

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 337

Introduced by Riepe, 12.

Read first time January 11, 2023

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to mental health practitioners; to amend
- 2 section 38-2136, Revised Statutes Cumulative Supplement, 2022; to
- 3 provide for a confidentiality exception; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2136, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 38-2136 No person who is licensed or certified pursuant to the
4 Mental Health Practice Act or who holds a privilege to practice in
5 Nebraska as a professional counselor under the Licensed Professional
6 Counselors Interstate Compact shall disclose any information he or she
7 may have acquired from any person consulting him or her in his or her
8 professional capacity except:

9 (1) With the written consent of the person or, in the case of death
10 or disability, of the person's personal representative, any other person
11 authorized to sue on behalf of the person, or the beneficiary of an
12 insurance policy on the person's life, health, or physical condition.
13 When more than one person in a family receives therapy conjointly, each
14 such family member who is legally competent to execute a waiver shall
15 agree to the waiver referred to in this subdivision. Without such a
16 waiver from each family member legally competent to execute a waiver, a
17 practitioner shall not disclose information received from any family
18 member who received therapy conjointly;

19 (2) As such privilege against disclosure is limited by the laws of
20 the State of Nebraska or as the board may determine by rule and
21 regulation;

22 (3) When the person waives the privilege against disclosure by
23 bringing charges against the licensee; ~~or~~

24 (4) When there is a duty to warn under the limited circumstances set
25 forth in section 38-2137; or ~~or~~

26 (5) When the disclosure of information is permitted under the Health
27 Insurance Portability and Accountability Act of 1996, Public Law 104-191,
28 or as otherwise permitted by law.

29 Sec. 2. Original section 38-2136, Revised Statutes Cumulative
30 Supplement, 2022, is repealed.