections 299.1 through 299.5, but is unable to  
17 cause the child to attend school and files with the department  
18 an affidavit listing the reasonable efforts made by the  
19 parent, guardian, or legal or actual custodian to cause the  
20 child's attendance.

21 Sec. 4. Section 299.5A, unnumbered paragraphs 1, 4, and 5,  
22 Code 1997, are amended to read as follows:

23 If a child is truant as defined in section 299.8, school  
24 officers shall make a good faith effort to notify the child's  
25 parent, guardian, or legal or actual custodian of the truancy,  
26 including but not limited to sending a letter by certified  
27 mail, a copy of which the school shall keep on file, to the  
28 parent, guardian, or legal or actual custodian. School  
29 officers shall also attempt to find the cause for the child's  
30 absence and use every means available to the school to assure  
31 that the child does attend. If the parent, guardian, or legal  
32 or actual custodian, or child refuses to accept the school's  
33 attempt to assure the child's attendance or the school's  
34 attempt to assure the child's attendance is otherwise  
35 unsuccessful, the truancy officer shall refer the matter to

1 the county attorney for mediation ~~or~~, prosecution, or the  
2 filing of a petition in a civil action brought under section  
3 299.6A. If the child is under the age of twelve, the county  
4 attorney shall also contact the department of human services  
5 to request information indicating whether the child has a  
6 parent, guardian, or legal or actual custodian who is  
7 participating in the family investment program under chapter  
8 239.

9 The school district shall be responsible for monitoring any  
10 agreements arrived at through mediation. If a parent,  
11 guardian, or legal or actual custodian refuses to engage in  
12 mediation or violates a term of the agreement, the matter  
13 shall be rereferred to the county attorney for prosecution  
14 under section 299.6 or the filing of a petition under section  
15 299.6A. The county attorney's office or the mediation service  
16 shall require the parent, guardian, or legal or actual  
17 custodian and the school to pay a fee to help defray the  
18 administrative cost of mediation services. The county  
19 attorney's office or the mediation service shall establish a  
20 sliding scale of fees to be charged parents, guardians, and  
21 legal or actual custodians based upon ability to pay. A  
22 parent, guardian, or legal or actual custodian shall not be  
23 denied the services of a mediator solely because of inability  
24 to pay the fee.

25 The mediator may refer a truant to the juvenile court if  
26 mediation breaks down without an agreement being reached. If  
27 the child is under the age of twelve and mediation does not  
28 result in the child's school attendance, and the school has  
29 determined that the child's parent, guardian, or legal or  
30 actual custodian is participating in the family investment  
31 program under chapter 239, school officials shall notify the  
32 department of human services, which shall institute any  
33 appropriate action.

34 Sec. 5. Section 299.6, unnumbered paragraph 1, Code 1997,  
35 is amended to read as follows:

1 Any A person who violates a mediation agreement under  
2 section 299.5A, who is referred for prosecution under section  
3 299.5A and is convicted of a violation of any of the  
4 provisions of sections 299.1 through 299.5, who violates any  
5 of the provisions of sections 299.1 through 299.5, or who  
6 refuses to participate in mediation under section 299.5A, for  
7 a first offense, is guilty of a simple misdemeanor. A person  
8 who violates a provision of section 299.17, for a first  
9 offense, is guilty of a simple misdemeanor.

10 Sec. 6. NEW SECTION. 299.6A CIVIL PENALTY --  
11 DISTRIBUTION OF FUNDS.

12 1. In lieu of proceeding under section 299.6, a county  
13 attorney may bring a civil action against a parent, guardian,  
14 or legal or actual custodian of a child who is of compulsory  
15 attendance age, if the child is under the age of twelve and is  
16 truant, if the parent, guardian, or legal or actual custodian  
17 has failed to cause the child to attend a public school, an  
18 accredited nonpublic school, or competent private instruction  
19 in the manner provided in this chapter. If the court finds  
20 that the parent, guardian, or legal or actual custodian has  
21 failed to cause the child to attend as required in this  
22 section, the court shall assess a civil penalty of not less  
23 than one hundred but not more than one thousand dollars, for  
24 each violation established.

25 2. Funds received from civil penalties assessed pursuant  
26 to this section shall be paid to the school district of  
27 residence of the person against whom the court assessed the  
28 penalty. The school district shall use moneys received under  
29 this subsection to support programs for students who meet the  
30 definition of at-risk children adopted by the department of  
31 education.

