

**NEW SUBSECTION.** 3. If a putative father files a declaration of paternity pursuant to section 144.12A, the putative father or the mother of the child may request that paternity be established pursuant to section 600B.41 prior to the granting of a dismissal of the petition to terminate parental rights.

Sec. 20. Section 600A.9, subsection 2, Code 1993, is amended to read as follows:

2. If an order is issued under subsection 1, paragraph "b" of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent or any putative biological parent to request vacation or appeal of the termination order if the child is not on placement for adoption or a petition for adoption of the child is not on file which request must be made within thirty days of issuance of the granting of the order. The period for request by a terminated parent or by a putative biological parent for vacation or appeal shall not be waived or extended and a vacation or appeal shall not be granted after the expiration of this period. The juvenile court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish a period of thirty days, which shall not be waived or extended, in which a terminated or putative biological parent may request a vacation or appeal of a termination order.

Sec. 21. **NEW SECTION.** 600A.9A TERMINATION PROCEDURES – PENALTY FOR VIOLATION.

1. Any biological parent who chooses to identify the other biological parent and who knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings is guilty of a simple misdemeanor.

2. Any person who accepts a release of custody under section 600A.4 prior to the expiration of the seventy-two-hour period required, is guilty of a serious misdemeanor.

Sec. 22. **PENDING PROCEEDINGS UNAFFECTED.** This Act does not apply to a termination of parental rights proceeding or an adoption proceeding pending on July 1, 1994.

Approved May 12, 1994

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## CHAPTER 1175

### EDUCATIONAL FINANCES, ACTIVITIES, AND PROCEDURES

*S.F. 2234*

**AN ACT** relating to educational finances, activities, and procedures administered by or through the department of education.

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

Section 1. Section 237A.1, subsection 4, paragraph a, Code Supplement 1993, is amended to read as follows:

a. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents, except or a program provided under section 279.49 or 280.3A.

Sec. 2. Section 237A.12, unnumbered paragraphs 2, 3, 4, and 5, Code 1993, are amended to read as follows:

Rules promulgated adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from

rules ~~promulgated~~ adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

Rules relating to fire safety shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child day care advisory council. The state fire marshal shall inspect the facilities.

If a building is owned or leased by a school district or accredited nonpublic school ~~building~~ and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child day care facility ~~aring for school age children~~. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

Standards and requirements set by a city or county for a ~~school building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility as an adjunct to the primary purpose of the building~~ shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for the primary purpose use of the building as a school.

Sec. 3. Section 257.31, subsection 14, paragraph a, Code Supplement 1993, is amended to read as follows:

a. If the amount certified for a school district to the director of the department of management under this subsection for the base year is positive, the director of the department of management shall subtract the amount of the positive balance exceeding ten percent of the additional funds generated for special education, not to include any previous carryover, from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeding the ten percent amount exceeds the amount of state aid that remains to be paid to the district, not including any previous carryover, the school district shall pay the excess on a quarterly basis prior to June 30 of the budget year to the director of the department of management from other funds received by the district. The director of the department of management shall determine the amount of the positive balance that exceeds the ten percent amount that came from local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 257.4 for the next following budget year by the amount necessary to compensate for the increased state aid.

Sec. 4. Section 260C.28, subsection 2, Code 1993, is amended to read as follows:

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges or for the purchase of instructional equipment. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under sections 260C.45 and 260C.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

Sec. 5. Section 273.3, Code 1993, is amended by adding the following new subsection:  
NEW SUBSECTION. 20. Be authorized to purchase equipment as provided in section 279.48.

Sec. 6. Section 275.51, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission shall be established by the board of directors of a school district if a dissolution proposal has been prepared by eligible qualified electors who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by at least twenty percent of the eligible qualified electors.

Sec. 7. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

1. The board of directors of a school corporation may purchase equipment, and may negotiate and enter into a loan agreement and issue a note to pay for the equipment subject to the following terms and procedures.

a. The note must mature within five years, or the useful life of the equipment, whichever is less.

b. The note may bear interest at a rate to be determined by the board of directors in the manner provided in section 74A.3, subsection 1. Chapter 75 is not applicable.

c. The board of directors shall provide for the form of the agreement and note.

d. Principal and interest on the note must be payable from budgeted receipts in the debt service fund for each year of a period of up to five years.

2. The total of scheduled annual payments of principal or interest due and payable from current budgeted receipts or future budgeted receipts with respect to all loan agreements authorized under this section or section 285.10, subsection 7, paragraph "b", must not exceed ten percent of the last authorized budget of the school corporation.

3. Before entering into a loan agreement for an equipment purchase, the school corporation must publish a notice, including a statement of the amount and purpose of the agreement, at least once in a newspaper of general circulation within the school corporation at least ten days before the meeting at which the loan agreement is to be approved.

Sec. 8. Section 279.49, Code 1993, is amended to read as follows:

279.49 CHILD DAY CARE PROGRAMS.

1. For the purposes of this section unless the context otherwise requires, "child day-care program" means child day care that is not licensed or approved by the department of human services under chapter 237A except as provided under this section.

