

Sen. Human Res.

DO 2055 4-20-89 (p. 1239)

MAR 20 1989

Place On Calendar

HOUSE FILE 674

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 319)

Passed House, Date 3-23-89 (p. 117) Passed Senate, Date 4-20-89 (p. 139)
Vote: Ayes 94 Nays 0 Vote: Ayes 48 Nays 0

Approved May 22 1989

Repassed by House 4-27-89 (p. 2082)

Ayes 94 Nays 0 A BILL FOR

1 An Act relating to victim counseling and services.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 674

1 Section 1. Section 22.7, subsection 2, Code 1989, is
2 amended to read as follows:

3 2. Hospital records, medical records, and professional
4 counselor records of the condition, diagnosis, care, or
5 treatment of a patient or former patient or a counselee or
6 former counselee, including outpatient. However, confidential
7 communications between a crime victim of sexual-assault-or
8 domestic-violence and the victim's sexual-assault-or-domestic
9 violence counselor are not subject to disclosure except as
10 provided in section 236A.1.

11 Sec. 2. Section 236A.1, subsections 1, 2, and 7, Code
12 1989, are amended to read as follows:

13 1. As used in this section:

14 a. "Victim" means a person who consults a victim counselor
15 for the purpose of securing advice, counseling, or assistance
16 concerning a mental, physical, or emotional condition caused
17 by a sexual-assault-or-domestic-violence violent crime
18 committed against the person.

19 b. "Victim counselor" means a person who is engaged in a
20 sexual-assault crime victim center or-domestic-violence
21 center, is certified as a counselor by the sexual-assault-or
22 domestic-violence crime victim center, and is under the
23 control of a direct services supervisor of a sexual-assault-or
24 domestic-violence crime victim center, whose primary purpose
25 is the rendering of advice, counseling, and assistance to the
26 victims of sexual-assault-or-domestic-violence crime. To
27 qualify as a "victim counselor" under this section, the person
28 must also have completed at least twenty hours of training
29 provided by the center in which the person is engaged, by the
30 Iowa organization of victim assistance, by the Iowa coalition
31 against sexual abuse, or by the Iowa coalition against
32 domestic violence, which shall include but not be limited to,
33 the dynamics of victimization, substantive laws relating to
34 violent crime, sexual assault, and domestic violence, crisis
35 intervention techniques, communication skills, working with

1 diverse populations, an overview of the state criminal justice
 2 system, information regarding pertinent hospital procedures,
 3 and information regarding state and community resources for
 4 victims of ~~sexual-assault-or-domestic-violence~~ crime.

5 c. "~~Sexual-assault~~ Crime victim center" means any office,
 6 institution, agency, or crisis center offering assistance to
 7 victims of ~~sexual-assault~~ crime and their families through
 8 crisis intervention, accompaniment during medical and legal
 9 proceedings, and followup counseling.

10 ~~d.--"Sexual-assault"--means-any-act-of-sexual-abuse-or-other~~
 11 ~~unlawful-sexual-conduct-under-chapter-709,-726-or-728-~~

12 ~~e.--"Domestic-violence-center"--means-any-office,~~
 13 ~~institution,-shelter,-host-home,-agency-or-crisis-center~~
 14 ~~offering-assistance-to-victims-of-domestic-violence-through~~
 15 ~~crisis-intervention,-referral-to-or-provision-of-emergency~~
 16 ~~shelter,-and-assistance-and-advocacy-regarding-medical-and~~
 17 ~~legal-proceedings-~~

18 ~~f.--"Domestic-violence"--means-any-act-of-domestic-abuse,-as~~
 19 ~~defined-in-section-236.27-subsection-1,-and-includes-those~~
 20 ~~acts-commonly-referred-to-as-spouse-abuse-~~

3098- 21 g d. "Confidential communication" means information
 22 transmitted between a victim of ~~sexual-assault-or-domestic~~
 23 ~~violence~~ crime and a victim counselor in the course of the
 24 counseling relationship and in confidence by a means which, so
 25 far as the victim is aware, does not disclose the information
 26 to a third person other than any who is present to further the
 27 interests of the victim in the consultation or to whom
 28 disclosure is reasonably necessary for the transmission of the
 29 information or for accomplishment of the purposes for which
 30 the counselor is consulted, and includes all information
 31 received and any advice, report, or working paper given or
 32 prepared by the counselor in the course of the relationship
 33 with the victim.

34 2. A victim counselor shall not be examined or required to
 35 give evidence in any civil or criminal proceeding as to any

1 confidential communication made by a victim to the counselor,
2 nor shall a clerk, secretary, stenographer, or any other
3 employee who types or otherwise prepares or manages the
4 confidential reports or working papers of a ~~sexual-assault-or~~
5 ~~domestic-violence~~ victim counselor be required to produce
6 evidence of any such confidential communication, unless the
7 victim waives this privilege in writing or disclosure of the
8 information is compelled by a court pursuant to subsection 7.
9 Under no circumstances shall the location of a domestic
10 violence crime victim center or the identity of the victim
11 counselor be disclosed in any civil or criminal proceeding.

