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SENATE FILE 168
BY CONNOLLY and KIBBIE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to school attendance and safety by providing for
2 notification to schools by peace officers of the possession of
3 alcohol or controlled substances by juveniles, providing that
4 certain identifying information regarding juveniles involved
5 in delinquent acts is a public record, relating to an
6 extension of the compulsory school attendance age, relating to
7 immunity from assault charges for the use of force by a person
8 to stop a fight or disturbance at a school or school function,
9 establishing a penalty for violation of the compulsory school
10 attendance law in certain circumstances, establishing criminal
11 penalties for providing aid, support, or shelter to a runaway
12 or truant, and providing for civil penalties for truancy and
13 the loss of a driver's license for truancy.

S.F. 168

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

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1 Section 1. Section 123.47B, Code 1997, is amended to read
2 as follows:

3 123.47B PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER
4 EIGHTEEN YEARS OF AGE.

5 A peace officer shall make a reasonable effort to identify
6 a person under the age of eighteen discovered to be in
7 possession of alcoholic liquor, wine, or beer in violation of
8 section 123.47 and if the person is not referred to juvenile
9 court, the law enforcement agency of which the peace officer
10 is an employee shall make a reasonable attempt to notify the
11 person's custodial parent or legal guardian of such
12 possession, whether or not the person is arrested or a
13 citation is issued pursuant to section 805.16, unless the
14 officer has reasonable grounds to believe that such
15 notification is not in the best interests of the person or
16 will endanger that person. ~~if-the-person-is-taken-into~~
17 ~~custody,-the~~ The peace officer shall also notify a juvenile
18 court officer who shall make a reasonable effort to identify
19 the elementary or secondary school the person attends, if any,
20 and to notify the superintendent of the school district or the
21 superintendent's designee, or the authorities in charge of the
22 nonpublic school of the ~~taking-into-custody~~ violation of
23 section 123.47. A reasonable attempt to notify the person
24 includes but is not limited to a telephone call or notice by
25 first-class mail.

26 Sec. 2. Section 124.415, Code 1997, is amended to read as
27 follows:

28 124.415 PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER
29 EIGHTEEN YEARS OF AGE.

30 A peace officer shall make a reasonable effort to identify
31 a person under the age of eighteen discovered to be in
32 possession of a controlled substance, counterfeit substance,
33 or simulated controlled substance in violation of this
34 chapter, and if the person is not referred to juvenile court,
35 the law enforcement agency of which the peace officer is an

1 employee shall make a reasonable attempt to notify the
2 person's custodial parent or legal guardian of such
3 possession, whether or not the person is arrested, unless the
4 officer has reasonable grounds to believe that such
5 notification is not in the best interests of the person or
6 will endanger that person. ~~If the person is taken into~~
7 ~~custody, the~~ The peace officer shall also notify a juvenile
8 court officer who shall make a reasonable effort to identify
9 the elementary or secondary school the person attends, if any,
10 and to notify the superintendent of the school district, the
11 superintendent's designee, or the authorities in charge of the
12 nonpublic school of the ~~taking into custody~~ possession by the
13 person under the age of eighteen. A reasonable attempt to
14 notify the person includes but is not limited to a telephone
15 call or notice by first-class mail.

16 Sec. 3. Section 232.28, subsection 10, Code 1997, is
17 amended to read as follows:

18 10. A complaint filed with the court or its designee
19 pursuant to this section which alleges that a child has
20 committed a delinquent act ~~which if committed by an adult~~
21 ~~would be an aggravated misdemeanor or a felony~~ shall be a
22 public record and shall not be confidential under section
23 232.147. The court, its designee, or law enforcement
24 officials are authorized to release the complaint, including
25 the identity of the child named in the complaint.

26 Sec. 4. Section 299.1A, Code 1997, is amended to read as
27 follows:

28 299.1A COMPULSORY ATTENDANCE AGE.

29 A child who has reached the age of six and is under sixteen
30 years of age by September 15 is of compulsory attendance age.
31 However, once a child of less than six years of age has been
32 enrolled in kindergarten in a school district or an accredited
33 nonpublic school, the compulsory age of attendance for the
34 child begins at the age at which the child is enrolled, unless
35 the child is withdrawn from the school of enrollment upon the

1 written request of the child's parent or guardian.

2 Sec. 5. Section 299.1B, Code 1997, is amended to read as
3 follows:

4 299.1B FAILURE TO ATTEND -- LOSS OF DRIVER'S LICENSE.

