

Senate File 2206 - Introduced

SENATE FILE 2206

BY McCOY

A BILL FOR

1 An Act relating to private instruction for children of
2 compulsory attendance age.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 261E.8, subsection 2, Code 2018, is
2 amended to read as follows:

3 2. Students from accredited nonpublic schools and students
4 receiving competent private instruction ~~or independent private~~
5 ~~instruction~~ under [chapter 299A](#) may access the program through
6 the school district in which the accredited nonpublic school or
7 private institution is located.

8 Sec. 2. Section 299.1, subsection 1, Code 2018, is amended
9 to read as follows:

10 1. Except as provided in [section 299.2](#), the parent,
11 guardian, or legal or actual custodian of a child who is of
12 compulsory attendance age shall cause the child to attend some
13 public school or an accredited nonpublic school, or place
14 the child under competent private instruction ~~or independent~~
15 ~~private instruction~~ in accordance with the provisions of
16 chapter 299A, during a school year, as defined under section
17 279.10.

18 Sec. 3. Section 299.1B, Code 2018, is amended to read as
19 follows:

20 **299.1B Failure to attend — driver's license.**

21 A person who is of compulsory attendance age who does
22 not meet the requirements for an exception under section
23 299.2, who does not attend a public school or an accredited
24 nonpublic school, who is not receiving competent private
25 instruction ~~or independent private instruction~~ in accordance
26 with the provisions of [chapter 299A](#), and who does not attend
27 an alternative school or adult education classes, shall not
28 receive an intermediate or full driver's license until age
29 eighteen.

30 Sec. 4. Section 299.4, subsection 1, Code 2018, is amended
31 to read as follows:

32 1. The parent, guardian, or legal custodian of a child who
33 is of compulsory attendance age, who places the child under
34 competent private instruction under either [section 299A.2](#) or
35 [299A.3](#), not in an accredited school or a home school assistance

1 program operated by a school district or accredited nonpublic
2 school, shall furnish a report in duplicate on forms provided
3 by the public school district, to the district by September 1
4 of the school year in which the child will be under competent
5 private instruction. The secretary shall retain and file
6 one copy and forward the other copy to the district's area
7 education agency. The report shall state the name and age of
8 the child, the period of time during which the child has been
9 or will be under competent private instruction for the year,
10 an outline of the course of study, texts used, and the name
11 and address of the instructor. The parent, guardian, or legal
12 custodian of a child, who is placing the child under competent
13 private instruction for the first time, shall also provide the
14 district with evidence that the child has had the immunizations
15 required under [section 139A.8](#), and, if the child is elementary
16 school age, a blood lead test in accordance with section
17 135.105D. The term "*outline of course of study*" shall include
18 subjects covered, lesson plans, and time spent on the areas of
19 study.

20 Sec. 5. Section 299.6A, subsection 1, Code 2018, is amended
21 to read as follows:

22 1. In lieu of a criminal proceeding under [section 299.6](#),
23 a county attorney may bring a civil action against a parent,
24 guardian, or legal or actual custodian of a child who is of
25 compulsory attendance age, has not completed educational
26 requirements, and is truant, if the parent, guardian, or legal
27 or actual custodian has failed to cause the child to attend a
28 public school or an accredited nonpublic school, or to place
29 the child under competent private instruction ~~or independent~~
30 ~~private instruction in the manner provided in this~~ under
31 chapter 299A. If the court finds that the parent, guardian,
32 or legal or actual custodian has failed to cause the child to
33 attend as required in [this section](#), the court shall assess a
34 civil penalty of not less than one hundred but not more than
35 one thousand dollars for each violation established.

1 Sec. 6. Section 299.8, Code 2018, is amended to read as
2 follows:

3 **299.8 "Truant" defined.**

4 Any child of compulsory attendance age who fails to attend
5 school as provided in [this chapter](#), or as required by the
6 school board's or school governing body's attendance policy,
7 or who fails to attend competent private instruction ~~or~~
8 ~~independent private instruction~~ under [chapter 299A](#), without
9 reasonable excuse for the absence, shall be deemed to be a
10 truant. A finding that a child is truant, however, shall not
11 by itself mean that the child is a child in need of assistance
12 within the meaning of [chapter 232](#) and shall not be the sole
13 basis for a child in need of assistance petition.

