

AN ACT

relating to the required report of criminal offenses committed against individuals receiving certain state agency services; creating a criminal offense.

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

SECTION 1. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Sections 40.082 and 40.083 to read as follows:

Sec. 40.082. REPORT OF CRIMINAL CONDUCT; PENALTY. (a) Each employee of the department or of a department contractor who becomes aware of conduct constituting a criminal offense engaged in by another employee of the department or by a department contractor against a person receiving services from the department or a department contractor shall report the conduct to a local law enforcement agency not later than the 48th hour after the hour the employee becomes aware of the conduct.

(b) A person commits an offense if the person is required to make a report under Subsection (a) and knowingly fails to make the report.

(c) An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to hinder an investigation of or conceal the criminal conduct described by Subsection (a).

Sec. 40.083. EMPLOYER RETALIATION PROHIBITED. (a) In this

1 section, "adverse employment action" means an action that affects  
2 an employee's compensation, promotion, transfer, work assignment,  
3 or performance evaluation, or any other employment action that  
4 would dissuade a reasonable employee from submitting or supporting  
5 a report under Section 40.082.

6 (b) An employer may not suspend or terminate the employment  
7 of, discriminate against, or take any other adverse employment  
8 action against a person who in good faith:

9 (1) reports conduct constituting a criminal offense as  
10 required by Section 40.082; or

11 (2) initiates or cooperates with an investigation or  
12 proceeding relating to the conduct constituting a criminal offense  
13 reported under Section 40.082.

14 (c) An employee may sue for injunctive relief, damages, or  
15 both if, in violation of this section, the employee:

16 (1) is suspended or terminated from the person's  
17 employment;

18 (2) is discriminated against; or

19 (3) suffers any other adverse employment action.

20 (d) A plaintiff who prevails in a suit under this section  
21 may recover:

22 (1) actual damages, including damages for mental  
23 anguish even if an injury other than mental anguish is not shown;

24 (2) exemplary damages under Chapter 41, Civil Practice  
25 and Remedies Code, if the employer is a private employer;

26 (3) court costs; and

27 (4) reasonable attorney's fees.

1       (e) In addition to amounts recovered under Subsection (d), a  
2 plaintiff who prevails in a suit under this section is entitled to:

3           (1) reinstatement to the person's former position or a  
4 comparable position in terms of compensation, benefits, and other  
5 conditions of employment;

6           (2) reinstatement of any fringe benefits and seniority  
7 rights lost because of the suspension, termination, or  
8 discrimination; and

9           (3) compensation for wages lost during the period of  
10 suspension or termination.

11       (f) A department employee who alleges a violation of this  
12 section may sue the department for the relief provided for by this  
13 section. Sovereign immunity is waived and abolished to the extent  
14 of liability created by this section.

15       (g) A plaintiff suing under this section has the burden of  
16 proof, except there is a rebuttable presumption that the  
17 plaintiff's employment was suspended or terminated or that the  
18 plaintiff was otherwise discriminated against for reporting abuse  
19 or neglect if the suspension, termination, or discrimination occurs  
20 before the 61st day after the date on which the person submitted a  
21 report in good faith.

22       (h) A suit under this section may be brought in a district or  
23 statutory county court of the county in which:

24           (1) the plaintiff was employed by the defendant; or

25           (2) the defendant conducts business.

26       (i) It is an affirmative defense to a suit under Subsection  
27 (c) that an employer would have taken against the employee the

1 action that forms the basis of the suit based solely on information,  
2 observation, or evidence unrelated to the fact that the employee  
3 made a report under Section 40.082 or initiated or cooperated with  
4 an investigation or proceeding relating to the conduct constituting  
5 a criminal offense reported under Section 40.082.

6 (j) A public employee who has a cause of action under  
7 Chapter 554, Government Code, based on conduct described by  
8 Subsection (b) may not bring an action based on that conduct under  
9 this section.

10 (k) This section does not apply to a person who reports the  
11 person's own criminal conduct or who initiates or cooperates with  
12 an investigation or proceeding by a governmental entity relating to  
13 an allegation of the person's own criminal conduct.

