

SENATE BILL REPORT

SSB 5998

As Passed Senate, February 7, 2018

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, Liias, Van De Wege, Conway, Chase, Saldaña and King).

Brief History:

Committee Activity: Health & Long Term Care: 1/15/18, 1/16/18, 1/23/18 [DPS].

Floor Activity:

Passed Senate: 2/07/18, 48-0.

Brief Summary of First Substitute Bill

- Expands whistleblower protections to non-employees working at a health care facility.
- Provides a civil remedy for non-employee whistleblowers who have been subjected to retaliatory action.
- Establishes standards for the sanction process against medical staff.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5998 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Rivers, Ranking Member; Bailey, Becker, Conway, Fain, Keiser, Mullet and Van De Wege.

Staff: Greg Attanasio (786-7410)

Background: Current Whistleblower Protections in Washington. The identity of all whistleblowers who complain, in good faith, to the Department of Health (DOH) about improper quality of care by a health care provider or health care facility is confidential.

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.

However, only whistleblowers who are employees of that health care facility have recourse when the facility or a provider takes retaliatory action.

Employee Remedies. If an employee believes the health care provider or health care facility subjected them to workplace reprisal or retaliatory action, the employee must first file a complaint with the Washington Human Rights Commission (HUM) within two years of the action. After the initial complaint is filed:

- HUM investigates the allegations and produces a written finding of fact;
- if HUM finds the employer engaged in retaliatory action, it will pursue an agreement between the parties to eliminate the unfair practice;
- if no agreement can be reached, HUM shall appoint an administrative law judge (ALJ) to hear the complaint;
- if, after a hearing, the ALJ finds the employer engaged in retaliatory action, the judge may require the restoration of benefits, back pay, or any other remedy; and
- the employee may seek enforcement in state court when an employer fails to comply with an order from HUM or an ALJ.

Summary of First Substitute Bill: The identity of a whistleblower must remain confidential when they, in good faith, complain about the quality of care at a health care facility, initiate an investigation or administrative proceeding into improper quality of care at a health care facility, or submit a notification of an adverse event at a health care facility to the DOH.

A non-employee whistleblower working at a health care facility, who was subjected to retaliatory action from the facility or provider, may pursue civil action against the facility or provider within two years of the reprisal. The non-employee may recover damages and attorneys' fees, and prevent further violations.

A medical staff privilege sanction process must follow the sanction and grievance procedures of the quality improvement and medical malpractice prevention program.

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

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill provides protections and promotes a culture of safety at health care facilities. It is important to protect all health care providers at a health care facility even if they are not employees of the facility.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Katie Kolan, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: No one.