

House Study Bill 138 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED IOWA PUBLIC
INFORMATION BOARD BILL)

A BILL FOR

1 An Act relating to the confidentiality of certain law
2 enforcement reports, records, and information under Iowa's
3 open records law.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2019, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:

4 5. *a.* Peace officers' investigative reports, privileged
5 records or information specified in section 80G.2, and
6 specific portions of electronic mail and telephone billing
7 records of law enforcement agencies if that information is
8 part of an ongoing investigation, except where disclosure is
9 authorized elsewhere in this Code. However, specific portions
10 of electronic mail and telephone billing records may only be
11 kept confidential under this paragraph if the length of time
12 prescribed for commencement of prosecution or the finding of
13 an indictment or information under the statute of limitations
14 applicable to the crime that is under investigation has not
15 expired.

16 *b.* Records or information compiled for law enforcement
17 purposes. However, the date, time, specific location, and
18 immediate facts and circumstances surrounding a crime or
19 incident shall not be confidential under this paragraph
20 except in those unusual circumstances where disclosure would
21 plainly and seriously jeopardize an investigation or pose a
22 clear and present danger to the safety of an individual. Any
23 other records or information compiled for law enforcement
24 purposes shall remain confidential only to the extent that the
25 production of such records or information could reasonably be
26 expected to do any of the following:

27 (1) Interfere with enforcement proceedings.

28 (2) Deprive a person of a right to a fair trial or an
29 impartial adjudication.

30 (3) Constitute an unwarranted invasion of personal privacy.

31 (4) Disclose the identity of a confidential source
32 including a state, local, or foreign agency or authority,
33 a private institution which furnished information on a
34 confidential basis, and, in the case of an investigative
35 report compiled by a law enforcement agency in the course

1 of a criminal investigation or by a law enforcement
2 agency conducting a lawful national security intelligence
3 investigation, information furnished by a confidential source.

4 (5) Disclose techniques, procedures, and guidelines for law
5 enforcement investigations or prosecutions if such disclosure
6 could reasonably be expected to risk circumvention of the law.

7 (6) Endanger the life or physical safety of any individual.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to the confidentiality of certain law
12 enforcement reports, records, and information under Iowa's open
13 records law.

14 Current Code section 22.7(5) provides that peace officers'
15 investigative reports, certain law enforcement officer
16 privileged records or information, and specific portions
17 of electronic mail and telephone billing records of law
18 enforcement agencies if part of an ongoing investigation are
19 confidential, except where disclosure is authorized elsewhere
20 in the Code. The date, time, specific location, and immediate
21 facts and circumstances surrounding a crime or incident shall
22 not be kept confidential, except in those unusual circumstances
23 where disclosure would plainly and seriously jeopardize an
24 investigation or pose a clear and present danger to the safety
25 of an individual. Specific portions of electronic mail and
26 telephone billing records may only be kept confidential if
27 the length of time prescribed to begin a prosecution or the
28 finding of an indictment or information applicable to the crime
29 investigated has not expired.

30 The bill amends Code section 22.7(5) to provide that peace
31 officers' investigative reports, law enforcement officer
32 privileged records or information specified in Code section
33 80G.2, and specific portions of electronic mail and telephone
34 billing records of law enforcement agencies if that information
35 is part of an ongoing investigation, shall be confidential.

1 Specific portions of electronic mail and telephone billing
2 records of law enforcement agencies are subject to the same
3 confidentiality restrictions as provided in current law.

4 The bill also amends Code section 22.7(5) to provide that
5 records or information compiled for law enforcement purposes
6 except for the date, time, specific location, and immediate
7 facts and circumstances of a crime or incident, subject to
8 certain unusual circumstances, shall be confidential. Any
9 other records or information compiled for law enforcement
10 purposes shall be confidential, but only to the extent that
11 such records or information could reasonably be expected to (1)
12 interfere with enforcement proceedings; (2) deprive a person
13 of a right to a fair trial; (3) constitute an unwarranted
14 invasion of personal privacy; (4) disclose the identity
15 of a confidential source which furnished information on a
16 confidential basis, and, in the case of an investigative report
17 compiled by a criminal law enforcement agency in the course
18 of a criminal investigation or by a law enforcement agency
19 conducting a national security intelligence investigation,
20 information furnished by a confidential source; (5) disclose
21 techniques, procedures, and guidelines for law enforcement
22 investigations or prosecutions if such disclosure could
23 reasonably be expected to risk circumvention of the law; or (6)
24 endanger the life or physical safety of any individual.