

Shey, Chair  
Kettering  
Hawes

HSB 663

JUDICIARY  
SUCCEED  
SE 02517

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL  
BY CHAIRPERSON LARSON)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing certain procedures related to preserving  
2 confidentiality in professional liability cases.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 22.7, Code Supplement 1999, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 39. All documents in professional  
4 liability cases subject to sections 668.11 and 668.11A, prior  
5 to completion of the certification process required by section  
6 668.11.

7 Sec. 2. NEW SECTION. 668.11A CONFIDENTIALITY IN  
8 PROFESSIONAL LIABILITY CASES.

9 1. All filings in professional liability cases subject to  
10 the time period limitations for expert witness certification  
11 in section 668.11 shall be confidential, shall not be  
12 inspected by the public, and shall not be disclosed to the  
13 public, until the certification process is complete. This  
14 requirement does not apply to the service of documents and  
15 pleadings between parties to the action, and does not limit  
16 the use of documents and pleadings related to the case by  
17 attorneys, the attorneys' staff, parties, potential witnesses  
18 in the case, and court personnel administering such files and  
19 cases.

20 2. Pleadings, court notices, orders, and postings related  
21 to professional liability cases shall not contain the full,  
22 real names of professional liability defendants, until the  
23 certification process required by section 668.11 is complete.  
24 The court shall enact rules relating to the designation of  
25 professional liability defendants in such documents.

26 3. Hearings in the case held prior to completion of the  
27 certification process required by section 668.11 shall be  
28 closed to the public.

29 4. Any person who knowingly discloses or receives  
30 information protected by this section shall be liable for  
31 contempt, punishable by both fine and imprisonment.

32 EXPLANATION

33 This bill requires that professional liability cases be  
34 treated confidentially by the parties and the court, until the  
35 certification of expert witnesses pursuant to Code section

1 668.11 is complete. The bill provides that professional  
 2 liability defendants will not be designated by their full,  
 3 real names on any documents related to the case, and that  
 4 hearing in the case shall be closed to the public until the  
 5 certification process is complete. A related amendment is  
 6 made to Code section 22.7, pertaining to confidential records.

7 Violations of the confidentiality requirements are  
 8 punishable as contempt with both fine and imprisonment.

- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

FEB 29 2000

Place On Calendar

HOUSE FILE **2517**  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 663)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing certain procedures related to preserving  
2 confidentiality in professional liability cases.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

**HF 2517**

1 Section 1. Section 22.7, Code Supplement 1999, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 39. All documents in professional  
4 liability cases subject to sections 668.11 and 668.11A, prior  
5 to completion of the certification process required by section  
6 668.11.

7 Sec. 2. Section 668.11, Code 1999, is amended by adding  
8 the following new subsection before subsection 1:

9 NEW SUBSECTION. 0A. For purposes of this section and  
10 section 668.11A, "licensed professional" means a professional  
11 registered, certified, or licensed, and admitted to practice a  
12 profession under the laws of this state pursuant to any of the  
13 following: chapters 148, 148C, 150, 150A, 152, 152B, 155A,  
14 169, 542B, 542C, 544A, and 602;

15 Sec. 3. NEW SECTION. 668.11A CONFIDENTIALITY IN  
16 PROFESSIONAL LIABILITY CASES.

17 1. Unless a court having jurisdiction determines that the  
18 potential for unfair prejudice to any party is outweighed by  
19 the public's interest in timely disclosure and open  
20 proceedings, all filings in professional liability cases  
21 subject to the time period limitations for expert witness  
22 certification in section 668.11 shall be confidential, shall  
23 not be inspected by the public, and shall not be disclosed to  
24 the public, until the plaintiff's expert witness or witnesses  
25 have been certified. This requirement does not apply to the  
26 service of documents and pleadings between parties to the  
27 action, and does not limit the use of documents and pleadings  
28 related to the case by attorneys, the attorneys' staff,  
29 parties, potential witnesses in the case, and court personnel  
30 administering such files and cases.

31 2. Pleadings, court notices, orders, and postings related  
32 to professional liability cases shall not contain the full,  
33 real names of professional liability defendants, until the  
34 plaintiff's expert witness or witnesses have been certified as  
35 required by section 668.11. The court shall enact rules

1 relating to the designation of professional liability  
2 defendants in such documents.

