

HOUSE BILL REPORT

SSB 5998

As Reported by House Committee On: Judiciary

Title: An act relating to health care provider and health care facility whistleblower protections.

Brief Description: Concerning health care provider and health care facility whistleblower protections.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Keiser, Rivers, Carlyle, Fain, Cleveland, Lias, Van De Wege, Conway, Chase, Saldaña and King).

Brief History:

Committee Activity:

Judiciary: 2/14/18, 2/21/18 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Expands the definition of "whistleblower" to include a health care provider or member of a medical care staff at a health care facility.
- Provides a civil remedy to nonemployee whistleblowers who have been subject to retaliatory action.
- Establishes standards for the sanction process against medical staff.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall and Valdez.

Staff: Ingrid Lewis (786-7289).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Whistleblower protections, which include confidentiality and freedom from workplace reprisals, extend to consumers, employees, and health care professionals who communicate allegations of improper quality of care by a health care facility or provider to the Department of Health in good faith. Only a whistleblower who is an employee of a health care facility or provider may have recourse against retaliatory action.

Hospitals maintain a quality improvement program that includes a medical staff privileges sanction procedure through which professional conduct is reviewed as part of an evaluation of staff privileges of health care providers.

Summary of Amended Bill:

The definition of "whistleblower" for a person who is a health care professional is amended to include a health care provider or member of a medical care staff at a health care facility. Whistleblower protection is expanded to include a whistleblower who initiates in good faith any investigation or administrative proceeding about a complaint made to the Department of Health.

A nonemployee whistleblower who is subjected to reprisal or retaliatory action by a health care provider or health care facility may file a civil cause of action within two years of the retaliatory action. The nonemployee may recover damages and reasonable attorney's fees and costs, as well as enjoin further violations. A respondent may be awarded attorney's fees for unfounded and frivolous claims by a nonemployee whistleblower.

Absent the adherence to a medical staff privileges sanction process, any reduction of medical staff membership or privileges qualifies as a "reprisal or retaliatory action."

A professional peer review action taken by a health care facility must meet the federal standards for professional review actions.

Amended Bill Compared to Substitute Bill:

The amendment removes confidentiality protection for a whistleblower who does not participate or cooperate in an investigation or administrative proceeding in good faith, making the subsection consistent with other provisions in the bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill came as a result of complaints that were coming out of Swedish Hospital. The Department of Labor and Industries, the Health Care Authority, and the Department of Health were unable to review complaints and concerns that certain health care providers had when working in hospitals. Under Washington law, the protections already exist for employees and healthcare professionals who report quality of care complaints in good faith. This bill extends those protections to nonemployee health care providers working in a hospital and provides medical staff and physicians an opportunity to speak up without fear of retaliation. It would allow an opportunity to address concerns before they become a problem.

(Opposed) None.

Persons Testifying: Senator Keiser, prime sponsor; and Katie Kolan, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.