32 Sec. 7. NEW SECTION. 299.17 AID, SUPPORT, OR SHELTER OF  
33 TRUANT PROHIBITED.

34 A person other than a child's parent, guardian, legal or  
35 actual custodian shall not knowingly provide aid, support, or

1 shelter during the school day to a child who is truant as  
2 defined in section 299.8. However, this section does not  
3 apply to a shelter home licensed or approved by the department  
4 of human services.

5 Sec. 8. Section 710.8, subsection 2, Code 1997, is amended  
6 to read as follows:

7 2. A person shall not harbor a runaway child with the in-  
8 tent of committing a criminal act involving the child or with  
9 the intent of enticing or forcing the runaway child to commit  
10 a criminal act. A person convicted of a violation of this  
11 subsection is guilty of an aggravated misdemeanor.

12 Sec. 9. Section 710.8, subsections 3 and 4, Code 1997, are  
13 amended by striking the subsections and inserting in lieu  
14 thereof the following:

15 3. A person other than a child's parent, guardian, or  
16 legal or actual custodian shall not harbor a runaway child.  
17 However, the provisions of this subsection do not apply to a  
18 shelter home licensed or approved by the department of human  
19 services. A person convicted of a violation of this  
20 subsection is guilty of a simple misdemeanor.

21 Sec. 10. CONDITIONAL EFFECTIVE DATE. Sections 1, 2, and 4  
22 of this Act shall not take effect unless an appropriation is  
23 made which complies with section 25B.2, subsection 3.

24 EXPLANATION

25 The bill contains provisions that tie the truancy of a  
26 child under the age of 12 to the aid a child's parent or  
27 guardian receives under the family investment program or any  
28 other federal temporary assistance for needy family program,  
29 and provides penalties for providing aid, support, or shelter  
30 to runaway children.

31 Under the bill, if a child is determined to be truant,  
32 school officers shall make a good faith effort to notify the  
33 child's parent, guardian, or legal or actual custodian of the  
34 truancy. Notification shall include sending a certified  
35 letter, a copy of which the school shall keep on file. School

1 officers may request and receive information from the  
2 department of human services indicating whether a child under  
3 the age of 12 who may be truant has a parent, guardian, or  
4 legal or actual custodian participating in the family  
5 investment program or any other federal temporary assistance  
6 for needy family program. If referral to the county attorney  
7 for mediation does not result in the child's school  
8 attendance, school officials may notify the department of  
9 human services of the truancy and the department may reduce  
10 the recipient's aid by reducing by one the family size used to  
11 compute the amount of aid.

12 The bill provides that a child deemed truant who is between  
13 the ages of 12 and 16 commits a delinquent act, and the court  
14 is directed to order the child to perform unpaid community  
15 service. If the child fails to perform the community service  
16 ordered, the court may modify the order to include any of the  
17 dispositional alternatives currently in the Code, with the  
18 exception of secure custody.

19 The bill also provides a county attorney with the option of  
20 bringing a civil action, in lieu of criminal prosecution,  
21 against the parent, guardian, or legal or actual custodian of  
22 a child deemed truant. If the court, under the bill, finds  
23 for the prosecution, the civil penalty assessed shall be  
24 between \$100 and \$1,000 for each violation established.

25 Under the bill a person other than the child's parent,  
26 guardian, or legal or actual custodian shall not knowingly  
27 provide aid, support, or shelter during the school day to a  
28 child who is truant. A person who violates this provision is  
29 guilty of a simple misdemeanor for the first offense.  
30 Punishments and fines for subsequent offenses are provided for  
31 in Code section 299.6.

32 The Code prohibits a person from harboring a runaway and  
33 the bill establishes that a person convicted of harboring a  
34 runaway is guilty of a simple misdemeanor. The Code defines a  
35 runaway child as a person under 18 years of age who is

1 voluntarily absent from the person's home without the consent  
2 of the parent, guardian, or custodian.

3 The bill may create a state mandate under chapter 25B. The  
4 provisions, requiring a school to notify a parent of a truancy  
5 by letter and the county attorney to contact the department of  
6 human services, that provide a child between the ages of 12  
7 and 16 commits a delinquent act when deemed truant, and  
8 provide a penalty for that delinquent act, shall not take  
9 effect unless the general assembly appropriates an amount  
10 sufficient under section 25B.2, subsection 3, to fully fund  
11 the cost of the bill or fund the state's proportionate share  
12 of the cost.

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