5 A person who does not attend a public school, an accredited
6 nonpublic school, competent private instruction in accordance
7 with the provisions of chapter 299A, or an alternative school,
8 ~~adult-education-classes, or who is not employed at least~~
9 ~~twenty-hours-per-week~~ shall not receive a motor vehicle
10 operator's license or a temporary restricted license or permit
11 until age eighteen. A person under age eighteen who has been
12 issued a motor vehicle operator's license who shall surrender
13 the license if the person does not attend a public school, an
14 accredited nonpublic school, competent private instruction in
15 accordance with the provisions of chapter 299A, or an
16 ~~alternative school, or adult-education-classes, shall~~
17 ~~surrender the license~~ and shall not be issued a temporary
18 restricted license under section 321.215.

19 Sec. 6. Section 299.5A, unnumbered paragraphs 1 and 5,
20 Code 1997, are amended to read as follows:

21 If a child is truant as defined in section 299.8, school
22 officers shall attempt to find the cause for the child's
23 absence and use every means available to the school to assure
24 that the child does attend. If the parent, guardian, or legal
25 or actual custodian, or child refuses to accept the school's
26 attempt to assure the child's attendance or the school's
27 attempt to assure the child's attendance is otherwise
28 unsuccessful, the truancy officer shall refer the matter to
29 the county attorney who shall provide for mediation or
30 prosecution.

31 The mediator ~~may~~ shall refer a truant to the juvenile court
32 if mediation breaks down without an agreement being reached.

33 Sec. 7. Section 299.6, unnumbered paragraph 1, Code 1997,
34 is amended to read as follows:

35 Any A person who violates a mediation agreement under

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

8 Sec. 8. NEW SECTION. 299.6A CIVIL PENALTY --
9 DISTRIBUTION OF FUNDS.

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

23 2. Funds received from civil penalties assessed pursuant
24 to this section shall be paid to the office of the county
25 attorney that brought the action.

26 Sec. 9. NEW SECTION. 299.17 AID, SUPPORT, OR SHELTER OF
27 TRUANT PROHIBITED.

28 A person, other than a child's parent, guardian, legal or
29 actual custodian, shall not knowingly provide aid, support, or
30 shelter during the school day to a child who is truant as
31 defined in section 299.8. However, this section shall not
32 apply to a shelter home licensed or approved by the department
33 of human services or any other person providing shelter care
34 to the child pursuant to a court order.

35 Sec. 10. Section 708.1, unnumbered paragraph 3, Code 1997,

1 is amended to read as follows:

2 Provided, that where the person doing any of the above
3 enumerated acts is employed by a school district or accredited
4 nonpublic school, or is an area education agency staff member
5 who provides services to a school or school district, and
6 intervenes in a fight or physical struggle, or other
7 disruptive situation, that takes place in the presence of the
8 employee or staff member performing employment duties in a
9 school building, on school grounds, or at an official school
10 function regardless of the location, the act shall not be an
11 assault, whether the fight or physical struggle or other
12 disruptive situation is between students or other individuals,
13 if the degree and the force of the intervention ~~is~~ are
14 reasonably necessary to restore order and to protect the
15 safety of those assembled. In addition, a person who is not a
16 school district or accredited nonpublic school employee or
17 area education agency staff member and who, in the absence of
18 such an employee or staff member or at the request of such an
19 employee or staff member, intervenes in a fight or physical
20 struggle, or other disruptive situation, occurring in a school
21 building, on school grounds, or at an official school function
22 regardless of the location, does not commit assault, whether
23 the fight or physical struggle or other disruptive situation
24 is between students or other individuals, if the degree and
25 the force of the intervention are reasonably necessary to
26 restore order and to protect the safety of those assembled.
27 However, a person who intervenes in the absence of such an
28 employee or staff member shall report the intervention and all
29 relevant information surrounding it as soon as reasonably
30 possible to such an employee or staff member.

31 Sec. 11. Section 710.8, subsection 2, Code 1997, is
32 amended to read as follows:

33 2. A person shall not harbor a runaway child with the
34 intent of committing a criminal act involving the child or
35 with the intent of enticing or forcing the runaway child to

1 commit a criminal act. A person convicted of a violation of
2 this subsection is guilty of an aggravated misdemeanor.

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

6 3. A person other than a child's parent, guardian, legal
7 or actual custodian shall not harbor a runaway child.

8 However, the provisions of this subsection do not apply to a
9 shelter care home licensed or approved by the department of
10 human services or any other person providing shelter care to
11 the child pursuant to a court order. A person convicted of a
12 violation of this subsection is guilty of a simple
13 misdemeanor.