14 Sec. 7. Section 299.11, subsection 1, Code 2018, is amended
15 to read as follows:

16 1. The truancy officer may take into custody without
17 warrant any apparently truant child and place the child
18 in the charge of the school principal, or the principal's
19 designee, designated by the board of directors of the school
20 district in which the child resides, or in the charge of any
21 nonpublic school or any authority providing competent private
22 instruction ~~or independent private instruction~~ as defined in
23 section 299A.1, designated by the parent, guardian, or legal
24 or actual custodian; but if it is other than a public school,
25 the instruction and maintenance of the child shall be without
26 expense to the school district. If a child is taken into
27 custody under [this section](#), the truancy officer shall make
28 every reasonable attempt to immediately notify the parent,
29 guardian, or legal or actual custodian of the child's location.

30 Sec. 8. Section 299.12, subsection 2, Code 2018, is amended
31 to read as follows:

32 2. [This section](#) is not applicable to a child who is
33 receiving competent private instruction ~~or independent~~
34 ~~private instruction in accordance with the requirements of~~
35 under [chapter 299A](#). If a child is not in compliance with the

1 attendance requirements established under [section 299.1](#), and
2 has not completed educational requirements through the sixth
3 grade, and the school has used every means available to assure
4 the child does attend, the school truancy officer shall contact
5 the child's parent, guardian, or legal or actual custodian to
6 participate in an attendance cooperation meeting. The parties
7 to the attendance cooperation meeting may include the child
8 and shall include the child's parent, guardian, or legal or
9 actual custodian and the school truancy officer. The school
10 truancy officer contacting the participants in the attendance
11 cooperation meeting may invite other school officials, a
12 designee of the juvenile court, the county attorney or the
13 county attorney's designee, or other persons deemed appropriate
14 to participate in the attendance cooperation meeting.

15 Sec. 9. Section 299A.1, Code 2018, is amended to read as
16 follows:

17 **299A.1 Competent private instruction ~~and independent private~~**
18 **~~instruction.~~**

19 1. The parent, guardian, or legal custodian of a child of
20 compulsory attendance age who places the child under private
21 instruction shall provide, unless otherwise exempted, competent
22 private instruction ~~or independent private instruction~~ in
23 accordance with [this chapter](#). A parent, guardian, or legal
24 custodian of a child of compulsory attendance age who places
25 the child under private instruction which is not competent
26 private instruction ~~or independent private instruction~~,
27 or otherwise fails to comply with the requirements of this
28 chapter, is subject to the provisions of sections 299.1 through
29 299.4 and the penalties provided in [section 299.6](#).

30 2. For purposes of [this chapter](#) and [chapter 299](#):

31 a. "*Competent private instruction*" means private instruction
32 provided on a daily basis for at least one hundred forty-eight
33 days during a school year, to be met by attendance for at
34 least thirty-seven days each school quarter, by or under the
35 supervision of a licensed practitioner in the manner provided

1 under [section 299A.2](#), or other person under [section 299A.3](#),
2 which results in the student making adequate progress.

3 ~~*b.* “Independent private instruction” means instruction that~~
4 ~~meets the following criteria:~~

5 ~~(1) Is not accredited.~~

6 ~~(2) Enrolls not more than four unrelated students.~~

7 ~~(3) Does not charge tuition, fees, or other remuneration for~~
8 ~~instruction.~~

9 ~~(4) Provides private or religious-based instruction as its~~
10 ~~primary purpose.~~

11 ~~(5) Provides enrolled students with instruction in~~
12 ~~mathematics, reading and language arts, science, and social~~
13 ~~studies.~~

14 ~~(6) Provides, upon written request from the superintendent~~
15 ~~of the school district in which the independent private~~
16 ~~instruction is provided, or from the director of the department~~
17 ~~of education, a report identifying the primary instructor,~~
18 ~~location, name of the authority responsible for the independent~~
19 ~~private instruction, and the names of the students enrolled.~~

20 ~~(7) Is not a nonpublic school and does not provide competent~~
21 ~~private instruction as defined in [this subsection](#).~~

22 ~~(8) Is exempt from all state statutes and administrative~~
23 ~~rules applicable to a school, a school board, or a school~~
24 ~~district, except as otherwise provided in [chapter 299](#) and this~~
25 ~~chapter.~~