12 7. Upon the motion of a party, accompanied by a written
13 offer of proof, a court may compel disclosure of certain
14 information if the court determines that all of the following
15 conditions are met:

16 a. The information sought is relevant and material
17 evidence of the facts and circumstances involved in an alleged
18 criminal act of sexual-assault-or-domestic-violence which is
19 the subject of a criminal proceeding.

20 b. The probative value of the information outweighs the
21 harmful effect, if any, of disclosure on the victim, the
22 counseling relationship, and the treatment services.

23 c. The information cannot be obtained by reasonable means
24 from any other source.

25 EXPLANATION

26 This bill expands the definitions of victim counselor and
27 crime victim center to include criminal acts other than sexual
28 abuse and domestic violence.

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HOUSE FILE 674

S-3698

1 Amend House File 674, as passed by the House, as
2 follows:

3 1. Page 2, by striking lines 21 through 33 and
4 inserting the following:

5 "g d. "Confidential communication" means
6 ~~information-transmitted-between-a-victim-of-sexual~~
7 ~~assault-or-domestic-violence-and-a-victim-counselor-in~~
8 ~~the-course-of-the-counseling-relationship-and-in~~
9 ~~confidence-by-a-means-which,-so-far-as-the-victim-is~~
10 ~~aware,-does-not-disclose-the-information-to-a-third~~
11 ~~person-other-than-any-who-is-present-to-further-the~~
12 ~~interests-of-the-victim-in-the-consultation-or-to-whom~~
13 ~~disclosure-is-reasonably-necessary-for-the~~
14 ~~transmission-of-the-information-or-for-accomplishment~~
15 ~~of-the-purposes-for-which-the-counselor-is-consulted,~~
16 ~~and-includes-all-information-received-and-any-advice,~~
17 ~~report,-or-working-paper-given-or-prepared-by-the~~
18 ~~counselor-in-the-course-of-the-relationship-with-the~~
19 ~~victim. information shared between a crime victim and~~
20 ~~a victim counselor within the counseling relationship,~~
21 ~~and includes all information received by the counselor~~
22 ~~and any advice, report, or working paper given to or~~
23 ~~prepared by the counselor in the course of the~~
24 ~~counseling relationship with the victim.~~

25 Confidential information is confidential
26 information which, so far as the victim is aware, is
27 not disclosed to a third party with the exception of a
28 person present in the consultation for the purpose of
29 furthering the interest of the victim, a person to
30 whom disclosure is reasonably necessary for the
31 transmission of the information, or a person with whom
32 disclosure is necessary for accomplishment of the
33 purpose for which the counselor is consulted by the
34 victim."

By JOY CORNING
AL STURGEON

S-3698 FILED APRIL 13, 1989

(Added 4-20-89 (p. 1390))

SENATE AMENDMENT TO HOUSE FILE 674

H-4154

1 Amend House File 674, as passed by the House, as
2 follows:

3 1. Page 2, by striking lines 21 through 33 and
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9 ~~confidence-by-a-means-which,-so-far-as-the-victim-is~~
10 ~~aware,-does-not-disclose-the-information-to-a-third~~
11 ~~person-other-than-any-who-is-present-to-further-the~~
12 ~~interests-of-the-victim-in-the-consultation-or-to-whom~~
13 ~~disclosure-is-reasonably-necessary-for-the~~
14 ~~transmission-of-the-information-or-for-accomplishment~~
15 ~~of-the-purposes-for-which-the-counselor-is-consulted,~~
16 ~~and-includes-all-information-received-and-any-advice,~~
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19 ~~victim. Information shared between a crime victim and~~
20 ~~a victim counselor within the counseling relationship,~~
21 ~~and includes all information received by the counselor~~
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30 whom disclosure is reasonably necessary for the
31 transmission of the information, or a person with whom
32 disclosure is necessary for accomplishment of the
33 purpose for which the counselor is consulted by the
34 victim."

RECEIVED FROM THE SENATE

H-4154 FILED APRIL 24, 1989

House Concurrent 4-27-89 (p. 2082)

NSB 319

HUMAN RESOURCES

Bull, Chair
Hammond
Peters
Clark
Carpenter

HOUSE FILE 674
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to victim counseling and services.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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3 2. Hospital records, medical records, and professional
4 counselor records of the condition, diagnosis, care, or
5 treatment of a patient or former patient or a counselee or
6 former counselee, including outpatient. However, confidential
7 communications between a ~~crime~~ victim of sexual assault or
8 ~~domestic violence~~ and the victim's ~~sexual assault or domestic~~
9 ~~violence~~ counselor are not subject to disclosure except as
10 provided in section 236A.1.

11 Sec. 2. Section 236A.1, subsections 1, 2, and 7, Code
12 1989, are amended to read as follows:

13 1. As used in this section:

14 a. "Victim" means a person who consults a victim counselor
15 for the purpose of securing advice, counseling, or assistance
16 concerning a mental, physical, or emotional condition caused
17 by a ~~sexual assault or domestic violence~~ violent crime
18 committed against the person.

