

MAR 9 1995  
HUMAN RESOURCES

HOUSE FILE 317  
BY KREIMAN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to establishment of a health care facility  
2 resident protection program and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 317

1 Section 1. NEW SECTION. 135C.37A RESIDENT PROTECTION  
2 PROGRAM -- PENALTY -- REWARD.

3 1. The department shall establish a program to facilitate  
4 and encourage the reporting of violations of this chapter to  
5 the department. The program shall include all of the follow-  
6 ing elements:

7 a. A procedure for reporting alleged violations to the  
8 department, the protection and advocacy agency designated  
9 pursuant to section 135B.9 or 135C.2, a care review committee,  
10 or the long-term care resident's advocate. Complaints filed  
11 with a protection and advocacy agency, a care review  
12 committee, or the long-term care resident's advocate shall be  
13 forwarded to the department.

14 b. Confidentiality of a report made under this section as  
15 provided for a complaint filed pursuant to section 135C.37.

16 c. Inspection of a facility upon a report made under this  
17 section as provided for upon a complaint filed pursuant to  
18 section 135C.38.

19 d. Payment of a reward to the person who filed the  
20 complaint. The department shall adopt rules to establish the  
21 amount of the reward based upon the amount of any penalty  
22 remitted.

23 2. Notwithstanding section 135C.36, the amount of the  
24 penalty for a violation under this section shall be estab-  
25 lished by the department by rule and shall be not less than  
26 four thousand nor more than thirty thousand dollars for each  
27 violation cited.

28 3. Notwithstanding section 135C.41, moneys remitted to the  
29 department for payment of penalties shall be retained by the  
30 department and shall be used to provide for additional inspec-  
31 tions under this chapter.

32 Sec. 2. Section 135C.46, Code 1995, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 3. A facility shall not discriminate or  
35 retaliate in any way against an employee of the facility who

1 has filed a report pursuant to section 135C.37A. Any change  
2 in a person's employment contract including, but not limited  
3 to, the change in the working schedule of an employee who has  
4 filed a report under section 135C.37A, within six months of  
5 the filing of the report or the conclusion of any proceeding  
6 resulting from the report, shall raise a rebuttable  
7 presumption that the action was taken by the licensee in re-  
8 taliation for the filing of the complaint. A facility which  
9 violates this section is subject to a penalty of not less than  
10 one thousand dollars to be paid to the department and retained  
11 for use as provided pursuant to section 135C.37A, in addition  
12 to the payment of any attorney fees and any other damages to  
13 the employee against whom the retaliation was taken.

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## EXPLANATION

15 This bill directs the department of inspections and appeals  
16 to establish a program to facilitate and encourage the  
17 reporting of violations by health care facilities of  
18 provisions relating to regulation of those facilities. The  
19 program is to include provisions for confidentiality relating  
20 to reports filed and payment of a reward to a complainant upon  
21 finding that a violation occurred.

22 The bill also provides for penalties and the use of amounts  
23 collected for increased inspection activity by the department.  
24 The bill also prohibits retaliation against a complainant who  
25 is employed by the facility, and provides penalties for any  
26 retaliation taken.

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