

Reprinted 4/16/81

APR 1 1981

HOUSE FILE 829

Place On Calendar

BY COMMITTEE ON STATE GOVERNMENT

(Formerly Study Bill 105)

Passed House, Date 4-13-81 (p. 1219) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 72 Nays 24 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the investigations, communications and  
2 reports of the citizens' aide office.

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

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829

1 Section 1. Section 601G.9, Code 1981, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 601G.9 POWERS. The citizens' aide may:

5 1. Investigate, on complaint or on the citizens' aide's  
6 own motion, any administrative action of any agency, without  
7 regard to the finality of the administrative action, except  
8 that the citizens' aide shall not investigate the complaint  
9 of an employee of an agency in regard to that employee's  
10 employment relationship with the agency. A communication  
11 or receipt of information made pursuant to the powers  
12 prescribed in this chapter shall not be considered an ex parte  
13 communication as described in the provisions of section 17A.17.

14 2. Prescribe the methods by which complaints are to be  
15 made, received, and acted upon; determine the scope and manner  
16 of investigations to be made; and, subject to the requirements  
17 of this chapter, determine the form, frequency, and  
18 distribution of the conclusions and recommendations of the  
19 citizens' aide.

20 3. Request and receive from each agency assistance and  
21 information as necessary in the performance of the duties  
22 of the office. The citizens' aide may examine the records  
23 and documents of any agency unless its custodian demonstrates  
24 that the examination would violate federal law or result in  
25 the denial of federal funds to the agency. If the document  
26 is by law required to be kept confidential, the citizens'  
27 aide shall have access to the document, but is subject to  
28 the same policies and penalties regarding the confidentiality  
29 of the document as an employee of the agency. The citizens'  
30 aide may enter and inspect premises within any agency's  
31 control.

32 4. Issue a subpoena to compel any person to appear, give  
33 sworn testimony, or produce documentary or other evidence  
34 relevant to a matter under inquiry. The citizens' aide,  
35 deputies, and assistants of the citizens' aide may administer

1 oaths to persons giving testimony before them. If a witness  
2 either fails or refuses to obey a subpoena issued by the  
3 citizens' aide, the citizens' aide may petition the district  
4 court having jurisdiction for an order directing obedience  
5 to the subpoena. If the court finds that the subpoena should  
6 be obeyed, it shall enter an order requiring obedience to  
7 the subpoena, and refusal to obey the court order is subject  
8 to punishment for contempt.

9 Sec. 2. Section 601G.13, Code 1981, is amended by striking  
10 the section and inserting in lieu thereof the following:

11 601G.13 NO INVESTIGATION--NOTICE TO COMPLAINANT. If the  
12 citizens' aide decides not to investigate, the complainant  
13 shall be informed of the reasons for the decision. If the  
14 citizens' aide decides to investigate, the complainant and  
15 the agency shall be notified of the decision. After completing  
16 consideration of a complaint, whether or not it has been  
17 investigated, the citizens' aide shall without delay inform  
18 the complainant of the fact, and if appropriate, shall inform  
19 the administrative agency involved. The citizens' aide shall  
20 on request of the complainant, and as appropriate, report  
21 the status of the investigation to the complainant.

22 Sec. 3. Section 601G.18, Code 1981, is amended by striking  
23 the section and inserting in lieu thereof the following:

24 601G.18 REPORT TO GENERAL ASSEMBLY. The citizens' aide  
25 shall by April 1 of each year report to the general assembly  
26 and to the governor concerning the exercise of the citizens'  
27 aide functions during the preceding calendar year. In  
28 discussing matters with which the citizens' aide has been  
29 concerned, the citizens' aide need not identify specific  
30 persons or agencies if to do so would cause needless hardship.  
31 If the annual report criticizes a named agency or official,  
32 it shall also include unedited replies made by the agency  
33 or official to the criticism, unless excused by the agency  
34 or official affected.

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#### EXPLANATION

1 Section 1 permits the citizens' aide to view documents  
2 declared by law to be confidential and subject to the same  
3 penalties as an employee who divulges confidential information  
4 to which the employee has access by law.

5 Section 2 removes the requirement that all responses of  
6 the citizens' aide office be in writing.

7 Section 3 changes the date for filing an annual report  
8 from February 15 to April 1.

9 The bill is effective July 1 following enactment.

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HOUSE FILE 829

H-3451

- 1 Amend House File 829 as follows:
- 2 1. Page 2, by striking line 25, and by inserting
- 3 in lieu thereof the words "shall by April 1 of each
- 4 year submit an economically designed and reproduced
- 5 report to the governor and to such members of the
- 6 general assembly as request it".
- 7 2. Page 2, line 26, by striking the words "and
- 8 to the governor".

H-3451 FILED APRIL 2, 1981 BY CONLON of Muscatine

*Adopted as amended by 3552  
4/13/81 (p. 1217)*

HOUSE FILE 829

H-3460

- 1 Amend House File 829 as follows:
- 2 1. Page 2, line 29, by striking the word "need"
- 3 and inserting in lieu thereof the word "shall".
- 4 2. Page 2, line 30, by striking the words
- 5 "or agencies".

