

Reprinted

MAR 27 1991

HOUSE FILE 681
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar:

(SUCCESSOR TO HSB 277)

Passed House, Date 4/2/91 (p. 1005) Passed Senate, Date 4/9/92
Vote: Ayes 99 Nays 0 Vote: Ayes 44 Nays 4
Approved May 19, 1992

A BILL FOR

1 An Act relating to the confidentiality of certain information
2 relating to waste reduction under the public records law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 681

1 Section 1. Section 22.7, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 29. Information reports collected or
4 submitted for the purposes of the department of natural
5 resources' waste reduction assistance program, a program of
6 the Iowa waste reduction center located at the university of
7 northern Iowa, or any successor program. The information is
8 not a communication under subsection 18, and is not subject to
9 the exceptions pursuant to subsection 18, paragraphs "a", "b",
10 and "c".

11 Sec. 2. Section 622.10, unnumbered paragraph 1, Code 1991,
12 is amended to read as follows:

13 A practicing attorney, counselor, physician, surgeon,
14 physician's assistant, mental health professional, waste
15 reduction professional, or the stenographer or confidential
16 clerk of any such person, who obtains information by reason of
17 the person's employment, minister of the gospel or priest of
18 any denomination shall not be allowed, in giving testimony, to
19 disclose any confidential communication properly entrusted to
20 the person in the person's professional capacity, and
21 necessary and proper to enable the person to discharge the
22 functions of the person's office according to the usual course
23 of practice or discipline. The prohibition does not apply to
24 cases where the person in whose favor the prohibition is made
25 waives the rights conferred; nor does the prohibition apply to
26 physicians or surgeons, physician's assistants, mental health
27 professionals, waste reduction professional, or to the
28 stenographer or confidential clerk of any physicians or
29 surgeons, physician's assistants, ~~or~~ mental health
30 professionals, or waste reduction professional in a civil
31 action in which the condition of the person in whose favor the
32 prohibition is made is an element or factor of the claim or
33 defense of the person or of any party claiming through or
34 under the person. The evidence is admissible upon trial of
35 the action only as it relates to the condition alleged. If an

1 adverse party desires the oral deposition, either discovery or
2 evidentiary, of a physician or surgeon, physician's assistant,
3 or mental health professional, or waste reduction professional
4 to which the prohibition would otherwise apply or the
5 stenographer or confidential clerk of a physician or surgeon,
6 physician's assistant, or mental health professional, or waste
7 reduction professional or desires to call a physician or
8 surgeon, physician's assistant, or mental health professional,
9 or waste reduction professional to which the prohibition would
10 otherwise apply or the stenographer or confidential clerk of a
11 physician or surgeon, physician's assistant, or mental health
12 professional, or waste reduction professional as a witness at
13 the trial of the action, the adverse party shall file an
14 application with the court for permission to do so. The court
15 upon hearing, which shall not be ex parte, shall grant
16 permission unless the court finds that the evidence sought
17 does not relate to the condition alleged and shall fix a
18 reasonable fee to be paid to the physician or surgeon,
19 physician's assistant, or mental health professional, or waste
20 reduction professional by the party taking the deposition or
21 calling the witness. For the purposes of this section,
22 "mental health professional" means psychologists certified
23 under chapter 154B, registered nurses licensed under chapter
24 152, or individuals holding at least a master's degree in
25 social work or counseling and guidance and "waste reduction
26 professional" means an employee or agent of the department of
27 natural resources relating to the department's waste reduction
28 assistance program, or of the Iowa waste reduction center, or
29 of any successor program.

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EXPLANATION

31 This bill identifies as public records which are required
32 to be kept confidential, information collected or submitted
33 for the waste reduction assistance program of the department
34 of natural resources or a program of the Iowa waste reduction
35 center at the university of northern Iowa, or a successor

1 program.

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See Judiciary +13 Amend + Do Pass (5-5+12) 3/26

HOUSE FILE 681
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 277)

(As Amended and Passed by the House April 2, 1991)

7/2 Passed House, Date 4/30/92 (4-16-91) Passed Senate, Date 4/7/92 (4-13-91)
Vote: Ayes 97 Nays 2 Vote: Ayes 44 Nays 4
Approved May 19, 1992

A BILL FOR

1 An Act relating to the confidentiality of certain information
2 relating to waste reduction under the public records law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Section 22.7, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 29. Information reports collected or
4 submitted for the purposes of the department of natural
5 resources' waste reduction assistance program, a program of
6 the Iowa waste reduction center located at the university of
7 northern Iowa, or any successor program. The information is
8 not a communication under subsection 18, and is not subject to
9 the exceptions pursuant to subsection 18, paragraphs "a", "b",
10 and "c".

