

AN ACT

relating to the waiver of sovereign immunity in certain employment lawsuits by nurses.

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

SECTION 1. Section 301.413, Occupations Code, is amended by adding Subsections (g), (h), (i), (j), (k), and (l) to read as follows:

(g) Subject to Subsection (h), a nurse employed by a hospital operated by or on behalf of a state or local governmental entity who alleges a violation of Subsection (b) may sue the state or local governmental entity for relief under this section, and the sovereign immunity of the state or local governmental entity from suit and from liability is waived for the limited purpose of allowing the nurse to maintain a lawsuit in state court to obtain that relief. Relief under this section is in addition to any other remedies a nurse may have under state or federal law as a public employee. In this subsection:

(1) "Local governmental entity," "public employee," and "state governmental entity" have the meanings assigned by Section 554.001, Government Code.

(2) "Hospital" has the meaning assigned by Section 241.003, Health and Safety Code, and includes a mental hospital licensed under Chapter 577, Health and Safety Code.

(h) Relief may be granted in a lawsuit brought under

1 Subsection (g) for an alleged violation of Subsection (b)(1) based  
2 on a report made by a nurse under Section 301.4025(b) only if the  
3 nurse:

4 (1) made the report:

5 (A) in writing, which may be provided  
6 electronically; or

7 (B) verbally, if authorized by the nurse's  
8 employer or another entity at which the nurse is authorized to  
9 practice;

10 (2) made the report to:

11 (A) the nurse's supervisor;

12 (B) a committee authorized under state or federal  
13 law to receive reports under Section 301.4025(b); or

14 (C) an individual or committee authorized by the  
15 nurse's employer or another entity at which the nurse is authorized  
16 to practice; and

17 (3) made the report not later than:

18 (A) the fifth day after the date the nurse became  
19 aware of the situation if the situation involves a single incident;  
20 or

21 (B) the fifth day after the date the nurse became  
22 aware of the most recent occurrence of the situation if the  
23 situation involves multiple incidents or a pattern of behavior.

24 (i) For purposes of Subsection (h), "supervisor" means an  
25 individual who has authority over the responsibilities of the nurse  
26 making the report or an individual who is in the nurse's chain of  
27 command.

1       (j) The following provisions of Chapter 554, Government  
2 Code, apply to a lawsuit under Subsection (g):

3           (1) the type of relief and the amount of damages  
4 available to a public employee under Section 554.003;

5           (2) the time during which a public employee must seek  
6 relief under Section 554.005; and

7           (3) the requirement that a public employee use the  
8 grievance or appeal procedures of the state or local governmental  
9 entity before suing for relief under Section 554.006.

10       (k) A lawsuit under Subsection (g) against a state  
11 governmental entity shall be brought in a district court in Travis  
12 County or a county in which all or part of the acts or omissions  
13 giving rise to the cause of action occurred.

14       (l) A lawsuit under Subsection (g) against a local  
15 governmental entity shall be brought in a district court in a county  
16 in which all or part of the entity is located.

17       SECTION 2. The change in law made by this Act to Section  
18 301.413, Occupations Code, applies to an action commenced on or  
19 after the effective date of this Act. An action commenced before  
20 the effective date of this Act is governed by the law as it existed  
21 immediately before the effective date of this Act, and that law is  
22 continued in effect for that purpose.

23       SECTION 3. This Act takes effect September 1, 2013.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 581 was passed by the House on May 10, 2013, by the following vote: Yeas 100, Nays 28, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 581 on May 23, 2013, by the following vote: Yeas 131, Nays 14, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 581 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 22, Nays 9.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor