

**House File 509 - Introduced**

HOUSE FILE 509

BY ISENHART

**A BILL FOR**

1 An Act relating to the creation of the division of public  
2 information in the department of justice and providing an  
3 appropriation.

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

1 Section 1. Section 2C.18, Code 2011, is amended to read as  
2 follows:

3 **2C.18 Report to general assembly.**

4 ~~The~~ In addition to the report required pursuant to section  
5 23.1, the citizens' aide shall by April 1 of each year submit  
6 an economically designed and reproduced report to the general  
7 assembly and to the governor concerning the exercise of the  
8 citizens' aide functions during the preceding calendar year.  
9 In discussing matters with which the citizens' aide has been  
10 concerned, the citizens' aide shall not identify specific  
11 persons if to do so would cause needless hardship. If the  
12 annual report criticizes a named agency or official, it shall  
13 also include unedited replies made by the agency or official  
14 to the criticism, unless excused by the agency or official  
15 affected.

16 Sec. 2. NEW SECTION. **23.1 Division of public information**  
17 **— department of justice.**

18 1. The division of public information is created within  
19 the department of justice to provide education, support, and  
20 enforcement services with respect to violations of chapters 21  
21 and 22.

22 2. Any aggrieved person or taxpayer to or citizen of the  
23 state of Iowa may file a complaint against a governmental  
24 body, as defined in section 21.2, or the lawful custodian  
25 of a government body, as defined in section 22.1, or any  
26 other persons who would be appropriate defendants under the  
27 circumstances, with the division upon a form developed by the  
28 division.

29 3. *a.* The division shall refer a complaint received by the  
30 division to the office of the citizens' aide. The citizens'  
31 aide shall consider the complaint and take the appropriate  
32 action with regard to the complaint pursuant to the procedures  
33 established under sections 2C.12 through 2C.15.

34 *b.* If, upon investigation of a complaint, the citizens'  
35 aide finds substantiating facts to support the complaint, the

1 citizens' aide shall offer to resolve the complaint through  
2 mediation. Mediation shall be conducted in an informal,  
3 nonadversarial process and in a manner calculated to help the  
4 parties reach a mutually acceptable and voluntary settlement  
5 agreement.

6 *c.* If a mediated settlement agreement is not reached within  
7 thirty days of receipt of the complaint, the citizens' aide  
8 shall refer the complaint back to the division of public  
9 information of the department of justice. Within thirty  
10 days of referral, the division shall refer the case to  
11 the appropriate county attorney of the county in which the  
12 governmental body or the lawful custodian has its principal  
13 place of business. The division shall send a copy of the  
14 complaint filed under subsection 2 to the county attorney  
15 advising the county attorney to further investigate the  
16 complaint, and, if, within thirty days of receipt of the  
17 complaint, the county attorney determines the complaint is  
18 founded, the county attorney shall file a civil enforcement  
19 action pursuant to section 21.6 or 22.10 against the  
20 governmental body, lawful custodian for the government body,  
21 or any other persons who would be appropriate defendants under  
22 the circumstances.

23 *d.* If the county attorney fails to act within the thirty-day  
24 period prescribed in paragraph "c", the division shall advise  
25 the parties that the division will, upon further investigation,  
26 either file a civil enforcement action pursuant to section  
27 21.6 or 22.10 against the governmental body, lawful custodian  
28 for the government body, or any other persons who would be  
29 appropriate defendants under the circumstances, or dismiss the  
30 complaint.

31 4. The division shall make training opportunities  
32 available to lawful custodians, government bodies, and other  
33 persons subject to the requirements of chapters 21 and 22  
34 and require, in its discretion, appropriate persons who have  
35 responsibilities in relation to chapters 21 and 22 to receive

1 periodic training approved by the division.

2 5. The attorney general and the citizens' aide shall submit  
3 a joint report to the general assembly and to the governor by  
4 April 1 of each year regarding complaints, mediations, and  
5 enforcement actions brought pursuant to this section, and  
6 shall make recommendations to the general assembly proposing  
7 legislation and any additional resources that may be necessary  
8 relating to the accountability and transparency of government  
9 in this state.