14 Sec. 13. Section 805.8, Code 1997, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 13. TRUANCY VIOLATION. For a violation
17 of chapter 299 by a child who has reached the age of twelve
18 and is under the age of eighteen, the scheduled fine is
19 twenty-five dollars, and is a civil penalty, and the criminal
20 penalty surcharge under section 911.2 shall not be added to
21 the penalty, and the court costs pursuant to section 805.9,
22 subsection 6, shall not be imposed. If the civil penalty
23 assessed for a violation of chapter 299 is not paid in a
24 timely manner, a citation shall be issued for the violation in
25 the manner provided in section 804.1. However, a person under
26 age eighteen shall not be detained in a secure facility for
27 failure to pay the civil penalty. The complainant shall not
28 be charged a filing fee.

29 For failing to pay the civil penalty provided under this
30 subsection, the scheduled fine is twenty-five dollars.
31 Failure to pay the scheduled fine shall not result in the
32 person being detained in a secure facility. The complainant
33 shall not be charged a filing fee.

34 Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection
35 3, shall not apply to this Act.

1 EXPLANATION

2 The bill provides penalties for providing aid, support, or
3 shelter to runaway or truant children, establishes civil
4 penalties for children and their parents or guardians for
5 violation of the truancy laws, provides that a complaint
6 alleging that a child has committed a delinquent act is a
7 public record, and provides immunity from assault charges for
8 the use of force by a person to stop a fight or disturbance at
9 a school or school function. The bill also provides that
10 public and nonpublic school officials are to be notified by a
11 juvenile court officer when a juvenile has been discovered to
12 be in possession of alcohol or drugs, even if the juvenile is
13 not taken into custody.

14 The bill amends the Code's current compulsory attendance
15 provision to provide that the compulsory attendance age for a
16 child begins at less than six years of age if the child is
17 enrolled in kindergarten, unless the parent or guardian
18 provides a written request to withdraw the child from school.

19 A person other than the child's parent, guardian, or legal
20 or actual custodian shall not knowingly provide aid, support,
21 or shelter during the school day to a child who is truant. A
22 person who violates this provision is guilty of a simple
23 misdemeanor.

24 The bill also prohibits a person from harboring a runaway
25 and establishes that a person convicted of harboring a runaway
26 is guilty of a simple misdemeanor. The Code defines a runaway
27 child as a person under 18 years of age who is voluntarily
28 absent from the person's home without the consent of the
29 parent, guardian, or custodian.

30 The bill also permits a county attorney to, in lieu of
31 fine, imprisonment, or community service under Code section
32 299.6, bring a civil action against a parent, guardian, or
33 legal or actual custodian of a child who is of compulsory
34 attendance age if the child is under the age of 12 and is
35 truant, if the parent, guardian, or legal or actual custodian

1 has failed to cause the child to attend a public school, an
2 accredited nonpublic school, or competent private instruction.
3 If the court finds that the parent, guardian, or legal or
4 actual custodian has failed to cause the child to attend as
5 required in this section, the court shall assess a civil
6 penalty of at least \$100, but not more than \$1,000, for each
7 violation established.

8 The bill establishes a scheduled penalty of \$25 for a
9 violation of chapter 299 by a child at least age 12 but under
10 age 18 and an additional \$25 fine if the civil penalty
11 assessed for violation of chapter 299 is not paid in a timely
12 manner.

13 If a truancy officer refers a truancy matter to the county
14 attorney, the county attorney is required to take action under
15 the bill. The bill also requires a truancy officer to refer a
16 truant to juvenile court if mediation breaks down.

17 Current law permits an individual who is deemed truant but
18 who is attending adult education or working at least 20 hours
19 a week to retain their driver's license. The bill removes
20 this exception and requires surrender of a license or permit
21 until age 18.

22 The bill also provides that a person who is not an employee
23 of a school or an area education agency staff member does not
24 commit an assault when forcibly intervening in a fight or
25 other disturbance at a school or school function under certain
26 circumstances. A person who intervenes to stop a fight or
27 other disturbance at the school or at a school function does
28 not commit an assault if the intervention is necessary due to
29 the absence of an employee or staff member or at the request
30 of an employee or staff member and the force used in the
31 intervention is reasonably necessary to restore order and
32 protect others. The person is required to notify a school
33 employee or staff member as soon as reasonably possible after
34 the intervention.

35 The bill may create a state mandate as defined in section

1 25B.3. The bill makes inapplicable section 25B.2, subsection
2 3, which would relieve a political subdivision from complying
3 with a state mandate if funding for the cost of the state
4 mandate is not provided or specified. Therefore, political
5 subdivisions are required to comply with any state mandate in
6 this bill.

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