19 b. "Victim counselor" means a person who is engaged in a
20 ~~sexual assault~~ crime victim center or domestic violence
21 center, is certified as a counselor by the ~~sexual assault or~~
22 ~~domestic violence~~ crime victim center, and is under the
23 control of a direct services supervisor of a ~~sexual assault or~~
24 ~~domestic violence~~ crime victim center, whose primary purpose
25 is the rendering of advice, counseling, and assistance to the
26 victims of ~~sexual assault or domestic violence~~ crime. To
27 qualify as a "victim counselor" under this section, the person
28 must also have completed at least twenty hours of training
29 provided by the center in which the person is engaged, by the
30 Iowa organization of victim assistance, by the Iowa coalition
31 against sexual abuse, or by the Iowa coalition against
32 domestic violence, which shall include but not be limited to,
33 the dynamics of victimization, substantive laws relating to
34 violent crime, sexual assault, and domestic violence, crisis
35 intervention techniques, communication skills, working with

1 diverse populations, an overview of the state criminal justice
2 system, information regarding pertinent hospital procedures,
3 and information regarding state and community resources for
4 victims of sexual-assault-or-domestic-violence crime.

5 c. "Sexual-assault Crime victim center" means any office,
6 institution, agency, or crisis center offering assistance to
7 victims of sexual-assault crime and their families through
8 crisis intervention, accompaniment during medical and legal
9 proceedings, and followup counseling.

10 d. -- "Sexual-assault" means any act of sexual abuse or other
11 unlawful sexual conduct under chapter 709, 726 or 728.

12 e. -- "Domestic-violence-center" means any office,
13 institution, shelter, host-home, agency or crisis center
14 offering assistance to victims of domestic violence through
15 crisis intervention, referral to or provision of emergency
16 shelter, and assistance and advocacy regarding medical and
17 legal proceedings.

18 f. -- "Domestic-violence" means any act of domestic abuse, as
19 defined in section 236.27 subsection 47 and includes these
20 acts commonly referred to as spouse abuse.

21 g. d. "Confidential communication" means information
22 transmitted between a victim of sexual-assault-or-domestic
23 violence crime and a victim counselor in the course of the
24 counseling relationship and in confidence by a means which, so
25 far as the victim is aware, does not disclose the information
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27 interests of the victim in the consultation or to whom
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35 give evidence in any civil or criminal proceeding as to any

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27 crime victim center to include criminal acts other than sexual
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HOUSE FILE 674

AN ACT

RELATING TO VICTIM COUNSELING AND SERVICES.

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

Section 1. Section 22.7, subsection 2, Code 1989, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim of sexual assault or domestic violence and the victim's sexual assault or domestic violence counselor are not subject to disclosure except as provided in section 236A.1.

Sec. 2. Section 236A.1, subsections 1, 2, and 7, Code 1989, are amended to read as follows:

1. As used in this section:

a. "Victim" means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or domestic violence violent crime committed against the person.

b. "Victim counselor" means a person who is engaged in a sexual assault crime victim center or domestic violence center, is certified as a counselor by the sexual assault or domestic violence crime victim center, and is under the control of a direct services supervisor of a sexual assault or domestic violence crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of sexual assault or domestic violence crime. To qualify as a "victim counselor" under this section, the person must also have completed at least twenty hours of training

provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of sexual assault or domestic violence crime.

c. "Sexual assault crime victim center" means any office, institution, agency, or crisis center offering assistance to victims of sexual assault crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

d. "Sexual assault" means any act of sexual abuse or other unlawful sexual conduct under chapter 209, 226 or 728.

e. "Domestic violence center" means any office, institution, shelter, host home, agency or crisis center offering assistance to victims of domestic violence through crisis intervention, referral to or provision of emergency shelter, and assistance and advocacy regarding medical and legal proceedings.

f. "Domestic violence" means any act of domestic abuse, as defined in section 236.2, subsection 1, and includes those acts commonly referred to as spouse abuse.

g. "Confidential communication" means information transmitted between a victim of sexual assault or domestic violence and a victim counselor in the course of the counseling relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than any who is present to further the interests of the victim in the consultation or to whom disclosure is reasonably necessary for the transmission of the

~~information or for accomplishment of the purposes for which the counselor is consulted, and includes all information received and any advice, report, or working paper given or prepared by the counselor in the course of the relationship with the victim.~~ information shared between a crime victim and a victim counselor within the counseling relationship, and includes all information received by the counselor and any advice, report, or working paper given to or prepared by the counselor in the course of the counseling relationship with the victim.

Confidential information is confidential information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim.

2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a ~~sexual-assault or domestic-violence~~ victim counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 2. Under no circumstances shall the location of a ~~domestic violence~~ crime victim center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged ~~criminal act of sexual assault or domestic violence~~ which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 674, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 22, 1989

TERRY E. BRANSTAD
Governor