14 SECTION 2. Chapter 203, Human Resources Code, is amended by  
15 adding Sections 203.020 and 203.021 to read as follows:

16 Sec. 203.020. REPORT OF CRIMINAL CONDUCT; PENALTY. (a)  
17 Each employee of the department or of a department contractor who  
18 becomes aware of conduct constituting a criminal offense engaged in  
19 by another employee of the department or by a department contractor  
20 against a person receiving services from the department or a  
21 department contractor shall report the conduct to a local law  
22 enforcement agency not later than the 48th hour after the hour the  
23 employee becomes aware of the conduct.

24 (b) A person commits an offense if the person is required to  
25 make a report under Subsection (a) and knowingly fails to make the  
26 report.

27 (c) An offense under Subsection (b) is a Class A

1 misdemeanor, except that the offense is a state jail felony if it is  
2 shown on the trial of the offense that the actor intended to hinder  
3 an investigation of or conceal the criminal conduct described by  
4 Subsection (a).

5 Sec. 203.021. EMPLOYER RETALIATION PROHIBITED. (a) In  
6 this section, "adverse employment action" means an action that  
7 affects an employee's compensation, promotion, transfer, work  
8 assignment, or performance evaluation, or any other employment  
9 action that would dissuade a reasonable employee from submitting or  
10 supporting a report under Section 203.020.

11 (b) An employer may not suspend or terminate the employment  
12 of, discriminate against, or take any other adverse employment  
13 action against a person who in good faith:

14 (1) reports conduct constituting a criminal offense as  
15 required by Section 203.020; or

16 (2) initiates or cooperates with an investigation or  
17 proceeding relating to the conduct constituting a criminal offense  
18 reported under Section 203.020.

19 (c) An employee may sue for injunctive relief, damages, or  
20 both if, in violation of this section, the employee:

21 (1) is suspended or terminated from the person's  
22 employment;

23 (2) is discriminated against; or

24 (3) suffers any other adverse employment action.

25 (d) A plaintiff who prevails in a suit under this section  
26 may recover:

27 (1) actual damages, including damages for mental

1 anguish even if an injury other than mental anguish is not shown;

2 (2) exemplary damages under Chapter 41, Civil Practice  
3 and Remedies Code, if the employer is a private employer;

4 (3) court costs; and

5 (4) reasonable attorney's fees.

6 (e) In addition to amounts recovered under Subsection (d), a  
7 plaintiff who prevails in a suit under this section is entitled to:

8 (1) reinstatement to the person's former position or a  
9 comparable position in terms of compensation, benefits, and other  
10 conditions of employment;

11 (2) reinstatement of any fringe benefits and seniority  
12 rights lost because of the suspension, termination, or  
13 discrimination; and

14 (3) compensation for wages lost during the period of  
15 suspension or termination.

16 (f) A department employee who alleges a violation of this  
17 section may sue the department for the relief provided for by this  
18 section. Sovereign immunity is waived and abolished to the extent  
19 of liability created by this section.

20 (g) A plaintiff suing under this section has the burden of  
21 proof, except there is a rebuttable presumption that the  
22 plaintiff's employment was suspended or terminated or that the  
23 plaintiff was otherwise discriminated against for reporting abuse  
24 or neglect if the suspension, termination, or discrimination occurs  
25 before the 61st day after the date on which the person submitted a  
26 report in good faith.

27 (h) A suit under this section may be brought in a district or

1 statutory county court of the county in which:

2 (1) the plaintiff was employed by the defendant; or

3 (2) the defendant conducts business.

4 (i) It is an affirmative defense to a suit under Subsection  
5 (c) that an employer would have taken against the employee the  
6 action that forms the basis of the suit based solely on information,  
7 observation, or evidence unrelated to the fact that the employee  
8 made a report under Section 203.020 or initiated or cooperated with  
9 an investigation or proceeding relating to the conduct constituting  
10 a criminal offense reported under Section 203.020.

11 (j) A public employee who has a cause of action under  
12 Chapter 554, Government Code, based on conduct described by  
13 Subsection (b) may not bring an action based on that conduct under  
14 this section.

15 (k) This section does not apply to a person who reports the  
16 person's own criminal conduct or who initiates or cooperates with  
17 an investigation or proceeding by a governmental entity relating to  
18 an allegation of the person's own criminal conduct.

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

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 182 passed the Senate on April 3, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 22, 2023, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 182 passed the House, with amendment, on May 16, 2023, by the following vote: Yeas 126, Nays 14, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor