

Human Resources: Spear, Chair; Clark, Connors, Hermann and Sherzan.

*Amend per 5201 780 Pass 2/16 (p. 439)*

**FILED JAN 23 1984**

SENATE FILE 2082

BY COMMITTEE ON STATE GOVERNMENT

(FORMERLY SSB 2007)

*Approved 1/23 (p. 200)*

Passed Senate, Date 1-26-84 (p. 231) Passed House, Date 3-26-84 (p. 1261)

Vote: Ayes 48 Nays 0 Vote: Ayes 95 Nays 0

Approved April 16, 1984 (p. 1574)

*Motion to Reconsider (p. 1298) W/D 4/2*

*Repassed Senate 4-6-84 (p. 1364)  
43-0*

# A BILL FOR

1 An Act relating to the confidentiality of Iowa department of  
2 corrections records and providing a penalty.

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

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*S-2082*

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

4 217A.18 CONFIDENTIALITY OF RECORDS.

5 1. The following information regarding individuals re-  
6 ceiving services from the department or from the judicial  
7 district departments of correctional services under chapter  
8 905 is public information and may be given to anyone, except  
9 that the information shall be limited to the offense for which  
10 an individual was last convicted:

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

5201 23 1. Disciplinary reports and decisions which have been  
24 referred to the county attorney or prosecutor for prosecution,  
25 and the mere results of other disciplinary investigations.  
26 Mere results shall include only the name of the subject of  
27 the investigation, the infraction involved and the penalty,  
28 if any, imposed as a result of that infraction.

29 2. The following information regarding individuals  
30 receiving services from the department or from the judicial  
31 district departments of correctional services under chapter  
32 905 is confidential and shall not be disseminated by the  
33 department to the public:

- 34 a. Home street address of the individual receiving services  
35 or that individual's family.

- 1 b. Department evaluations.
- 2 c. Medical, psychiatric or psychological information.
- 3 d. Names of associates or accomplices.
- 4 e. Name of employer.
- 5 f. Social security number.
- 6 g. Prior criminal history including information on of-
- 7 fenses where no conviction occurred.
- 8 h. Family and personal history.
- 9 i. Financial information.

5201 10 j. Disciplinary reports other than those identified in  
11 subsection 1.

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

14 l. Department committee records which include any informa-  
15 tion identified in paragraphs "a" through "k". A record con-  
16 taining information which is both public and confidential  
17 which is reasonably segregable shall not be confidential after  
18 deletion of the confidential information.

19 m. Presentence investigations as provided under chapter  
20 901.

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

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

31 3. Information identified in subsection 2 shall not be  
32 disclosed or used by any person or agency except for purposes  
33 of the administration of the department's programs of services  
34 or assistance and shall not, except as otherwise provided  
35 in subsection 4, be disclosed by the department or be used

1 by persons or agencies outside the department unless they  
2 are subject to, or agree to, comply with standards of  
3 confidentiality comparable to those imposed on the department  
4 by this section.

5 4. This section does not restrict the disclosure or use  
6 of information regarding the cost, purpose, number of persons  
7 served or assisted by or results of any program administered  
8 by the department, and other general statistical information  
9 so long as the information does not identify particular  
10 individuals served or assisted except as provided in subsection  
11 1 of this section.

12 5. Information restricted in subsection 2 may be disclosed  
13 to persons or agencies with the approval of the director for  
14 the limited purpose of research and program evaluation or  
15 educational purposes when those persons or agencies agree  
16 to keep confidential that information restricted in subsection  
17 2, and any reports of the research shall not contain any of  
18 the information restricted in subsection 2 except as allowed  
19 in subsection 4. However, the persons or agencies eligible  
20 to receive information under this subsection include only  
21 those which are state employees or those whom the department  
22 retains under contract to perform the services.

52 23 6. Confidential information described in subsection 2  
24 may be disclosed to public officials for use in connection  
25 with their official duties relating to law enforcement, audits  
26 and other purposes directly connected with the administration  
27 of their programs. Full disclosure by the department of any  
28 information on an individual may be made to judicial district  
29 departments of correctional services created under chapter  
30 905, and those departments are subject to the same standards  
31 as the department in dissemination or redissemination of  
32 information on persons served or supervised by those  
33 departments, and all provisions of this section pertain to  
34 the judicial district departments as if they were a part of  
35 the department. Information may be disseminated about

1 individuals while under the supervision of the department  
2 to public or private agencies to which persons served or  
3 supervised by the department are referred for specific services  
4 not otherwise provided by the department but only to the  
5 extent that the information is needed by those agencies to  
6 provide the services required, and they shall keep information  
7 received from the department confidential.

