



Rep. Anna Moeller

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10300HB3716ham003

LRB103 30277 BMS 61016 a

1 AMENDMENT TO HOUSE BILL 3716

2 AMENDMENT NO. _____. Amend House Bill 3716 on page 1, by
3 replacing line 5 with "Article IV and by changing Section
4 3-810 as"; and

5 on page 1, immediately below line 6, by inserting the
6 following:

7 "(210 ILCS 45/3-810)

8 Sec. 3-810. Whistleblower protection.

9 (a) In this Section, "retaliatory action" means:

10 (1) the reprimand, discharge, suspension, demotion,
11 denial of promotion or transfer, or change in the terms
12 and conditions of employment of any employee of a facility
13 that is taken in retaliation for the employee's
14 involvement in a protected activity as set forth in
15 paragraphs (1) through (3) of subsection (b); or

16 (2) reduced access to services, neglect, selective

1 restrictions, adverse actions that interfere with the
2 resident's quality of life at the facility, or threats of
3 such actions that are taken in retaliation of any resident
4 of a facility's involvement in a protected activity as set
5 forth in paragraph (1) through (7) of subsection (c).

6 (b) A facility shall not take any retaliatory action
7 against an employee of the facility, including a nursing home
8 administrator, because the employee does any of the following:

9 (1) Discloses or threatens to disclose to a supervisor
10 or to a public body an activity, inaction, policy, or
11 practice implemented by a facility that the employee
12 reasonably believes is in violation of a law, rule, or
13 regulation.

14 (2) Provides information to or testifies before any
15 public body conducting an investigation, hearing, or
16 inquiry into any violation of a law, rule, or regulation
17 by a nursing home administrator.

18 (3) Assists or participates in a proceeding to enforce
19 the provisions of this Act.

20 (c) A facility shall not take any retaliatory action
21 against a resident of the facility because the resident does
22 any of the following:

23 (1) complains, discloses, or threatens to disclose to
24 a supervisor, a public body, or any other person an
25 activity, inaction, policy, or practice implemented by a
26 facility that the resident reasonably believes is in

1 violation of a law, rule, or regulation or that the
2 resident reasonably believes to be problematic;

3 (2) provides information to or testifies before any
4 public body conducting an investigation, hearing, or
5 inquiry into any violation of a law, rule, or regulation
6 by a nursing home administrator;

7 (3) assists or participates in a proceeding to enforce
8 the provisions of this Act;

9 (4) seeks assistance for himself or herself or others
10 to transition to independent living;

11 (5) makes a request of the facility related to the
12 resident's care;

13 (6) becomes a member of a resident council, resident
14 union, or similar organization; or

15 (7) takes any other good faith action in support of
16 any other right or remedy provided by law.

17 (d) ~~(c)~~ A violation of this Section may be established
18 only upon a finding that:

19 (i) the employee of the facility engaged in conduct
20 described in subsection (b) of this Section and ~~(ii)~~ this
21 conduct was a contributing factor in the retaliatory
22 action alleged by the employee; or

23 (ii) the resident of the facility engaged in conduct
24 described in subsection (c) and the conduct was a
25 contributing factor in the retaliatory action alleged by
26 the resident.

1 A resident or employee may allege retaliation as a prima
2 facie case of retaliation, which can be overcome by the
3 facility, within one year after a resident or employee engages
4 in conduct described in subsection (b) or (c). There is no
5 violation of this Section, however, if the facility
6 demonstrates by clear and convincing evidence that it would
7 have taken the same unfavorable ~~personnel~~ action in the
8 absence of that conduct.

9 (e) ~~(d)~~ The employee of the facility may be awarded all
10 remedies necessary to make the employee whole and to prevent
11 future violations of this Section. Remedies imposed by the
12 court may include, but are not limited to, all of the
13 following:

14 (1) Reinstatement of the employee to either the same
15 position held before the retaliatory action or to an
16 equivalent position.

17 (2) Two times the amount of back pay.

18 (3) Interest on the back pay.

19 (4) Reinstatement of full fringe benefits and
20 seniority rights.

21 (5) Payment of reasonable costs and attorney's fees.

22 (f) The resident of the facility may be awarded all
23 remedies necessary to make the resident whole and prevent
24 future violations of this Section. Remedies imposed by the
25 court may include, but are not limited to, the following:

26 (1) injunctive relief;

1 (2) 2 times the amount of the facility's monthly
2 billing amount for that resident; and

3 (3) payment of reasonable costs and attorney's fees.

4 (g) A claim of retaliation under this Act may be filed in
5 any court of competent jurisdiction or any administrative
6 hearing process operated by or through the State of Illinois
7 and its State departments.

8 (h) ~~(e)~~ Nothing in this Section shall be deemed to
9 diminish the rights, privileges, or remedies of an employee of
10 a facility under any other federal or State law, rule, or
11 regulation or under any employment contract.

12 (Source: P.A. 96-1372, eff. 7-29-10.); and

13 on page 3, line 14, by deleting ", appointed by the Governor";
14 and

15 on page 3, lines 23 and 24, by replacing "from the majority
16 party of the Senate of the General Assembly" with "appointed
17 by the President of the Senate"; and

18 on page 3, lines 25 and 26, by replacing "from the minority
19 party of the Senate of the General Assembly" with "appointed
20 by the Minority Leader of the Senate"; and

21 on page 4, lines 1 and 2, by replacing "from the majority party
22 of the House of Representatives of the General Assembly" with

1 "appointed by the Speaker of the House of Representatives";
2 and

3 on page 4, lines 3 and 4, by replacing "from the minority party
4 of the House of Representatives of the General Assembly" with
5 "appointed by the Minority Leader of the House of
6 Representatives"; and

7 on page 4, line 8, after "settings", by inserting ", appointed
8 by the Governor"; and

9 on page 4, line 10, after "Council", by inserting ", appointed
10 by the Governor"; and

11 on page 4, line 13, after "Council", by inserting ", appointed
12 by the Governor"; and

13 on page 4, line 16, after "Council", by inserting ", appointed
14 by the Governor"; and

15 on page 4, line 18, after "associations", by inserting ",
16 appointed by the Governor"; and

17 on page 4, by replacing line 21 with "Statewide Independent
18 Living Council, appointed by the Governor;"; and

1 on page 4, immediately below line 21, by inserting the
2 following:

3 "(16) one representative of a statewide organization
4 advocating on behalf of seniors, appointed by the Governor;
5 and"; and

6 on page 4, line 22, by replacing "(16)" with "(17)"; and

7 on page 4, line 23, after "State", by inserting ", appointed by
8 the Governor".