

# HOUSE BILL No. 5829

April 9, 2002, Introduced by Reps. Vander Veen, Richardville, DeWeese, Ruth Johnson, Voorhees, Kuipers, Pappageorge, Toy, Bradstreet, Ehardt, Drolet, Julian, Hager, Neumann, Bernero and Jansen 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 added by 1994 PA 52.

**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 or any other person acting in good  
3 faith who makes a report or complaint including, but not limited  
4 to, a report or complaint of a violation of this article or a  
5 rule promulgated under this article; who assists in originating,  
6 investigating, or preparing a report or complaint; or who assists  
7 the department in carrying out its duties under this article is  
8 immune from civil or criminal liability that might otherwise be  
9 incurred ~~thereby~~ and is protected under the whistleblowers'  
10 protection act, ~~Act No. 469 of the Public Acts of 1980, being~~

1 ~~sections 15.361 to 15.369 of the Michigan Compiled Laws~~ 1980 PA  
2 469, MCL 15.361 TO 15.369. A person described in this subsection  
3 who makes or assists in making a report or complaint, or who  
4 assists the department as described in this subsection, is pre-  
5 sumed to have acted in good faith. The immunity from civil or  
6 criminal liability granted under this subsection extends only to  
7 acts done pursuant to this article.

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

19 (3) SUBJECT TO SUBSECTION (4), A PERSON EMPLOYED BY OR UNDER  
20 CONTRACT TO A HEALTH FACILITY OR AGENCY IS IMMUNE FROM CIVIL OR  
21 CRIMINAL LIABILITY THAT MIGHT OTHERWISE BE INCURRED AND IS PRO-  
22 TECTED UNDER THE WHISTLEBLOWERS' PROTECTION ACT, 1980 PA 469, MCL  
23 15.361 TO 15.369, IF THAT PERSON REPORTS TO THE DEPARTMENT,  
24 VERBALLY OR IN WRITING, AN ISSUE RELATED TO THE HEALTH FACILITY  
25 OR AGENCY THAT AFFECTS PUBLIC HEALTH, SAFETY, OR WELFARE.

26 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), A PERSON  
27 EMPLOYED BY OR UNDER CONTRACT TO A HEALTH FACILITY OR AGENCY IS

1 ELIGIBLE FOR THE IMMUNITY AND PROTECTION PROVIDED UNDER  
2 SUBSECTION (3) ONLY IF THE PERSON MEETS ALL OF THE FOLLOWING CON-  
3 DITIONS BEFORE REPORTING TO THE DEPARTMENT THE ISSUE RELATED TO  
4 THE HEALTH FACILITY OR AGENCY THAT AFFECTS PUBLIC HEALTH, SAFETY,  
5 OR WELFARE:

6 (A) THE PERSON GAVE THE HEALTH FACILITY OR AGENCY 60 DAYS'  
7 WRITTEN NOTICE OF THE ISSUE RELATED TO THE HEALTH FACILITY OR  
8 AGENCY THAT AFFECTS PUBLIC HEALTH, SAFETY, OR WELFARE.

9 (B) THE PERSON HAD NO REASONABLE EXPECTATION THAT THE HEALTH  
10 FACILITY OR AGENCY HAD TAKEN OR WOULD TAKE ACTION TO ADDRESS THE  
11 ISSUE RELATED TO THE HEALTH FACILITY OR AGENCY THAT AFFECTS  
12 PUBLIC HEALTH, SAFETY, OR WELFARE.

13 (5) SUBSECTION (4) DOES NOT APPLY IF THE PERSON EMPLOYED BY  
14 OR UNDER CONTRACT TO A HEALTH FACILITY OR AGENCY IS REQUIRED BY  
15 LAW TO REPORT THE ISSUE RELATED TO THE HEALTH FACILITY OR AGENCY  
16 THAT AFFECTS PUBLIC HEALTH, SAFETY, OR WELFARE BEFORE THE EXPIRA-  
17 TION OF THE 60 DAYS' NOTICE REQUIRED UNDER SUBSECTION (4).

18 (6) A HEALTH FACILITY OR AGENCY SHALL POST NOTICES AND USE  
19 OTHER APPROPRIATE MEANS TO KEEP A PERSON EMPLOYED BY OR UNDER  
20 CONTRACT TO THE HEALTH FACILITY OR AGENCY INFORMED OF THEIR PRO-  
21 TECTIONS AND OBLIGATIONS UNDER THIS SECTION. THE NOTICES SHALL  
22 BE IN A FORM APPROVED BY THE DEPARTMENT AND SHALL BE POSTED IN 1  
23 OR MORE CONSPICUOUS PLACES WHERE NOTICES TO PERSONS EMPLOYED BY  
24 OR UNDER CONTRACT TO A HEALTH FACILITY OR AGENCY ARE CUSTOMARILY  
25 POSTED.