11 Sec. 2. Section 622.10, unnumbered paragraph 1, Code 1991,
12 is amended to read as follows:

13 A practicing attorney, counselor, physician, surgeon,
14 physician's physician assistant, mental health professional,
15 waste reduction professional, or the stenographer or
16 confidential clerk of any such person, who obtains information
17 by reason of the person's employment, minister-of-the-gospel
18 or-priest-of-any-denomination or a person ordained or
19 designated as a leader of a religious faith shall not be
20 allowed, in giving testimony, to disclose any confidential
21 communication properly entrusted to the person in the person's
22 professional capacity, and necessary and proper to enable the
23 person to discharge the functions of the person's office
24 according to the usual course of practice or discipline. The
25 prohibition does not apply to cases where the person in whose
26 favor the prohibition is made waives the rights conferred; nor
27 does the prohibition apply to physicians or surgeons,
28 physician's physician assistants, mental health professionals,
29 waste reduction professional, or to the stenographer or
30 confidential clerk of any physicians or surgeons, physician's
31 physician assistants, or mental health professionals, or waste
32 reduction professional in a civil action in which the
33 condition of the person in whose favor the prohibition is made
34 is an element or factor of the claim or defense of the person
35 or of any party claiming through or under the person. The

1 evidence is admissible upon trial of the action only as it
2 relates to the condition alleged. If an adverse party desires
3 the oral deposition, either discovery or evidentiary, of a
4 physician or surgeon, physician's physician assistant, or
5 mental health professional, or waste reduction professional to
6 which the prohibition would otherwise apply or the
7 stenographer or confidential clerk of a physician or surgeon,
8 physician's physician assistant, or mental health
9 professional, or waste reduction professional or desires to
10 call a physician or surgeon, physician's physician assistant,
11 or mental health professional, or waste reduction professional
12 to which the prohibition would otherwise apply or the
13 stenographer or confidential clerk of a physician or surgeon,
14 physician's physician assistant, or mental health
15 professional, or waste reduction professional as a witness at
16 the trial of the action, the adverse party shall file an
17 application with the court for permission to do so. The court
18 upon hearing, which shall not be ex parte, shall grant
19 permission unless the court finds that the evidence sought
20 does not relate to the condition alleged and shall fix a
21 reasonable fee to be paid to the physician or surgeon,
22 physician's physician assistant, or mental health
23 professional, or waste reduction professional by the party
24 taking the deposition or calling the witness. For the
25 purposes of this section, "mental health professional" means
26 psychologists certified under chapter 154B, registered nurses
27 licensed under chapter 152, or individuals holding at least a
28 master's degree in social work or counseling and guidance and
29 "waste reduction professional" means an employee or agent of
30 the department of natural resources relating to the
31 department's waste reduction assistance program, or of the
32 Iowa waste reduction center, or of any successor program.

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HOUSE FILE 681

and House File 681 as follows:

Page 1, lines 17 and 18, by striking the words
"minister of the gospel or priest of any denomination"
and inserting the following: "minister-of-the-gospel
priest-of-any-denomination or a person ordained or
ordained as a leader of a religious faith".

By SPEAR of Lee

FILED APRIL 1, 1991

Adopted 4/2 (7 1005)

HOUSE FILE 681

and House File 681 as follows:

