

Bill No. CS for CS for SB's 834, 1140 & 1612

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Meek moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 7, between lines 9 and 10,		
15			
16	insert:		
17	Section 5. <u>(1) A health care entity must not take any</u>		
18	<u>retaliatory action against any person because the person:</u>		
19	<u>(a) Discloses or threatens to disclose an activity,</u>		
20	<u>policy, procedure, action, or failure to act on the part of</u>		
21	<u>the employer or another employer with whom there is a business</u>		
22	<u>relationship which the employee reasonably believes is in</u>		
23	<u>violation of a federal, state, or local law, rule, ordinance,</u>		
24	<u>declaratory ruling, standard, professional or ethical code,</u>		
25	<u>contract provision, or subscriber or membership agreement, or</u>		
26	<u>is incompatible with a clear mandate of public policy.</u>		
27	<u>(b) Provides information to or testifies before any</u>		
28	<u>public body conducting an investigation, hearing, or inquiry</u>		
29	<u>into any alleged violation of a federal, state, or local law,</u>		
30	<u>rule, regulation, ordinance, declaratory ruling, standard,</u>		
31	<u>professional or ethical code, contract provision, or</u>		

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1 subscriber or membership agreement, or into any alleged
2 incompatibility with a clear mandate of public policy.

3 (c) Objects to or refuses to participate in any
4 activity, policy, or practice that the employee reasonably
5 believes:

6 1. Is in violation of a federal, state, or local law,
7 rule, regulation, ordinance, declaratory ruling, standard,
8 professional or ethical code, contract provision, or
9 subscriber or membership agreement, or is incompatible with a
10 clear mandate of public policy; or

11 2. Is fraudulent or criminal.

12 (2) Upon a violation of any of the provisions of this
13 section, an aggrieved person may, within 3 years, institute a
14 civil action in a court of competent jurisdiction. Upon the
15 application of any party, a jury trial shall be directed to
16 try the validity of any claim under this section as specified
17 in the suit. All remedies available in common law tort actions
18 are available to prevailing plaintiffs. These remedies are in
19 addition to any legal or equitable relief provided by law.
20 Interest on any damages awarded must be awarded at the
21 prevailing rate. The court may also order:

22 (a) A temporary, preliminary, or permanent injunction
23 to restrain continued violation of this section;

24 (b) The reinstatement of the employee to the same
25 position held before the retaliatory action or to an
26 equivalent position;

27 (c) The reinstatement of full fringe benefits and
28 seniority rights;

29 (d) Compensatory damages, including compensation for
30 lost wages, benefits, and other remuneration;

31 (e) The payment by the employer of reasonable costs,

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1 including expert witness fees and attorney's fees;
2 (f) Punitive damages; or
3 (g) An assessment of a civil fine of not more than
4 \$1,000 for the first violation of this section and not more
5 than \$5,000 for each subsequent violation, which must be paid
6 to the State Treasurer for deposit into the General Revenue
7 Fund.
8 (3) Health care entities shall post and keep posted,
9 in conspicuous places on their premises where notices to
10 employees and applicants for employment are customarily
11 posted, a notice to be prepared or approved by the Secretary
12 of the Department of Labor and Employment Security, setting
13 forth excerpts from or summaries of the pertinent provisions
14 of this section and information pertaining to the filing of a
15 charge under this section.
16 (4) As used in this section, the term:
17 (a) "Health care entity" means any governmental,
18 nonprofit, or for-profit employer in the health care industry,
19 including health care facilities, carriers, and any other
20 public or private entity whose main source of revenue is
21 derived from the provision of health care supplies or services
22 to patients, health care facilities, or health care carriers.
23 The term also includes those federal, state, or local agencies
24 whose responsibilities include oversight of health care or
25 health care entities. This term includes any individual,
26 partnership, association, corporation, or any person or group
27 of persons, all branches of federal or state government,
28 counties and municipalities, or any other political
29 subdivision of the state, or any authority, commission, or
30 board, or any other agency or instrumentality thereof.
31 (b) "Person" includes any employee, former employee,

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1 consumer, provider, independent contractor, job applicant or
2 bidder, individual, partnership, association, corporation,
3 public body, or group of persons.

4 (c) "Public body" means:

5 1. The United States Congress, the State Legislature,
6 or any elected local governmental body, or any member or
7 employee thereof;

8 2. Any federal, state, or local judiciary, or any
9 member or employee thereof, or any grand or petit jury;

10 3. Any federal, state, or local regulatory,
11 administrative, or public agency or authority, or
12 instrumentality thereof;

13 4. Any federal, state, or local law enforcement
14 agency, prosecutorial office, or police or peace officer;

15 5. Any federal, state, or local department of an
16 executive branch of government; or

17 6. Any division, board, bureau, office, committee, or
18 commission of any of the public bodies described in this
19 paragraph.

20 (d) "Retaliatory action" means the discharge,
21 suspension, or demotion or other adverse change in the
22 person's wages, benefits, or terms or conditions of
23 employment. The term includes actions, failures to act,
24 threats, intimidations, and the cancellation of or refusal to
25 renew a contract.

26
27 (Redesignate subsequent sections.)

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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 1, line 13, after the semicolon
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3 insert:
4 prohibiting health care entities from taking
5 retaliatory action against any person who
6 discloses unlawful acts of the entity or its
7 employees; providing definitions; providing a
8 cause of action for aggrieved persons;
9 authorizing specified court actions; requiring
10 health care entities to provide notice on their
11 premises that such retaliatory action is not
12 permitted;
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