

CHAPTER 1148
CONFIDENTIALITY OF CORRECTIONS RECORDS
S.F. 2082

AN ACT relating to the confidentiality of Iowa department of corrections records and providing a penalty.

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

Section 1. Section 217A.18, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

217A.18 CONFIDENTIALITY OF RECORDS.

1. The following information regarding individuals receiving services from the department or from the judicial district departments of correctional services under chapter 905 is public information and may be given to anyone, except that the information shall be limited to the offense for which an individual was last convicted:

- a. Name.
- b. Age.
- c. Sex.
- d. Status (inmate, parolee, or probationer).
- e. Location, except home street address.
- f. Duration of supervision.
- g. Offense or offenses for which the individual was placed under supervision.
- h. County of commitment.
- i. Arrest and detention orders.
- j. Physical description.
- k. Type of services received.

l. Disciplinary reports and decisions which have been referred to the county attorney or prosecutor for prosecution, and the following information of all other disciplinary reports:

- (1) The name of the subject of the investigation.
- (2) The alleged infraction involved.
- (3) The finding of fact and the penalty, if any, imposed as a result of the infraction.

2. The following information regarding individuals receiving services from the department or from the judicial district departments of correctional services under chapter 905 is confidential and shall not be disseminated by the department to the public:

- a. Home street address of the individual receiving services or that individual's family.
- b. Department evaluations.
- c. Medical, psychiatric or psychological information.
- d. Names of associates or accomplices.
- e. Name of employer.
- f. Social security number.
- g. Prior criminal history including information on offenses where no conviction occurred.
- h. Family and personal history.

i. Financial information.

j. Information from disciplinary reports and investigations other than that identified in subsection 1, paragraph l.

k. Investigations by the department or other agencies which are contained in the individual's file.

l. Department committee records which include any information identified in paragraphs "a" through "k". A record containing information which is both public and confidential which is reasonably segregable shall not be confidential after deletion of the confidential information.

m. Presentence investigations as provided under chapter 901.

n. Pretrial information that is not otherwise available in public court records or proceedings.

o. Correspondence directed to department officers or staff from an individual's family, victims, or employers of a personal or confidential nature. If the custodian of the record determines that the correspondence is confidential, in any proceeding under chapter 68A the burden of proof shall be on the person seeking release of the correspondence, and the writer of the correspondence shall be notified of the proceeding.

3. Information identified in subsection 2 shall not be disclosed or used by any person or agency except for purposes of the administration of the department's programs of services or assistance and shall not, except as otherwise provided in subsection 4, be disclosed by the department or be used by persons or agencies outside the department unless they are subject to, or agree to, comply with standards of confidentiality comparable to those imposed on the department by this section.

4. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by or results of any program administered by the department, and other general statistical information so long as the information does not identify particular individuals served or assisted except as provided in subsection 1 of this section.

5. Information restricted in subsection 2 may be disclosed to persons or agencies with the approval of the director for the limited purpose of research and program evaluation or educational purposes when those persons or agencies agree to keep confidential that information restricted in subsection 2, and any reports of the research shall not contain any of the information restricted in subsection 2 except as allowed in subsection 4. However, the persons or agencies eligible to receive information under this subsection include only those which are state employees or those whom the department retains under contract to perform the services.

6. Confidential information described in subsection 2 may be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of their programs. Full disclosure by the department of any information on an individual may be made to the board of parole and to judicial district departments of correctional services created under chapter 905, and the board and those departments are subject to the same standards as the department in dissemination or redissemination of information on persons served or supervised by those departments, and all provisions of this section pertain to the board of parole and to the judicial district departments as if they were a part of the department. Information may be disseminated about individuals while under the supervision of the department to public or private agencies to which

persons served or supervised by the department are referred for specific services not otherwise provided by the department but only to the extent that the information is needed by those agencies to provide the services required, and they shall keep information received from the department confidential.

7. If it is established that a provision of this section would cause any of the department's programs of services or assistance to be ineligible for federal funds, the provision shall be limited or restricted to the extent which is essential to make the program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, rules necessary to implement this subsection.

8. A supervised individual or former supervised individual shall be given access to the individual's own records in the custody of the department, except that records which could result in physical or psychological harm to another person or the supervised individual or adversely affect an investigation into a supervised individual's possible violation of departmental rules, shall not be disclosed without a court order. Psychiatric information may be withheld by the department if its release would jeopardize the supervised individual's treatment. Upon the supervised individual's written authorization, that information which the supervised individual has access to may be released to any third party. A reasonable fee for copying and services may be charged.

9. Regulations, procedures, and policies that govern the internal administration of the department and the judicial district departments of correctional services under chapter 905, which if released may jeopardize the secure operation of a correctional institution operation or program are confidential unless otherwise ordered by a court. These records include procedures on inmate movement and control, staffing patterns and regulations, emergency plans, internal investigations, equipment use and security, building plans, operation, and security, security procedures for inmate, staff, and visits, daily operation records, and contraband and medicine control.

These records are exempt from the public inspection requirements in section 17A.3 and section 68A.2.

10. Violation of this section is a serious misdemeanor.

11. This section does not preclude the disclosure of otherwise confidential material if it is necessary to civil or criminal court proceedings. The review of the court may, however, limit the confidential information to an in camera inspection where the court determines that the confidential nature of the information needs to be protected.

Sec. 2. Section 217A.19, Code Supplement 1983, is amended by striking the section and inserting in lieu thereof the following:

217A.19 ACTION FOR DAMAGES. A person receiving services, or that person's family, victim or employer may institute a civil action for damages under chapter 25A or other action to restrain the release of confidential records set out in section 217A.18, subsection 2, which is in violation of that section, and a person, agency or governmental body proven to have released confidential records in violation of section 217A.18, subsection 2 is liable for actual damages for each violation and is liable for court costs and reasonable attorney's fees incurred by the party bringing the action.

Sec. 3. Section 217A.32, Code Supplement 1983, is amended to read as follows:

217A.32 RECORDS OF INMATES. The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from

which and to which the person has been transferred, and if the person is dead, the date and cause of death. The director may permit the state libraries and the Iowa state historical department's division of historical museum and archives to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required by this section.

Sec. 4. Section 217A.33, Code Supplement 1983, is repealed.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The Daily Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved April 16, 1984

I hereby certify that the foregoing Act, Senate File 2082 was published in The Daily Nonpareil, Council Bluffs, Iowa on April 20, 1984 and in the Muscatine Journal, Muscatine, Iowa on April 23, 1984.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1149

DISCLOSURE OF SENTENCE RECONSIDERATION

H.F. 2427

AN ACT relating to disclosure of the court's decision on whether to reconsider a felon's sentence of confinement.

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

Section 1. Section 902.4, Code Supplement 1983, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE. For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the ninety-day period expires, whichever occurs first. The court's final order in the proceeding shall be delivered to the defendant personally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Approved April 27, 1984