

By: Toth

H.B. No. 138

A BILL TO BE ENTITLED

AN ACT

relating to an employee's right to privacy of personal health information; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 25 to read as follows:

CHAPTER 25. PRIVACY OF PERSONAL HEALTH INFORMATION

Sec. 25.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Employee" means an individual who is employed by an employer for compensation.

(3) "Employer" means a person who employs one or more employees. The term includes a public employer.

Sec. 25.002. RIGHT TO PRIVACY OF PERSONAL HEALTH INFORMATION. (a) An employee has the right to keep the employee's personal health information private and is not required to disclose that information to the employee's employer unless the disclosure is required by state or federal law.

(b) An employer may not take an adverse employment action or discriminate against an employee who exercises the right described by Subsection (a).

Sec. 25.003. COMPLAINT; ENFORCEMENT. (a) An employee aggrieved by a violation of this chapter may file a claim with the

1 commission in the manner prescribed by Chapter 21. A complaint
2 filed under this section is subject to Subchapters E and F, Chapter
3 21.

4 (b) The commission shall enforce this chapter in accordance
5 with Chapter 21.

6 Sec. 25.004. CIVIL PENALTY. (a) An employer who violates
7 an employee's right prescribed by this chapter is liable for a civil
8 penalty in the amount of \$50,000 for each violation. Civil
9 penalties assessed under this chapter shall be deposited in the
10 general revenue fund.

11 (b) The attorney general may bring an action to collect the
12 civil penalty imposed under Subsection (a).

13 SECTION 2. Chapter 25, Labor Code, as added by this Act,
14 applies only to an adverse employment practice that occurs on or
15 after the effective date of this Act.

16 SECTION 3. This Act takes effect September 1, 2023.