

SENATE BILL No. 206

February 10, 2009, Introduced by Senators CHERRY, ANDERSON, JACOBS, BRATER, OLSHOVE, BASHAM and BARCIA and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20180 (MCL 333.20180), as amended by 2002 PA
731.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20180. (1) A person employed by or under contract to a
2 health ~~facility or agency~~ **SERVICES EMPLOYER** or any other person
3 acting in good faith who makes a report or complaint including, but
4 not limited to, a report or complaint of a violation of this
5 ~~article-**ACT**~~ or a rule promulgated under this ~~article-**ACT**~~; who
6 assists in originating, investigating, or preparing a report or
7 complaint; or who assists the department in carrying out its duties
8 under this ~~article-**ACT**~~ is immune from civil or criminal liability

1 that might otherwise be incurred and is protected under the
2 whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

3 A person described in this subsection who makes or assists in
4 making a report or complaint, or who assists the department as
5 described in this subsection, is presumed to have acted in good
6 faith. The immunity from civil or criminal liability granted under
7 this subsection extends only to acts done pursuant to this ~~article~~
8 **ACT**.

9 (2) Unless a person described in subsection (1) otherwise
10 agrees in writing, the department shall keep the person's identity
11 confidential until disciplinary proceedings under this ~~article~~**ACT**
12 are initiated against the subject of the report or complaint and
13 the person making or assisting in originating, investigating, or
14 preparing the report or complaint is required to testify in the
15 disciplinary proceedings. If disclosure of the person's identity is
16 considered by the department to be essential to the disciplinary
17 proceedings and if the person is the complainant, the department
18 shall give the person an opportunity to withdraw the complaint
19 before disclosure.

20 (3) Subject to subsection (4), a person employed by or under
21 contract to a ~~hospital~~**HEALTH SERVICES EMPLOYER** is immune from
22 civil or criminal liability that might otherwise be incurred and
23 shall not be discharged, threatened, or otherwise discriminated
24 against by the ~~hospital~~**HEALTH SERVICES EMPLOYER** regarding that
25 person's compensation or the terms, conditions, location, or
26 privileges of that person's employment if that person reports to
27 the department, verbally or in writing, an issue related to the

1 ~~hospital~~**HEALTH SERVICES EMPLOYER** that is an unsafe practice or
2 condition that is not a violation of this ~~article~~**ACT** or a rule
3 promulgated under this ~~article~~**ACT**. The protections afforded under
4 this subsection do not limit, restrict, or diminish, in any way,
5 the protections afforded under the whistleblowers' protection act,
6 1980 PA 469, MCL 15.361 to 15.369.

7 (4) Except as otherwise provided in subsection (5), a person
8 employed by or under contract to a ~~hospital~~**HEALTH SERVICES**
9 **EMPLOYER** is eligible for the immunity and protection provided under
10 subsection (3) only if the person meets all of the following
11 conditions before reporting to the department the issue related to
12 the ~~hospital~~**HEALTH SERVICES EMPLOYER** that is an unsafe practice or
13 condition that is not a violation of this ~~article~~**ACT** or a rule
14 promulgated under this ~~article~~**ACT**:

15 (a) The person gave the ~~hospital~~**HEALTH SERVICES EMPLOYER** 60
16 days' written notice of the issue related to the ~~hospital~~**HEALTH**
17 **SERVICES EMPLOYER** that is an unsafe practice or condition that is
18 not a violation of this ~~article~~**ACT** or a rule promulgated under
19 this ~~article~~**ACT**. A person who provides a ~~hospital~~**HEALTH SERVICES**
20 **EMPLOYER** written notice as provided under this subdivision shall
21 not be discharged, threatened, or otherwise discriminated against
22 by the ~~hospital~~**HEALTH SERVICES EMPLOYER** regarding that person's
23 compensation or the terms, conditions, location, or privileges of
24 that person's employment. Within 60 days after receiving a written
25 notice of an issue related to the ~~hospital~~**HEALTH SERVICES EMPLOYER**
26 that is an unsafe practice or condition, the ~~hospital~~**HEALTH**
27 **SERVICES EMPLOYER** shall provide a written response to the person

1 who provided that written notice.

2 (b) The person had no reasonable expectation that the ~~hospital~~
3 **HEALTH SERVICES EMPLOYER** had taken or would take timely action to
4 address the issue related to the ~~hospital~~**HEALTH SERVICES EMPLOYER**
5 that is an unsafe practice or condition that is not a violation of
6 this ~~article~~**ACT** or a rule promulgated under this ~~article~~**ACT**.

7 (5) Subsection (4) does not apply if the person employed by or
8 under contract to a ~~hospital~~**HEALTH SERVICES EMPLOYER** is required
9 by law to report the issue related to the ~~hospital~~**HEALTH SERVICES**
10 **EMPLOYER** that is an unsafe practice or condition that is not a
11 violation of this ~~article~~**ACT** or a rule promulgated under this
12 ~~article~~**ACT** before the expiration of the 60 days' notice required
13 under subsection (4).

14 (6) A ~~hospital~~**HEALTH SERVICES EMPLOYER** shall post notices and
15 use other appropriate means to keep a person employed by or under
16 contract to the ~~hospital~~**HEALTH SERVICES EMPLOYER** informed of their
17 protections and obligations under this section. The notices shall
18 be in a form approved by the department. The notice shall be made
19 available on the department's internet website and shall be posted
20 in 1 or more conspicuous places where notices to persons employed
21 by or under contract to a ~~hospital~~**HEALTH SERVICES EMPLOYER** are
22 customarily posted.

23 (7) As used in this section, ~~"hospital" means a hospital~~
24 ~~licensed under article 17.~~ **"HEALTH SERVICES EMPLOYER" MEANS ANY OF**
25 **THE FOLLOWING:**

26 (A) A HEALTH FACILITY OR AGENCY.

27 (B) THE OFFICE OF A HEALTH CARE PROFESSIONAL LICENSED UNDER

1 ARTICLE 15, BUT EXCLUDING THE OFFICE OF A VETERINARIAN.