8 7. If it is established that a provision of this section  
9 would cause any of the department's programs of services or  
10 assistance to be ineligible for federal funds, the provision  
11 shall be limited or restricted to the extent which is essen-  
12 tial to make the program eligible for federal funds. The  
13 department shall adopt, pursuant to chapter 17A, rules neces-  
14 sary to implement this subsection.

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

28 9. Regulations, procedures, and policies that govern the  
29 internal administration of the department and the judicial  
30 district departments of correctional services under chapter  
31 905, which if released may jeopardize the secure operation  
32 of a correctional institution operation or program are  
33 confidential unless otherwise ordered by a court. These  
34 records include procedures on inmate movement and control,  
35 staffing patterns and regulations, emergency plans, internal

1 investigations, equipment use and security, building plans,  
2 operation, and security, security procedures for inmate,  
3 staff, and visits, daily operation records, and contraband  
4 and medicine control.

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

7 10. Violation of this section is a serious misdemeanor.

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

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

17 217A.19 ACTION FOR DAMAGES. A person receiving services,  
18 or that person's family, victim or employer may institute  
19 a civil action for damages under chapter 25A or other action  
20 to restrain the release of confidential records set out in  
21 section 217A.18, subsection 2, which is in violation of that  
22 section, and a person, agency or governmental body proven  
23 to have released confidential records in violation of section  
24 217A.18, subsection 2 is liable for actual damages for each  
25 violation and is liable for court costs and reasonable  
26 attorney's fees incurred by the party bringing the action.

5201- 27 Sec. 3. This Act, being deemed of immediate importance,  
28 takes effect from and after its publication in the Muscatine  
29 Journal, a newspaper published in Muscatine, Iowa, and in  
30 The Daily Nonpareil, a newspaper published in Council Bluffs,  
31 Iowa.

32 **EXPLANATION**

33 Section 1 of this bill provides for the establishment of  
34 restrictions and requirements regarding the confidentiality  
35 of records for supervised individuals by the department of

1 corrections. The section generally accomplishes this as  
2 follows:

3 Subsection 1 identifies the information which is subject  
4 to dissemination.

5 Subsection 2 identifies the information which is not subject  
6 to dissemination.

7 Subsections 3, 4, 5, and 6 identify and provide require-  
8 ments for the statistical and administrative information which  
9 may be disclosed.

10 Subsection 7 provides for the imposition of restrictions  
11 upon the section as required for eligibility for federal  
12 funds.

13 Subsection 8 identifies the information pertaining to an  
14 individual which the individual may or may not be allowed  
15 access to.

16 Subsection 9 identifies the information pertaining to  
17 internal control which may not be released, and provides for  
18 its exemption from public inspection.

19 Subsection 10 establishes the penalty for violation of  
20 the section.

21 Subsection 11 provides for court access to otherwise con-  
22 fidential information.

23 Section 2 of this bill provides for the rights of suit  
24 and damages for violation of the confidentiality provisions  
25 contained within section 1 of the bill.

26 Section 3 of this bill provides for the publication of  
27 this Act and its effective date thereafter.

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SENATE FILE 2082

H-5235

1 Amend House amendment H-5201 to Senate File 2082

2 as passed by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 5, and  
4 inserting in lieu thereof the following:

5 "1. Page 1, by striking lines 25 through 28, and  
6 inserting in lieu thereof the following: "and the  
7 following information of all other disciplinary  
8 reports:

9 (1) The name of the subject of the investigation.

10 (2) The alleged infraction involved.

11 (3) The penalty, if any, imposed as a result of  
12 the infraction."

13 2. Page 1, by striking line 6 and inserting in  
14 lieu thereof the following:

15 "2. Page 2, by striking lines 10 and 11, and  
16 inserting in lieu thereof the following:

17 "j. Information from disciplinary reports and  
18 investigations other than that identified in subsection  
19 1, paragraph 1."