1. Page 1, line 14, by striking the word
"physician's" and inserting the following:
"physician's".

2. Page 1, line 26, by striking the word
"physician's" and inserting the following:
"physician's".

3. Page 1, line 29, by striking the word
"physician's" and inserting the following:
"physician's".

4. Page 2, line 2, by striking the word
"physician's" and inserting the following:
"physician's".

5. Page 2, line 6, by striking the word
"physician's" and inserting the following:
"physician's".

6. Page 2, line 8, by striking the word
"physician's" and inserting the following:
"physician's".

7. Page 2, line 11, by striking the word
"physician's" and inserting the following:
"physician's".

8. Page 2, line 19, by striking the word
"physician's" and inserting the following:
"physician's".

By SPEAR of Lee

FILED APRIL 1, 1991

Adopted 4/2

HOUSE FILE 681

S-5412

- 1 Amend House File 681, as amended, passed and
2 reprinted by the House, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. NEW SECTION. 455B.484A
6 CONFIDENTIALITY FOR ASSISTANCE PROGRAMS.
7 1. As used in this section:
8 a. "Applicant" means a person seeking the services
9 of an assistance program.
10 b. "Assistance information" means all information
11 voluntarily supplied to or obtained by an assistance
12 program for the sole purpose of providing assistance
13 to an applicant and which constitutes information not
14 otherwise available to an assistance program.
15 c. "Assistance program" means the waste reduction
16 assistance program of the department or of the Iowa
17 waste reduction center for safe and economic
18 management of solid waste and hazardous substances
19 conducted pursuant to section 268.4.
20 2. Assistance information, provided by an
21 applicant in good faith, which is in the possession of
22 an assistance program or an employee or agent of an
23 assistance program is privileged and confidential, is
24 not subject to discovery, subpoena, or other means of
25 legal compulsion and is not admissible evidence in an
26 administrative or judicial proceeding. However,
27 assistance information discoverable from sources other
28 than an assistance program does not become privileged
29 or confidential merely because it has been made
30 available to or is in the custody of an assistance
31 program or an employee or agent of an assistance
32 program.
33 3. Assistance information shall not be used by an
34 employee or agent of the state in determining whether
35 to initiate an enforcement action or investigation by
36 the state."
37 2. Title page, line 2, by striking the words
38 "under the public records law".

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

S-5412 FILED MARCH 26, 1992

*Adopted as amended 3/31 (p. 1109)
Further amended by 5613)
Adopted 4/4/92 (p. 1317)*

HOUSE FILE 681

S-5448

- 1 Amend the amendment, S-5412, to House File 681 as
 - 2 amended, passed, and reprinted by the House, as
 - 3 follows:
 - 4 1. Page 1, line 8, by striking the word "seeking"
 - 5 and inserting the following: ", acting in good faith,
 - 6 who seeks".
 - 7 2. Page 1, by striking lines 20 and 21 and
 - 8 inserting the following:
 - 9 "2. Assistance information in the possession of".
- By RICHARD VARN

S-5448 FILED MARCH 31, 1992
ADOPTED (p. 1109)

HOUSE FILE 681

S-5613

- 1 Amend the amendment, S-5412, to House File 681, as
 - 2 amended, passed, and reprinted by the House, as
 - 3 follows:
 - 4 1. Page 1, line 28, by inserting after the word
 - 5 "program" the following: "or prohibited from being
 - 6 made confidential pursuant to federal or state law".
- By RALPH ROSENBERG

S-5613 FILED APRIL 9, 1992
ADOPTED (p. 1317)

SENATE AMENDMENT TO HOUSE FILE 681

H-5868

1 Amend House File 681, as amended, passed and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 455B.484A
6 CONFIDENTIALITY FOR ASSISTANCE PROGRAMS.

7 1. As used in this section:

8 a. "Applicant" means a person, acting in good
9 faith, who seeks the services of an assistance
10 program.

11 b. "Assistance information" means all information
12 voluntarily supplied to or obtained by an assistance
13 program for the sole purpose of providing assistance
14 to an applicant and which constitutes information not
15 otherwise available to an assistance program.

16 c. "Assistance program" means the waste reduction
17 assistance program of the department or of the Iowa
18 waste reduction center for safe and economic
19 management of solid waste and hazardous substances
20 conducted pursuant to section 268.4.

21 2. Assistance information in the possession of an
22 assistance program or an employee or agent of an
23 assistance program is privileged and confidential, is
24 not subject to discovery, subpoena, or other means of
25 legal compulsion and is not admissible evidence in an
26 administrative or judicial proceeding. However,
27 assistance information discoverable from sources other
28 than an assistance program or prohibited from being
29 made confidential pursuant to federal or state law
30 does not become privileged or confidential merely
31 because it has been made available to or is in the
32 custody of an assistance program or an employee or
33 agent of an assistance program.

34 3. Assistance information shall not be used by an
35 employee or agent of the state in determining whether
36 to initiate an enforcement action or investigation by
37 the state."

38 2. Title page, line 2, by striking the words
39 "under the public records law".