H-3460 FILED APRIL 2, 1981 BY SPEAR of Lee

*Adopted 4/13/81 (p. 1217)*

HOUSE FILE 829

H-3552

- 1 Amend amendment H-3451 to House File 829 as follows:
- 2 1. Page 1, by striking lines 5 through 8 and
- 3 inserting in lieu thereof the following: "report
- 4 to the general assembly".

H-3552 FILED APRIL 8, 1981 BY HARBOR of Mills

*Adopted 4/13 (p. 1217)*

HOUSE FILE 829

H-3453

- 1 Amend House File 829 as follows:
- 2 1. By striking all after the enacting clause and
- 3 inserting in lieu thereof the following:
- 4 "Section 1. Chapter 601G, Code 1981, is repealed."

BY TYRRELL of Iowa	MAULSBY of Calhoun
GROSS of Ringgold	COREY of Louisa
JOHNSON of Linn	BRANSTAD of Winnebago
JOHNSON of Howard	STUELAND of Clinton
MANN of Greene	COOK of Hardin
CLEMENTS of Scott	DeGROOT of Lyon

H-3453 FILED  
APRIL 2, 1981

*Revised not german 4/13/81 (p. 1214)*

HOUSE FILE 829

H-3454

- 1 Amend House File 829 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section 601G.6, unnumbered paragraph
- 5 2, Code 1981, is amended by striking the paragraph."
- 6 2. By renumbering the sections to conform with
- 7 this amendment.

BY TYRRELL of Iowa	CLEMENTS of Scott
DeGROOT of Lyon	MAULSBY of Calhoun
GROSS of Ringgold	COREY of Louisa
JOHNSON of Linn	BRANSTAD of Winnebago
JOHNSON of Howard	STUELAND of Clinton
MANN of Greene	COOK of Hardin
	VAN MAANEN of Mahaska

H-3454 FILED  
APRIL 2, 1981

*Revised not german 4/13 (p. 1214)*

HOUSE FILE 829

H-3452

- 1 Amend House File 829 as follows:
- 2 1. Page 1, lines 5 and 6, by striking the words
- 3 "or on the citizen's aide own motion".

BY TYRRELL of Iowa	MAULSBY of Calhoun
GROSS of Ringgold	RENKEN of Grundy
JOHNSON of Linn	COREY of Louisa
JOHNSON of Howard	BRANSTAD of Winnebago
MANN of Greene	STUELAND of Clinton
CLEMENTS of Scott	COOK of Hardin

H-3452 FILED  
APRIL 2, 1981

*Lost 4/13 (p. 1216)*

HOUSE FILE 829

H-3461

- 1 Amend House File 829 as follows:
- 2 1. Page 1, line 30, by inserting after the
- 3 word "may" the words "at reasonable times".

H-3461 FILED APRIL 2, 1981

BY SPEAR of Lee

*Lost 4/13 (p. 1216)*

Law State Govt 4/16/81  
Do Pass 4/16 (p. 1317)  
Do Pass 1/21/82 (p. 166)

HOUSE FILE 829

BY COMMITTEE ON STATE  
GOVERNMENT

(As Amended and Passed by the House)

Passed House, Date 2-23-82 (p. 513) Passed Senate, Date 2-11-82 (p. 374)  
Vote: Ayes 85 Nays 9 Vote: Ayes 48 Nays 0  
Approved March 4, 1982

### A BILL FOR

1 An Act relating to the investigations, communications and  
2 reports of the citizens' aide office.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 829

S-5087

1 Amend House File 829 as amended, passed and  
2 reprinted by the House, as follows:  
3 1. Page 1, by striking lines 26 and 27 and  
4 inserting in lieu thereof the following: "sought  
5 is required by law to be kept confidential, the agency  
6 may refuse access until the citizens' aide demonstrates  
7 that the document is relevant or material to an  
8 investigation authorized under subsection 1. If the  
9 citizens' aide is provided access to the confidential  
10 document, the citizens' aide is subject to".

S-5087 FILED  
FEBRUARY 10, 1982  
*(duplicate 2/11 (p. 372))*

BY DICK RAMSEY

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6 own motion, any administrative action of any agency, without  
7 regard to the finality of the administrative action, except  
8 that the citizens' aide shall not investigate the complaint  
9 of an employee of an agency in regard to that employee's  
10 employment relationship with the agency. A communication  
11 or receipt of information made pursuant to the powers  
12 prescribed in this chapter shall not be considered an ex parte  
13 communication as described in the provisions of section 17A.17.

14 2. Prescribe the methods by which complaints are to be  
15 made, received, and acted upon; determine the scope and manner  
16 of investigations to be made; and, subject to the requirements  
17 of this chapter, determine the form, frequency, and  
18 distribution of the conclusions and recommendations of the  
19 citizens' aide.