3 3. Hearings in the case held prior to completion of the  
4 certification process required by section 668.11 shall be  
5 closed to the public.

6 4. Parties to professional liability proceedings may be  
7 punished for contempt of court for violation of this section.

8 5. This section shall not prohibit any party from seeking  
9 or soliciting the joinder of third parties or additional  
10 counsel or experts in support of that party's position in the  
11 case.

12 EXPLANATION

13 This bill requires that professional liability cases be  
14 treated confidentially by the parties and the court, until the  
15 certification of expert witnesses pursuant to Code section  
16 668.11 is complete. The bill provides that professional  
17 liability defendants will not be designated by their full,  
18 real names on any documents related to the case, and that  
19 hearing in the case shall be closed to the public until the  
20 certification process is complete. A related amendment is  
21 made to Code section 22.7, pertaining to confidential records.

22 Violations of the confidentiality requirements are  
23 punishable as contempt with both fine and imprisonment.

24

25

26

27

28

29

30

31

32

33

34

35

**HOUSE FILE 2517  
FISCAL NOTE**

---

The estimate for House File 2517 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

House File 2517 requires that liability cases of licensed professionals be treated confidentially by the parties and the court, until the certification of expert witnesses is complete. Licensed professionals include people who are registered, licensed, certified, and admitted to practice one of the following professions: architects, engineers, land surveyors, public accountants, medical doctors, physician assistants, nursing, osteopathic medicine and surgeons, respiratory therapists, pharmacists, and veterinarians. House File 2517 provides that violations of the confidentiality requirements are punishable as contempt.

**ASSUMPTIONS**

1. There were 1,121 contempt of court convictions during 1998. Of these convictions, jail terms were imposed in 865 cases. Compared to the total number of cases heard by the district court annually, the proportion of cases in which contempt is cited is small.
2. There will be few willful violations of the confidentiality requirements, a factor necessary to show contempt.
3. There may be increased workloads in the Clerk of Court's offices, to maintain the confidentiality of these records, and program changes to the Iowa Court Information System (ICIS).
4. The statewide average cost per day for county jails is \$60.00.

**CORRECTIONAL IMPACT**

House File 2517 may result in additional jail sentences imposed for contempt, however, it is not expected to be significant.

**FISCAL IMPACT**

House File 2517 is not expected to have any significant fiscal impact.

**SOURCES**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Office of the State Court Administrator  
Iowa State Association of Counties

(LSB 6496hv, BAL)

## HOUSE FILE 2517

H-8283

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "152B," the following: "153,".

By KREIMAN of Davis

H-8283 FILED MARCH 9, 2000

## HOUSE FILE 2517

H-8284

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "148," the following: "148B,".

By KREIMAN of Davis

H-8284 FILED MARCH 9, 2000

## HOUSE FILE 2517

H-8285

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "152B," the following: "154C,".

By KREIMAN of Davis

H-8285 FILED MARCH 9, 2000

## HOUSE FILE 2517

H-8286

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "152B," the following: "154,".

By KREIMAN of Davis

H-8286 FILED MARCH 9, 2000

## HOUSE FILE 2517

H-8287

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "152B," the following: "154D,".

By KREIMAN of Davis

H-8287 FILED MARCH 9, 2000

## HOUSE FILE 2517

H-8288

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "152B," the following: "154B,".

By KREIMAN of Davis

H-8288 FILED MARCH 9, 2000

HOUSE FILE 2517

H-8278

- 1 Amend House File 2517 as follows:
- 2 1. Page 2, by inserting after line 11 the
- 3 following:
- 4 "6. This section shall not apply in cases where
- 5 the sole theory of recovery is res ispa loquitur."

By SHEY of Linn

H-8278 FILED MARCH 8, 2000

HOUSE FILE 2517

H-8282

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 14, by inserting after the figure
- 3 "169," the following: "272,".

By KREIMAN of Davis

H-8282 FILED MARCH 9, 2000

HOUSE FILE 2517

H-8289

- 1 Amend House File 2517 as follows:
- 2 1. Page 1, line 13, by inserting after the figure
- 3 "150A," the following: "151,".

By KREIMAN of Davis

H-8289 FILED MARCH 9, 2000