House of Representatives

General Assembly

File No. 478

January Session, 2003

Substitute House Bill No. 5930

House of Representatives, April 22, 2003

The Committee on Public Health reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONFIDENTIALITY OF EMPLOYEE ASSISTANCE PROGRAM CLIENT COMMUNICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-128a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2003*):

As used in this chapter:

(1) "Employee" means any individual currently employed or formerly employed by an employer and includes individuals in managerial positions;

<u>(2) "Employee assistance program" means a program sponsored or authorized by an employer, intended to assist employees in identifying and resolving personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, gambling, legal, emotional, stress or other personal issues that may affect job performance;</u>

(3) "Employee assistance professional" means any person who is required by job description or employment contract to provide services pursuant to an employee assistance program;

[(2)] (4) "Employer" means an individual, corporation, partnership or unincorporated association;

[(3)] (5) "Personnel file" means papers, documents and reports pertaining to a particular employee which are used or have been used by an employer to determine such employee's eligibility for employment, promotion, additional compensation, transfer, termination, disciplinary or other adverse personnel action including employee evaluations or reports relating to such employee's character, credit and work habits. "Personnel file" does not mean stock option or management bonus plan records, medical records, letters of reference or recommendations from third parties including former employers, materials which are used by the employer to plan for future operations, information contained in separately maintained security files, test information, the disclosure of which would invalidate the test, or documents which are being developed or prepared for use in civil, criminal or grievance procedures;

[(4)] (6) "Medical records" means all papers, documents and reports prepared by a physician, psychiatrist or psychologist that are in the possession of an employer and are work-related or upon which such employer relies to make any employment-related decision;

[(5)] (7) "Security files" means memoranda, documents or collections of information relating to investigations of losses, misconduct or suspected crimes, and investigative information maintained pursuant to government requirements, provided such memoranda, documents, or information are maintained separately and not used to determine an employee's eligibility for employment, promotion, additional compensation, transfer, termination, disciplinary or other adverse personnel action.

Sec. 2. Section 31-128i of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective October 1, 2003*):

(a) No employee assistance professional, employee or state employee shall be required to disclose any information or records concerning or confirming the employee's voluntary participation in an employee assistance program sponsored or authorized by an employer or the state or any of its agencies.

(b) Except as permitted under section 31-128f, no employee assistance program, by itself or its agents or representatives, shall disclose any information or records concerning or confirming an employee's or a state employee's voluntary participation in such program without the prior written consent of the employee or state employee, except where disclosure is necessary to prevent harm to the employee or others.

(c) For purposes of this section, "state employee" means any employee in the executive, legislative or judicial branch of state government, whether in the classified or unclassified service and whether full or part-time and any employee of a quasi-public agency.

This act shall take effect as follows:	
Section 1	*October 1, 2003*
Sec. 2	*October 1, 2003*

PH *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill provides for the confidentiality of employee assistance programs and will result in no cost to the state.

OLR Bill Analysis
sHB 5930

AN ACT CONCERNING CONFIDENTIALITY OF EMPLOYEE ASSISTANCE PROGRAM CLIENT COMMUNICATIONS

SUMMARY:
This bill prohibits anyone from requiring an employee assistance professional or employee to disclose any information or records concerning or confirming the employee's voluntary participation in an employee assistance program (EAP) sponsored or authorized by the employer. Existing law prohibits anyone from requiring state employees to disclose information or records about their participation in an EAP sponsored or authorized by the state.

The bill defines an "EAP" as one sponsored or authorized by an employer, intended to assist employees in identifying and resolving personal concerns, including health, marital, family, financial, alcohol, drug, gambling, legal, emotional, stress, or other personal issues that may affect job performance. "Employee assistance professional" is a person required by job description or employment contract to provide services through an EAP.

The bill prohibits an EAP, including its agents and representatives, from disclosing any information or records about an employee's voluntary participation in a program without the person's prior written consent, unless disclosure is necessary to prevent harm to the employee or others. Records of state employees, who currently have this written consent protection, also are subject to disclosure when necessary to prevent harm under the bill.

Existing law, unchanged by the bill, prohibits disclosing information that identifies an individual to anyone, other than a person or entity employed by or affiliated with the employer, without written authorization, unless the disclosure:

1. is limited to the employee's dates of employment, position held, and wage or salary, or,

2. is made to a third party who maintains or prepares employment

records or performs other employment-related services for the employer,

3. pursuant to a lawfully issued administrative summons or judicial order, including a search warrant or subpoena,

4. pursuant to a request by a law enforcement agency for an employee's home address and dates of attendance at work,

5. in response to an apparent medical emergency or to apprise the employee's physician of a medical condition of which the employee may not be aware,

6. to comply with federal , state, or local laws; or

7. pursuant to a collective bargaining agreement.

EFFECTIVE DATE: October 1, 2003

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 21 Nay 0