26 ~~*e.* b. “Private instruction” means instruction using a~~
27 ~~plan and a course of study in a setting other than a public or~~
28 ~~organized accredited nonpublic school.~~

29 Sec. 10. Section 299A.3, unnumbered paragraph 1, Code 2018,
30 is amended to read as follows:

31 A parent, guardian, or legal custodian of a child of
32 compulsory attendance age providing competent private
33 instruction to the child ~~may~~ shall meet all of the following
34 requirements:

35 Sec. 11. Section 299A.11, Code 2018, is amended to read as

1 follows:

2 **299A.11 Student records confidential.**

3 Notwithstanding any provision of law or rule to the
4 contrary, personal information in records regarding a child
5 receiving competent private instruction ~~or independent private~~
6 ~~instruction~~ pursuant to [this chapter](#), which are maintained,
7 created, collected, or assembled by or for a state agency,
8 shall be kept confidential in the same manner as personal
9 information in student records maintained, created, collected,
10 or assembled by or for a school corporation or educational
11 institution in accordance with [section 22.7, subsection 1](#).

12 Sec. 12. Section 321.178, subsection 1, paragraph c, Code
13 2018, is amended to read as follows:

14 c. Every public school district in Iowa shall offer
15 or make available to all students residing in the school
16 district, or Iowa students attending a nonpublic school or
17 receiving competent private instruction ~~or independent private~~
18 ~~instruction as defined in [section 299A.1](#)~~ under chapter 299A,
19 in the district, an approved course in driver education. The
20 receiving district shall be the school district responsible for
21 making driver education available to a student participating
22 in open enrollment under [section 282.18](#). The courses may be
23 offered at sites other than at the public school, including
24 nonpublic school facilities within the public school districts.
25 An approved course offered during the summer months, on
26 Saturdays, after regular school hours during the regular terms
27 or partly in one term or summer vacation period and partly in
28 the succeeding term or summer vacation period, as the case
29 may be, shall satisfy the requirements of [this section](#) to the
30 same extent as an approved course offered during the regular
31 school hours of the school term. A student who successfully
32 completes and obtains certification in an approved course in
33 driver education or an approved course in motorcycle education
34 may, upon proof of such fact, be excused from any field test
35 which the student would otherwise be required to take in

1 demonstrating the student's ability to operate a motor vehicle.
2 A student shall not be excused from any field test if a parent,
3 guardian, or instructor requests that a test be administered.
4 A final field test prior to a student's completion of an
5 approved course shall be administered by a person qualified
6 as a classroom driver education instructor and certified to
7 provide street and highway driving instruction. A person
8 qualified as a classroom driver education instructor but not
9 certified to provide street and highway driving instruction
10 may administer the final field test if accompanied by another
11 person qualified to provide street and highway driving
12 instruction.

13 Sec. 13. STATE MANDATE FUNDING SPECIFIED. In accordance
14 with section 25B.2, subsection 3, the state cost of requiring
15 compliance with any state mandate included in this Act shall
16 be paid by a school district from state school foundation aid
17 received by the school district under section 257.16. This
18 specification of the payment of the state cost shall be deemed
19 to meet all of the state funding-related requirements of
20 section 25B.2, subsection 3, and no additional state funding
21 shall be necessary for the full implementation of this Act
22 by and enforcement of this Act against all affected school
23 districts.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill eliminates independent private instruction from
28 the options available under Code chapter 299A, relating to the
29 private instruction for school-age children, and requires that
30 the parent, guardian, or legal custodian of a child placed
31 under competent private instruction, provided either by a
32 licensed practitioner or by a nonlicensed person, meet the
33 reporting and assessment requirements of Code chapters 299 and
34 299A, or be subject to the compulsory education requirements
35 and truancy provisions of Code chapter 299.

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1 The bill makes conforming changes.

2 The bill may include a state mandate as defined in Code
3 section 25B.3. The bill requires that the state cost of
4 any state mandate included in the bill be paid by a school
5 district from state school foundation aid received by the
6 school district under Code section 257.16. The specification
7 is deemed to constitute state compliance with any state mandate
8 funding-related requirements of Code section 25B.2. The
9 inclusion of this specification is intended to reinstate the
10 requirement of political subdivisions to comply with any state
11 mandates included in the bill.