

SECOND REGULAR SESSION

HOUSE BILL NO. 1985

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LeVOTA (Sponsor), BURNETT AND LOW (39) (Co-sponsors).

Read 1st time March 8, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5490L.01I

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the health care whistleblower protection act, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be
2 known as section 191.450, to read as follows:

**191.450. 1. This section shall be known and may be cited as the "Health Care
2 Whistleblower Protection Act".**

**3 2. No employer shall take any retaliatory action against an employee because the
4 employee does any of the following:**

**5 (1) Discloses or threatens to disclose to a supervisor or to a public body an activity,
6 policy, or practice of the employer of another employer with whom there is a business
7 relationship that the employee reasonably believes is in violation of a law or a rule adopted
8 thereunder, or in the case of an employee who is a licensed or certified health care
9 professional, reasonably believes constitutes improper quality of patient care;**

**10 (2) Provides information to or testifies before any public body conducting an
11 investigation, hearing, or inquiry into any violation of law or rule adopted thereunder by
12 the employer or another employer with whom there is a business relationship, or in the
13 case of an employee who is a licensed or certified health care professional, provides
14 information to or testifies before any public body conducting an investigation, hearing, or
15 inquiry into the quality of patient care; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **(3) Objects to or refuses to participate in any activity, policy, or practice which the**
17 **employee reasonably believes:**

18 **(a) Is in violation of a law or rule adopted thereunder, or if the employee is a**
19 **licensed or certified health care professional, constitutes improper quality of patient care;**

20 **(b) Is fraudulent or criminal; or**

21 **(c) Is incompatible with a clear mandate of public policy concerning the public**
22 **health, safety, or welfare or protection of the environment.**

23 **3. Upon violation of any of the provisions of this section, an aggrieved employee or**
24 **former employee may, within one year, institute a civil action in a court of competent**
25 **jurisdiction. Upon the application of any party, a jury shall be directed to try the validity**
26 **of any claim under this section specified in the suit. All remedies available in common law**
27 **tort actions shall be available to prevailing plaintiffs. Such remedies shall be in addition**
28 **to any legal or equitable relief provided by this section or any other state law. The court**
29 **may also order:**

30 **(1) An injunction to restrain continued violation of this section;**

31 **(2) The reinstatement of the employee to the same position held before the**
32 **retaliatory action, or to an equivalent position;**

33 **(3) The reinstatement of full fringe benefits and seniority rights;**

34 **(4) The compensation for lost wages, benefits, and other remuneration;**

35 **(5) The payment by the employer of reasonable costs and attorney's fees;**

36 **(6) Punitive damages; or**

37 **(7) An assessment of a civil fine of not more than one thousand dollars for the first**
38 **violation of this section and not more than five thousand dollars for each subsequent**
39 **violation, which shall be distributed to the schools of this state in the same manner that**
40 **proceeds of all penalties, forfeitures, and fines collected for any breach of the penal laws**
41 **of the state are distributed.**

42 **4. A court may also order that reasonable attorney's fees and court costs be**
43 **awarded to an employer if the court determines that an action brought by an employee**
44 **under this section was without basis in law or in fact; except that, an employee shall not**
45 **be assessed attorney's fees under this section if, after exercising reasonable and diligent**
46 **efforts after filing a suit, the employee files a voluntary dismissal concerning the employer**
47 **within a reasonable time after determining that the employer would not be found to be**
48 **liable for damages.**

49 **5. An employer shall conspicuously display notices of its employees' protections and**
50 **obligations under this section, and use other appropriate means to keep its employees so**

51 informed. Each notice posted under this section shall include the name of the person or
52 persons the employer has designated to receive written notification.

53 6. Nothing in this section shall be deemed to diminish the rights, privileges, or
54 remedies of any employee under any federal or state law or regulation, or under any
55 collective bargaining agreement or employment contract; except that, the institution of an
56 action in accordance with this section shall be deemed a waiver of the rights and remedies
57 available under any other contract, collective bargaining agreement, state law or regulation
58 thereunder, or under the common law.

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