

HOUSE BILL No. 4312

February 28, 1989, Introduced by Reps. Perry Bullard, Gubow, Wallace, Allen, Honigman, Jondahl, Ciaramitaro, Dutko, Weeks, Sofio and Leland and referred to the Committee on Mental Health.

A bill to provide protection to employees and applicants for employment who are receiving or have received mental health services; to prescribe the powers and duties of employers and other persons; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Damages" means damages for injury or loss caused by
3 each violation of this act, including reasonable attorney fees.

4 (b) "Employee" means a person who performs a service for
5 wages or other remuneration under a contract of hire, written or
6 oral, express or implied.

7 (c) "Employer" means a person who employs 1 or more employ-
8 ees at any time during a calendar year. Employer includes an
9 agent of an employer and the state or a political subdivision of
10 the state.

1 (d) "Mental health services" means any type of psychological
2 counseling or other mental health treatment provided by a person
3 licensed to provide such treatment under the public health code,
4 Act No. 368 of the Public Acts of 1978, being sections 333.1101
5 to 333.25211 of the Michigan Compiled Laws, or a person certified
6 or registered to provide such treatment under the occupational
7 code, Act No. 299 of the Public Acts of 1980, being sections
8 339.101 to 339.2721 of the Michigan Compiled Laws.

9 Sec. 2. (1) An employer shall not discharge, discipline, or
10 otherwise discriminate against an employee with respect to promo-
11 tion, compensation, or a term, condition, or privilege of employ-
12 ment because that employee is receiving or has received mental
13 health services.

14 (2) An employer shall not fail or refuse to hire an appli-
15 cant for employment because that applicant is receiving or has
16 received mental health services.

17 (3) An employer shall not request information from an insur-
18 ance company or health care corporation regarding the mental
19 health services an employee is receiving or has received.

20 (4) An employee who has knowledge that an employee is
21 receiving or has received mental health services shall keep that
22 information confidential.

23 Sec. 3. (1) A person who alleges a violation of this act may
24 bring a civil action for appropriate injunctive relief or actual
25 damages, or both within 90 days after the occurrence of the
26 alleged violation of this act.

1 (2) An action commenced pursuant to subsection (1) may be
2 brought in the circuit court for the county where the alleged
3 violation occurred, the county in which the complainant resides,
4 or the county in which the person against whom the civil com-
5 plaint is filed resides or has his or her principal place of
6 business.

7 Sec. 4. A court, in rendering a judgment in an action
8 brought pursuant to this act, shall order, as the court considers
9 appropriate, the hiring of the applicant for employment or the
10 reinstatement of the employee, the payment of all or partial back
11 wages, full reinstatement of fringe benefits and seniority
12 rights, actual damages, or any combination of these or other
13 appropriate remedies. A court also may award the complainant all
14 or a portion of the costs of litigation, including reasonable
15 attorney fees and witness fees, if the court determines that the
16 award is appropriate.

17 Sec. 5. This act shall not be construed to diminish or
18 impair the rights of a person under any collective bargaining
19 agreement.