20 3. Request and receive from each agency assistance and  
21 information as necessary in the performance of the duties  
22 of the office. The citizens' aide may examine the records  
23 and documents of any agency unless its custodian demonstrates  
24 that the examination would violate federal law or result in  
25 the denial of federal funds to the agency. If the document  
26 is by law required to be kept confidential, the citizens'  
27 aide shall have access to the document, but is subject to  
28 the same policies and penalties regarding the confidentiality  
29 of the document as an employee of the agency. The citizens'  
30 aide may enter and inspect premises within any agency's  
31 control.

32 4. Issue a subpoena to compel any person to appear, give  
33 sworn testimony, or produce documentary or other evidence  
34 relevant to a matter under inquiry. The citizens' aide,  
35 deputies, and assistants of the citizens' aide may administer

1 oaths to persons giving testimony before them. If a witness  
2 either fails or refuses to obey a subpoena issued by the  
3 citizens' aide, the citizens' aide may petition the district  
4 court having jurisdiction for an order directing obedience  
5 to the subpoena. If the court finds that the subpoena should  
6 be obeyed, it shall enter an order requiring obedience to  
7 the subpoena, and refusal to obey the court order is subject  
8 to punishment for contempt.

9 Sec. 2. Section 601G.13, Code 1981, is amended by striking  
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11 601G.13 NO INVESTIGATION--NOTICE TO COMPLAINANT. If the  
12 citizens' aide decides not to investigate, the complainant  
13 shall be informed of the reasons for the decision. If the  
14 citizens' aide decides to investigate, the complainant and  
15 the agency shall be notified of the decision. After completing  
16 consideration of a complaint, whether or not it has been  
17 investigated, the citizens' aide shall without delay inform  
18 the complainant of the fact, and if appropriate, shall inform  
19 the administrative agency involved. The citizens' aide shall  
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26 and reproduced report to the general assembly and to the  
27 governor concerning the exercise of the citizens' aide  
28 functions during the preceding calendar year. In discussing  
29 matters with which the citizens' aide has been concerned,  
\* 30 the citizens' aide shall not identify specific persons if  
31 to do so would cause needless hardship. If the annual report  
32 criticizes a named agency or official, it shall also include  
33 unedited replies made by the agency or official to the  
34 criticism, unless excused by the agency or official affected.

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SENATE AMENDMENT TO HOUSE FILE 829

H-5129

1 Amend House File 829 as amended, passed and  
2 reprinted by the House, as follows:  
3 1. Page 1, by striking lines 26 and 27 and  
4 inserting in lieu thereof the following: "sought  
5 is required by law to be kept confidential, the agency  
6 may refuse access until the citizens' aide demonstrates  
7 that the document is relevant or material to an  
8 investigation authorized under subsection 1. If the  
9 citizens' aide is provided access to the confidential  
10 document, the citizens' aide is subject to".

H-5129 FILED FEBRUARY 15, 1982

RECEIVED FROM SENATE

*House concurred 2/23 (p 513)*

HOUSE FILE 829

AN ACT  
RELATING TO THE INVESTIGATIONS, COMMUNICATIONS AND REPORTS  
OF THE CITIZENS' AIDE OFFICE.

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

Section 1. Section 601G.9, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.9 POWERS. The citizens' aide may:

1. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any agency, without regard to the finality of the administrative action, except that the citizens' aide shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency. A communication or receipt of information made pursuant to the powers prescribed in this chapter shall not be considered an ex parte communication as described in the provisions of section 17A.17.

2. Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of this chapter, determine the form, frequency, and distribution of the conclusions and recommendations of the citizens' aide.

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. The citizens' aide may examine the records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. If the document sought is required by law to be kept confidential, the agency

may refuse access until the citizens' aide demonstrates that the document is relevant or material to an investigation authorized under subsection 1. If the citizens' aide is provided access to the confidential document, the citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control.

4. Issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence relevant to a matter under inquiry. The citizens' aide, deputies, and assistants of the citizens' aide may administer oaths to persons giving testimony before them. If a witness either fails or refuses to obey a subpoena issued by the citizens' aide, the citizens' aide may petition the district court having jurisdiction for an order directing obedience to the subpoena. If the court finds that the subpoena should be obeyed, it shall enter an order requiring obedience to the subpoena, and refusal to obey the court order is subject to punishment for contempt.

Sec. 2. Section 601G.13, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.13 NO INVESTIGATION--NOTICE TO COMPLAINANT. If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

Sec. 3. Section 601G.18, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.18 REPORT TO GENERAL ASSEMBLY. The citizens' aide shall by April 1 of each year submit an economically designed and reproduced report to the general assembly and to the governor concerning the exercise of the citizens' aide functions during the preceding calendar year. In discussing matters with which the citizens' aide has been concerned, the citizens' aide shall not identify specific persons if to do so would cause needless hardship. If the annual report criticizes a named agency or official, it shall also include unedited replies made by the agency or official to the criticism, unless excused by the agency or official affected.

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DELWYN STROMER  
Speaker of the House

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TERRY E. BRANSTAD  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 829, Sixty-ninth General Assembly.

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ELIZABETH A. ISAACSON  
Chief Clerk of the House

Approved 3/4, 1982

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ROBERT D. RAY  
Governor