RECEIVED FROM THE SENATE

H-5868 FILED APRIL 13, 1992

House concurred 4/22 (p 1647)

Jay-Chair, Hibbard, Hibbard HSB 277

Judiciary & Law Enforcement

HOUSE FILE 681
BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW EN-
FORCEMENT BILL BY
CHAIRPERSON JAY)

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

A BILL FOR

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2 relating to waste reduction under the public records law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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3 NEW SUBSECTION. 29. Information reports collected or
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5 resources' waste reduction assistance program, a program of
6 the Iowa waste reduction center located at the university of
7 northern Iowa, or any successor program. The information is
8 not a communication under subsection 18, and is not subject to
9 the exceptions pursuant to subsection 18, paragraphs "a", "b",
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14 physician's assistant, mental health professional, waste
15 reduction professional, or the stenographer or confidential
16 clerk of any such person, who obtains information by reason of
17 the person's employment, minister of the gospel or priest of
18 any denomination shall not be allowed, in giving testimony, to
19 disclose any confidential communication properly entrusted to
20 the person in the person's professional capacity, and
21 necessary and proper to enable the person to discharge the
22 functions of the person's office according to the usual course
23 of practice or discipline. The prohibition does not apply to
24 cases where the person in whose favor the prohibition is made
25 waives the rights conferred; nor does the prohibition apply to
26 physicians or surgeons, physician's assistants, mental health
27 professionals, waste reduction professional, or to the
28 stenographer or confidential clerk of any physicians or
29 surgeons, physician's assistants, ~~or~~ mental health
30 professionals, or waste reduction professional in a civil
31 action in which the condition of the person in whose favor the
32 prohibition is made is an element or factor of the claim or
33 defense of the person or of any party claiming through or
34 under the person. The evidence is admissible upon trial of
35 the action only as it relates to the condition alleged. If an

1 adverse party desires the oral deposition, either discovery or
2 evidentiary, of a physician or surgeon, physician's assistant,
3 or mental health professional, or waste reduction professional
4 to which the prohibition would otherwise apply or the
5 stenographer or confidential clerk of a physician or surgeon,
6 physician's assistant, or mental health professional, or waste
7 reduction professional or desires to call a physician or
8 surgeon, physician's assistant, or mental health professional,
9 or waste reduction professional to which the prohibition would
10 otherwise apply or the stenographer or confidential clerk of a
11 physician or surgeon, physician's assistant, or mental health
12 professional, or waste reduction professional as a witness at
13 the trial of the action, the adverse party shall file an
14 application with the court for permission to do so. The court
15 upon hearing, which shall not be ex parte, shall grant
16 permission unless the court finds that the evidence sought
17 does not relate to the condition alleged and shall fix a
18 reasonable fee to be paid to the physician or surgeon,
19 physician's assistant, or mental health professional, or waste
20 reduction professional by the party taking the deposition or
21 calling the witness. For the purposes of this section,
22 "mental health professional" means psychologists certified
23 under chapter 154B, registered nurses licensed under chapter
24 152, or individuals holding at least a master's degree in
25 social work or counseling and guidance and "waste reduction
26 professional" means an employee or agent of the department of
27 natural resources relating to the department's waste reduction
28 assistance program, or of the Iowa waste reduction center, or
29 of any successor program.

30

EXPLANATION

31 This bill identifies as public records which are required
32 to be kept confidential, information collected or submitted
33 for the waste reduction assistance program of the department
34 of natural resources or a program of the Iowa waste reduction
35 center at the university of northern Iowa, or a successor

1 program.

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HOUSE FILE 681

3. Assistance information shall not be used by an employee or agent of the state in determining whether to initiate an enforcement action or investigation by the state.

AN ACT
RELATING TO THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING
TO WASTE REDUCTION.

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

Section 1. NEW SECTION. 455B.484A CONFIDENTIALITY FOR ASSISTANCE PROGRAMS.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 681, Seventy-fourth General Assembly.

Approved May 19, 1992

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor

1. As used in this section:
 - a. "Applicant" means a person, acting in good faith, who seeks the services of an assistance program.
 - b. "Assistance information" means all information voluntarily supplied to or obtained by an assistance program for the sole purpose of providing assistance to an applicant and which constitutes information not otherwise available to an assistance program.
 - c. "Assistance program" means the waste reduction assistance program of the department or of the Iowa waste reduction center for safe and economic management of solid waste and hazardous substances conducted pursuant to section 268.4.
2. Assistance information in the possession of an assistance program or an employee or agent of an assistance program is privileged and confidential, is not subject to discovery, subpoena, or other means of legal compulsion and is not admissible evidence in an administrative or judicial proceeding. However, assistance information discoverable from sources other than an assistance program or prohibited from being made confidential pursuant to federal or state law does not become privileged or confidential merely because it has been made available to or is in the custody of an assistance program or an employee or agent of an assistance program.