

Connolly  
Redwine  
Rehberg

SSB - 1070  
Education  
Sponsored By  
(SF/HF 292)

SENATE/HOUSE FILE  
BY (PROPOSED DEPARTMENT OF  
EDUCATION/BOARD OF EDUCATIONAL  
EXAMINERS BILL)

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

A BILL FOR

1 An Act providing for the designation of investigative information  
2 possessed by the board of educational examiners as privileged  
3 and confidential.

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

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1 Section 1. Section 272.13, Code 1999, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The provisions of section  
4 272C.6, subsection 4, relating to the confidential or  
5 privileged status of investigative information, are applicable  
6 to all complaint files, investigation files, other  
7 investigation reports, and other information in the possession  
8 of the board or its employees or agents which relates to  
9 licensee discipline.

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EXPLANATION

11 This bill provides that Code section 272C.6, subsection 4,  
12 shall be applicable to all complaint files, investigation  
13 files, and other investigation reports and information in  
14 possession of the board of educational examiners or its  
15 employees or agents relating to licensee discipline. Code  
16 section 272C.6, subsection 4, designates this information as  
17 privileged and confidential in nature. As such, these files,  
18 reports, and other information would not be subject to  
19 discovery, subpoena, or other means of legal compulsion for  
20 their release to a person other than a licensee and the board,  
21 its employees, and agents involved in licensee discipline, and  
22 would not be admissible in evidence in a judicial or  
23 administrative proceeding other than a proceeding involving  
24 licensee discipline.

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DATE: January 22, 1999

TO: Members of the General Assembly

FROM: Anne E. Kruse, Ph.D., Executive Director  
Iowa Board of Educational Examiners

RE: Prefiled bill – LSB 1285DP 78

**NEED FOR THE BILL:** This proposal would place this board's investigative files on the same footing as those of other state licensing boards and allow the board to maintain these files as confidential.

**PURPOSE OF THE BILL:** To keep the investigative information possessed by the board as privileged and confidential.

**INTENT OF THE REQUESTED BILL:** The Board received on September 30, 1997 an Attorney General's opinion, chapter 272, that does not designate the board's investigative files as confidential records.

“In the absence of a provision of law designating the Board's investigative report as confidential, the report is a public record... [which] must be disclosed on request to any person... unless one of the disclosure exceptions of section 22.7 or another provision of law designates a portion of the information confidential.” Op. Att’y Gen. #97-9-3(1) at pp. 8-9.

Code chapter 272C, which governs the operation of the majority of state licensing boards, includes a provision which expressly designates “all complaint files, investigative files, other investigative reports, and other investigative information in the possession of a [chapter 272C] licensing board to its employees or agents which relates to licensee discipline as privileged and confidential.” Iowa Code 272C.6(4) (1997).

Pursuant to this provision, information contained in a licensing board's investigation files may only be released to “the licensee and the boards, their employees and agents involved in licensee discipline” and are not admissible in any administrative or judicial proceeding other than a proceeding involving licensee discipline” Id.

The expressed legislative intent behind subsection 272C.6(4) is to “assure the free flow of information” to licensing board's for the purpose of conducting disciplinary proceedings. It would appear that this rationale is equally applicable to the Board of Educational Examiners' operations.

FILED MAR 3 1999

REPRINTED

SENATE FILE 292  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1070)

Passed Senate, Date <sup>(p. 802)</sup> 3-25-99 Passed House, Date \_\_\_\_\_  
Vote: Ayes 42 Nays 6 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_ 5/19/00

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SF 292

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SENATE FILE 292

S-3119

1 Amend Senate file 292 as follows:  
2 1. Page 1, by striking lines 3 through 9 and  
3 inserting the following:  
4 "NEW UNNUMBERED PARAGRAPH. All complaint files,  
5 investigation files, other investigation reports, and  
6 other investigative information in the possession of  
7 the board or its employees or agents, which relate to  
8 licensee discipline, are privileged and confidential,  
9 and are not subject to discovery, subpoena, or other  
10 means of legal compulsion for their release to a  
11 person other than the respondent and the board and its  
12 employees and agents involved in licensee discipline,  
13 and are not admissible in evidence in a judicial or  
14 administrative proceeding other than the proceeding  
15 involving licensee discipline. However, investigative  
16 information in the possession of the board or its  
17 employees or agents which relates to licensee  
18 discipline may be disclosed to appropriate licensing  
19 authorities within this state, the appropriate  
20 licensing authority in another state, the District of  
21 Columbia, or a territory or country in which the  
22 licensee is licensed or has applied for a license. A  
23 final written decision and finding of fact of the  
24 board in a disciplinary proceeding is a public  
25 record."

By MIKE CONNOLLY

S-3119 FILED MARCH 23, 1999

*Adopted*  
*3/25/99*  
*(p.802)*

H- 3/26/99 Education  
H- 4/1/99 Do Pass  
H- 2/21/00 Do Pass  
H- 3/23/00 unfinished Business  
Estlander

SENATE FILE 292  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1070)

(AS AMENDED AND PASSED BY THE SENATE MARCH 25, 1999)

ALL New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date 4-18-00  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 96 Nays 0  
Approved 5/19/00

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SF. 292

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10 board and its employees and agents involved in licensee  
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17 appropriate licensing authority in another state, the District  
18 of Columbia, or a territory or country in which the licensee  
19 is licensed or has applied for a license. A final written  
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SENATE FILE 292

AN ACT

PROVIDING FOR THE DESIGNATION OF INVESTIGATIVE INFORMATION POSSESSED BY THE BOARD OF EDUCATIONAL EXAMINERS AS PRIVILEGED AND CONFIDENTIAL.

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

Section 1. Section 272.13, Code 1999, is amended by adding the following new unnumbered paragraph:

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\_\_\_\_\_  
MARY E. KRAMER  
President of the Senate

\_\_\_\_\_  
BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 292, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 5/19, 2000

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THOMAS J. VILSACK  
Governor