2. The board of directors of a school corporation may operate or contract for the operation of a program to provide child day care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. Programs operated or contracted by a board shall either meet standards for child day care programs adopted by the state board of education or shall be licensed by the department of human services under chapter 237A as a child care center. A program operated by a board under contract which is not located on property owned or leased by the board must be licensed by the department of human services.

3. The person employed to be responsible for a program operated or contracted by a board that is not licensed by the department of human services shall be an appropriately certified licensed teacher under chapter 272 or the program operated by contract with the board shall be licensed as a child care center under chapter 237A meet other standards adopted by the state board of education. The board shall require the employment of adequate personnel for a program to meet the personnel standards adopted by the state board of education, pursuant to section 256.7, subsection 13, or the department of human services, pursuant to section 237A.12, subsection 1.

4. The facilities housing a program operated under this section shall comply with standards adopted by the state fire marshal for school buildings under chapter 100. In addition, if a program involves children who are younger than school age, the facilities housing those children shall meet the fire safety standards which would apply to that age of child in a child day care facility licensed by the department of human services.

5. The board may establish a fee for the cost of participation in a child day care program authorized under this section. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed upon fee. The board may require the parent or guardian to furnish transportation of the child.

6. The board may utilize or make application for program subsidies from any existing day care funding streams.

7. Programs ~~The components of programs~~ established under this section for child day care shall include, but are not limited to, parental involvement in program design and direction, activities designed to further children's physical, mental, and emotional development, and a parental education component to educate parents about the physical, mental, and emotional development of children.

Sec. 9. NEW SECTION. 280.3A ACCREDITED NONPUBLIC SCHOOL CHILD DAY CARE PROGRAMS.

Authorities in charge of accredited nonpublic schools may operate or contract for the operation of child day care programs, as defined in section 279.49, subsection 1. The provisions of section 279.49 as they relate to child day care programs of a school corporation and its board of directors apply to the child day care programs of the accredited nonpublic school and the authority in charge.

Sec. 10. Section 282.18, subsections 2, 4, 5, 7, and 14, Code Supplement 1993, are amended to read as follows:

2. By October 30 of the preceding school year, the parent or guardian shall send notification to the district of residence, ~~and to the department of education~~ on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason for enrollment in the receiving district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of October 30 of the previous year, and ~~good cause one of the criteria defined in section 282.18, subsection 18, exists for the failure to meet the deadline or~~ if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met.

The board of the district of residence shall take action on the request no later than November 30 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request ~~during November of the preceding school year unless the board of the receiving district has acted on the request at any time prior to the start of the school year.~~ The board of the receiving district shall take action to approve or disapprove the request no later than December 31 of the preceding school year. The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. If the request is granted, the board shall transmit a copy of the form to the school district of residence within five days after board action.

4. ~~The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered.~~

The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil.

4. In all districts involved with ~~volunteer~~ voluntary or court-ordered desegregation, minority and nonminority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to ~~volunteer~~ voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

5. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

5. If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. If the matter is to be heard by the director, or the director's designee, the matter shall be heard de novo in accordance with the procedures contained in chapter 17A. If a designee of the director hears the matter, the findings of the director's designee shall be reviewed by and are subject to the approval of the director. Notwithstanding chapter 17A, in an appeal arising from the denial of a parent's or guardian's request for open enrollment, where the denial was for failure to show good cause for not meeting the request deadline, the director or designee assigned to hear the appeal on behalf of the director or state board may, with the agreement of the parties to the appeal, issue an oral decision at the conclusion of the hearing on the appeal. The oral decision shall comport with previously established decisions of the director and state board. However, any party to the appeal may request a written decision and the director or state board shall issue a written decision. The department shall recommend, and the state board shall adopt, rules to implement this subsection.

7. A request under this section is for a period of not less than four years unless the pupil will graduate, the pupil's family moves to another school district, or one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian petitions may petition the current receiving district by October 30 of the previous school year for permission to enroll the pupil in a different district, which may include the district of residence, within the four-year period for a period of not less than one year. If the parent or guardian requests permission of the receiving district to enroll the pupil in a different district within the four-year period Upon receipt of such a request, the current receiving district school board may act on the request to transfer to the other school district within five days of at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation orders affecting a plan of the district. A denial of a request to change district enrollment within the four-year approved period is subject to appeal under section 290.1. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

14. The board of directors of a school district subject to ~~volunteer~~ voluntary or court-ordered desegregation may vote not to participate in open enrollment under this section during the school year commencing July 1, 1990, and ending June 30, 1991. If a district chooses not to participate in open enrollment under this paragraph, the district shall develop a policy for implementation of open enrollment in the district for that following school year. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

Sec. 11. Section 291.1, Code 1993, is amended to read as follows:

291.1 PRESIDENT — DUTIES.

The president of the board of directors shall preside at all of its meetings, sign all warrants and drafts, respectively, drawn upon the county treasurer for money apportioned and taxes collected and belonging to the school corporation, and all orders on the treasurer drawn as provided by law, sign all contracts made by the board, and appear in behalf of the corporation in all actions brought by or against it, unless individually a party, in which case this duty shall be performed by the secretary. The president or the president's designee shall sign, using an original or facsimile signature, all school district warrants drawn as provided by law. The board of directors, by resolution, may designate an individual, who shall not be the secretary, to sign warrants on behalf of the president.