H-5235 FILED FEB. 22, 1984 BY SPEAR of Lee

*Adopted 3/26 (p. 1260)*

SENATE FILE 2082

H-5818

1 Amend the amendment H-5201 to Senate File 2082,  
2 as passed by the Senate, as follows:

3 1. Page 1, by inserting after line 10, the  
4 following:

5 " Page 3, line 33, by inserting after the  
6 word "to" the words "the board of parole and to"."

7 2. By renumbering sections to conform to this  
8 amendment.

BY KREWSON of Polk

H-5818 FILED MARCH 23, 1984

SHERZAN of Polk

*Adopted 3/26 (p. 1260)*

SENATE FILE 2082

H-5835

1 Amend amendment H-5235 to amendment H-5201 to Senate  
2 File 2082 as passed by the Senate as follows:

3 1. Page 1, line 11, by striking the word "The" and  
4 inserting in lieu thereof the words "The finding of  
5 fact and the".

H-5835 FILED MARCH 26, 1984 BY SPEAR of Lee

ADOPTED BY UNANIMOUS CONSENT

*(p. 1260)*

1 Amend Senate File 2082 as passed by the Senate,  
2 as follows:

5325, 5334  
P 3 1. Page 1, by striking lines 23 through 28 and  
4 inserting in lieu thereof the following:

5 "1. Disciplinary reports."

B 6 2. Page 2, by striking lines 10 and 11.

7 3. Page 3, line 28, by inserting after the word  
8 "to" the words "the board of parole and to".

C 9 4. Page 3, line 30, by inserting after the word  
10 "and" the words "the board and".

5815  
5835 11 5. Page 5, by inserting after line 26 the  
12 following:

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

15 217A.32 RECORDS OF INMATES. The director shall  
16 keep the following record of every person committed  
17 to any of the department's institutions: Name,  
18 residence, sex, age, place of birth, occupation, civil  
19 condition, date of entrance or commitment, date of  
20 discharge, whether a discharge is final, condition  
21 of the person when discharged, the name of the  
22 institutions from which and to which the person has  
23 been transferred, and if the person is dead, the date  
24 and cause of death. The director may permit the state  
25 libraries and the Iowa state historical department's  
26 division of historical museum and archives to copy  
27 or reproduce by any photographic, photostatic,  
28 microfilm, microcard, or other process which accurately  
29 reproduces in a durable medium and to destroy in the  
30 manner described by law the records of inmates required  
31 by this section.

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

34 6. By renumbering and relettering to conform to  
35 this amendment.

H-5201 FILED FEB. 16, 1984 BY COMMITTEE ON HUMAN RESOURCES

*Adopted as amended by S 235, 5818, & 5835  
3/26 (p. 1260)*

SENATE FILE 2082

H-5234

1 Amend House amendment H-5201 to Senate File 2082  
2 as passed by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 5, and  
4 inserting in lieu thereof the following:

5 "1. Page 1, by striking lines 25 through 28, and  
6 inserting in lieu thereof the following: "and the  
7 following information of all other disciplinary  
8 reports:

- 9 (1) The name of the accused.
- 10 (2) The rule violated.
- 11 (3) The writer of the report.
- 12 (4) The finding of fact and disposition of the  
13 report."

H-5234 FILED FEB. 22, 1984 BY SHERZAN of Polk

*Lost 3/26 (p. 1258)*

HOUSE AMENDMENT TO SENATE FILE 2082

S-5778

Amend Senate File 2082 as passed by the Senate,  
as follows:

1. Page 1, by striking lines 25 through 28, and  
inserting in lieu thereof the following: "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. Page 2, by striking lines 10 and 11, and  
inserting in lieu thereof the following:

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

3. Page 3, line 28, by inserting after the word  
"to" the words "the board of parole and to".

4. Page 3, line 30, by inserting after the word  
"and" the words "the board and".

5. Page 3, line 33, by inserting after the word  
"to" the words "the board of parole and to".

6. Page 5, by inserting after line 26 the  
following:

"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."

7. By renumbering and relettering to conform to  
this amendment.

S-5778 FILED  
APRIL 5, 1984

RECEIVED FROM THE HOUSE

*Senate concurred 4/6 (p. 1364)*

SENATE FILE 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 1.

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

1. 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.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2082, Seventieth General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved April 16, 1984

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TERRY E. BRANSTAD  
Governor