



FROM MARCH 24, 2003

#### CIVIL RIGHTS VIOLATION/DAMAGES

Today, the House State Administration Committee heard HB 215, sponsored by the House Judiciary Committee and Representative Jeff Kottkamp (R-Cape Coral), which allows the attorney general to file a civil rights action for discrimination when the offending conduct raises an issue of great public importance. Under the bill, the attorney general may demand money damages, injunctive relief, and civil penalties not to exceed \$10,000 per violation. The attorney general would also be entitled to an award of reasonable attorney's fees and costs when the Department of Legal Affairs prevails in the civil rights action.

The committee unanimously passed the bill with one amendment. The amendment lowers the threshold for civil actions commenced by the attorney general to workplaces with ten employees, instead of the federal standard of 15. Attorney General Charlie Crist endorsed this bill before the committee meeting.

Currently, complaints alleging violations of state civil rights laws are filed with the Commission on Human Relations, which may take appropriate action. HB 215 would allow the attorney general to bypass the Commission on Human Relations and file civil lawsuits against businesses in the State of Florida.

**Although the bill is well-intended, AIF does not support this legislation because it undermines the jurisdiction and authority of the Commission on Human Relations and creates another layer of litigation in an area already well protected by a myriad of state and federal laws and causes of action.**

#### ADVERSE INCIDENT NOTIFICATION

The House State Administration Committee also heard HB 1029 sponsored by the committee and Representative Connie Mack (R-Ft. Lauderdale), relating to adverse incident notification.

An adverse incident is defined as "an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred" and which injures the patient. Examples of an adverse incident include death, brain or spinal damage, permanent disfigurement, and fracture or dislocation of bones or joints.

The current law requires facilities to submit notification of an adverse incident to the Agency for Health Care Administration (AHCA) no later than one business day (24-hour notification) after the risk manager receives a report. A follow-up report must also be submitted within 15 days of the occurrence. Finally, facilities must submit annual reports to AHCA of adverse incidents.

In its original form, the bill would have repealed the 24-hour notification of an adverse incident, while retaining the requirement for the 15-day report. Research shows that AHCA does not appear to initiate investigations of adverse incidents with the submission of a 24-hour notice but waits for more accurate and detailed information, which is submitted in the 15-day report of an adverse incident.

The committee passed the bill with a strike-everything amendment that retains the 24-hour report mandate, and adds a requirement for filing of the reports with the Department of Health.

**AIF supports reasonable regulatory requirements on hospitals and surgical centers to improve patient safety, reduce medical errors, and promote effective risk prevention. Reporting of adverse incidents can be an effective tool to accomplish this public policy objective, provided that a responsible state agency investigates such incidents without undue delay upon notification by affected health care providers. AIF supports the bill as amended.**

## **PAYCHECK PROTECTION**

The last bill before the House State Administration Committee was the Paycheck Protection Act, HB 1357, which was sponsored by Representatives Fred Brummer (R-Apopka) and Hugh Gibson III (R-The Villages).

This bill empowers teachers by protecting their First Amendment free-speech rights. Under the bill, unions could no longer force teachers to make automatic contributions to the union's social, political, or ideological activities. It gives school districts collective-bargaining authority over the collection of union dues through automatic payroll deduction. This allows school districts to choose what to do on this matter and maintains local control. It also allows for the automatic deduction of dues to cover collective bargaining, contract administration, and grievance adjustment costs.

Today, Florida teachers face a difficult choice. They may join the union, and in the process, fund all sorts of political, ideological, social, and other activities that are wholly unrelated to the union's role as a bargaining representative and that they may find objectionable. The other option is to quit or refuse to join the union, thereby losing valuable workplace rights, such as voting on contract-insurance benefits, and collective-bargaining representation. This legislation gives teachers new options in the workplace, expands local control of education, and ensures that teachers' free speech rights are fundamentally protected.

The committee passed the bill on a four to one vote.

**The First Amendment of the Bill of Rights protects the rights of citizens of this nation to speak freely, which includes the right not to be compelled to support political speech they find repugnant. This bill will allow teachers to pay union dues for collective bargaining and to make additional contributions for other union projects; the teachers union will have to seek voluntary funding for their political activities, just as every other organization in Florida must.**

Please send your comments or suggestions to us at [aif@aif.com](mailto:aif@aif.com) or call the Governmental Affairs department at (850)224-7173.

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