Sec. 12. Section 291.8, Code 1993, is amended to read as follows:

291.8 WARRANTS.

The secretary shall ~~countersign all warrants and drafts upon the county treasurer drawn or signed by the president;~~ draw each order on the treasurer, specify the fund on which it is drawn and the use for which the money is appropriated; countersign using an original or facsimile signature and keep a register of the ~~same order~~, showing the number, date, to whom drawn, the fund upon which it is drawn, the purpose and the amount; and at each regular annual meeting furnish the board with a copy of the ~~same~~ register.

Sec. 13. Section 297.23, Code 1993, is amended to read as follows:

297.23 ADVERTISEMENT FOR BIDS.

Before making a sale, the board shall advertise for bids for ~~said~~ the property. ~~Such~~ The advertisement shall definitely describe ~~said~~ the property and be published by at least one insertion each week for two consecutive weeks in some newspaper having general circulation in the district. However, individual property items having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in some newspaper having general circulation in the district.

Sec. 14. Section 298.3, subsections 5 and 10, Code 1993, are amended to read as follows:

5. Procuring or acquisition of ~~libraries~~ library facilities.

10. Lease-purchase option agreements for school buildings and for equipment exceeding in value five thousand dollars per single unit.

Sec. 15. Section 301.10, subsection 1, Code Supplement 1993, is amended to read as follows:

1. ~~At or before the time of filing a bid, make~~ Make available samples of all textbooks ~~included in the bid,~~ accompanied by lists giving the lowest wholesale and contract prices for the textbooks.

Sec. 16. Section 301.30, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Claims for reimbursement shall be made to the department of education by July 15 by the public school district providing textbook services during a school year on a form prescribed by the department, and the claim shall state ~~the services provided and the actual costs incurred in,~~ and the actual number of nonpublic students requesting, the provision of textbook services. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. ~~By February 1 and by July 15 of each year the~~ The department shall certify to the director of revenue and finance the amounts of approved claims to be paid, and the director of revenue and finance shall draw warrants payable to school districts which have established claims. The public school district of attendance shall furnish the services and shall receive reimbursement from the state. However, the services must be comparable to the services of the district of attendance and cannot exceed the per pupil cost of the program of the district of attendance.

Sec. 17. Section 670.7, Code 1993, is amended to read as follows:

**670.7 INSURANCE.**

The governing body of a municipality may purchase a policy of liability insurance insuring against all or any part of liability which might be incurred by the municipality or its officers, employees, and agents under section 670.2 and section 670.8 and may similarly purchase insurance covering torts specified in section 670.4. The governing body of a municipality may adopt a self-insurance program, including but not limited to the investigation and defense of claims, the establishment of a reserve fund for claims, the payment of claims, and the administration and management of the self-insurance program, to cover all or any part of the liability. The governing body of a municipality may join and pay funds into a local government risk pool to protect itself against any or all liability. The governing body of a municipality may enter into insurance agreements obligating the municipality to make payments beyond its current budget year to provide or procure ~~such~~ the policies of insurance, self-insurance program, or local government risk pool. The premium costs of the insurance, the costs of a self-insurance program, the costs of a local government risk pool, and the amounts payable under ~~any such~~ the insurance agreements may be paid out of the general fund or any available funds or may be levied in excess of any tax limitation imposed by statute. However, for school districts, the costs shall be included in the district management levy as provided in section 296.7 if the district has certified a district management levy. If the district has not certified a district management levy, the cost shall be paid from the general fund. Any independent or autonomous board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly enter into insurance agreements, procure liability insurance, adopt a self-insurance program, or join a local government risk pool within the field of its operation.

**PARAGRAPH DIVIDED.** The procurement of ~~such~~ this insurance constitutes a waiver of the defense of governmental immunity as to those exceptions listed in section 670.4 to the extent stated in the policy but shall have no further effect on the liability of the municipality beyond the scope of this chapter, but if a municipality adopts a self-insurance program or joins and pays funds into a local government risk pool ~~such~~ the action does not constitute a waiver of the defense of governmental immunity as to the exceptions listed in section 670.4.

**PARAGRAPH DIVIDED.** The existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff, or lack of any such insurance, shall not be material in the trial of any action brought against the governing body of a municipality, or its officers, employees, or agents and any reference to such insurance, or lack of insurance, is grounds for a mistrial. A self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C.

Sec. 18. Section 301.8, Code 1993, is repealed.

Approved May 13, 1994