



# Iowa General Assembly

## 2003 Legal Updates

Legislative Services Agency – Legal Services Division

<http://www.legis.state.ia.us>

**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### **BREACH OF CONFIDENTIALITY - PRIVATE CAUSE OF ACTION DENIED**

Filed by the Iowa Court of Appeals  
April 30, 2003

Jay Dee Eickemeyer v. State of Iowa, No. 3-032/02-0869

<http://www.judicial.state.ia.us/appeals/opinions/20030430/02-0869.doc>

**Background.** The Iowa District Court for Page County considered a case in which a claim against the State of Iowa based upon a breach of confidentiality was asserted. The plaintiff, Jay Dee Eickemeyer, had filed several complaints with the Iowa Department of Inspections and Appeals against Home Sweet Home, Inc. pursuant to Iowa Code chapter 135C, which provides remedies and penalties for the violation of provisions governing the licensure and regulation of health care facilities providing housing for the aged, infirm, convalescent, and the mentally or physically dependent. During the course of the resultant investigation by the department, the identity of the complainant was disclosed to Home Sweet Home.

**District Court Proceedings.** The plaintiff's petition alleged a breach of confidentiality violating Iowa Code section 135C.37, and a common law breach of confidentiality negligence claim. Iowa Code section 135C.37 specifically states that:

The name of the person who files a complaint ..... shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the department employees involved in the investigation of the complaint.

The district court granted the State's motion for summary judgment on the basis that the statute did not provide for a private cause of action for breach of confidentiality, and that the State does not recognize a common law breach of confidentiality negligence action.

**Appellate Decision.** The Court determined that Iowa Code section 135C.37 does not explicitly provide a private cause of action for a breach of confidentiality, and therefore examined whether the statute contains any indication of legislative intent to create or deny a private cause of action, or whether such a cause of action would be consistent with the underlying purpose of the statute. The Court found that a private cause would be consistent with the statute's underlying purpose of safeguarding the care and housing of individuals to whom the statute applies. The Court determined, however, that there was no indication of legislative intent to create a remedy for breach of the duty to keep the identity of complainants confidential, and that by its silence the Legislature signaled an intention not to provide such a remedy. In reaching its conclusion, the Court noted that the Legislature has in several instances expressly established by statute a private cause of action for breach of a statutory duty.

The Court of Appeals affirmed the district court's grant of summary judgment in favor of the State.

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