10 Sec. 3. APPROPRIATION — GENERAL FUND. There is  
11 appropriated from the general fund of the state to the  
12 department of justice for the fiscal year beginning July 1,  
13 2011, and ending June 30, 2012, the following amount, or so  
14 much thereof as is necessary, to be used for the purposes  
15 designated:

16 For purposes of the division of public information within  
17 the department of justice created in section 23.1 to provide  
18 education, mediation, and enforcement services with respect to  
19 violations of chapters 21 and 22, and for not more than the  
20 following full-time equivalent positions:

21 .....	\$	200,000
22 .....	FTEs	2.00

23 EXPLANATION

24 This bill relates to the creation of the division of public  
25 information in the department of justice and provides an  
26 appropriation.

27 The bill creates the division of public information within  
28 the department of justice to provide education, support, and  
29 enforcement services with respect to violations of Iowa's open  
30 meetings and open records laws (Code chapters 21 and 22).

31 The bill provides that any aggrieved person or taxpayer  
32 to or citizen of the state may file a complaint against a  
33 governmental body, as defined in Code section 21.2, or the  
34 lawful custodian of a government body, as defined in Code  
35 section 22.1, or any other persons who would be appropriate

1 defendants under the circumstances, with the division upon  
2 a form developed by the division. The division shall refer  
3 a complaint received by the division to the office of the  
4 citizens' aide and the citizens' aide shall consider the  
5 complaint and take the appropriate action with regard to  
6 the complaint pursuant to current procedures under which  
7 the citizens' aide processes complaints generally. If,  
8 upon investigation of a complaint, the citizens' aide finds  
9 substantiating facts to support the complaint, the citizens'  
10 aide shall offer to resolve the complaint through mediation.  
11 Mediation shall be conducted in an informal, nonadversarial  
12 process and in a manner calculated to help the parties reach  
13 a mutually acceptable and voluntary settlement agreement. If  
14 a mediated settlement agreement is not reached within 30 days  
15 of receipt of the complaint, the citizens' aide shall refer  
16 the complaint back to the division of public information.  
17 Within 30 days of referral, the division shall refer the case  
18 to the appropriate county attorney of the county in which the  
19 governmental body or the lawful custodian has its principal  
20 place of business and advise the county attorney to further  
21 investigate the complaint, and, if, within 30 days of receipt  
22 of the complaint, the county attorney determines the complaint  
23 is founded, the county attorney is required to file a civil  
24 enforcement action against the governmental body, lawful  
25 custodian for the government body, or any other persons who  
26 would be appropriate defendants under the circumstances. If  
27 the county attorney fails to act within the 30-day period, the  
28 division shall advise the parties that the division will, upon  
29 further investigation, file a civil enforcement action against  
30 the governmental body, lawful custodian for the government  
31 body, or any other persons who would be appropriate defendants  
32 under the circumstances or dismiss the complaint.

33 The bill requires the division to make training  
34 opportunities available to lawful custodians, government  
35 bodies, and other persons subject to the requirements of Code

1 chapters 21 and 22 and require, in its discretion, appropriate  
2 persons to receive periodic training approved by the board.

3 The bill requires the attorney general and the citizens'  
4 aide to submit a joint report to the general assembly and to  
5 the governor by April 1 of each year regarding complaints,  
6 mediations, and enforcement actions brought pursuant to the  
7 bill, and shall include recommendations proposing legislation  
8 and any additional resources that may be necessary relating to  
9 accountability and transparency of government in this state.

10 The bill appropriates \$200,000 from the general fund of  
11 the state to the department of justice for the fiscal year  
12 beginning July 1, 2011, and ending June 30, 2012, for purposes  
13 of the division of public information within the department of  
14 justice created in the bill to provide education, support, and  
15 enforcement services.