

- SUBJECT:** Expanding immunity to the employers of certain “whistle-blowers”
- COMMITTEE:** Civil Practices — favorable, without amendment
- VOTE:** 6 ayes — Bosse, Clark, Hope, Martinez Fisher, Nixon, Zbranek  
0 nays  
3 absent — Janek, Dutton, Smithee
- WITNESSES:** None
- BACKGROUND:** Human Resources Code, sec. 48.051, requires individuals to report suspected abuse, neglect, or exploitation of an elderly or disabled person to the Department of Protective and Regulatory Services (DPRS). This duty is imposed on all individuals, including those whose communications normally are confidential such as clergy, medical professionals, mental health professional, attorneys, and social workers.
- If the elderly or disabled person resides in a facility regulated by the state, the reporting party must alert the regulating agency. Under sec. 48.052, failure to report is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).
- Human Resources Code, sec. 48.054 provides immunity from civil or criminal liability for individuals who report suspected abuse, neglect, or exploitation of an elderly or disabled person, unless the person acts in bad faith or reports his or her own abusive act.
- DIGEST:** HB 3335 would amend Human Resources Code, sec. 48.051, to require people whose knowledge of possible abuse, neglect, or exploitation of an elderly or disabled person is obtained through their job, to report their suspicions to DPRS. The bill also would amend sec. 48.054 to extend the reporting party’s immunity from liability to the person’s employer when the knowledge of possible abuse, neglect, or exploitation was obtained through the person’s job. This would not apply when the employer was the subject of the investigation.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001. These changes would apply to cause of actions accrued after the effective date of this bill. All earlier cause of actions would be governed by current law.

**SUPPORTERS  
SAY:**

HB 3335 would help protect elderly or disabled people from abuse, neglect, and exploitation by encouraging others to report their suspicions. The law already requires individuals to report suspected abuse, neglect, or exploitation, but some people may fear that their job might prevent them from providing confidential information. For example, a bank teller who sees an elderly client drawing money on a regular basis to pay a suspicious person might suspect financial exploitation, but the teller may fear reporting it because it could involve releasing confidential financial information.

HB 3335 would encourage employers to train their staff to be aware of the signs of abuse, neglect, or exploitation because the employer would be provided immunity from liability.

**OPPONENTS  
SAY:**

HB 3335 would encourage frivolous reports of suspected abuse, neglect, or exploitation. For example, a postal worker could suspect financial exploitation by delivering numerous sweepstakes offers to the home of an elderly person and be required to report it. Current law is sufficient in covering all people who suspect abuse, neglect, or exploitation without encouraging a specific group.

HB 3335 would make personal, confidential records more readily available. Current law requires that these documents be provided to the appropriate agency only if they are relevant to an investigation. By providing immunity for employers, the organization's natural reticence about providing these private records would be overcome. Because an organization would have no fear of being sued, the degree of relevancy would not need to be established by the employer.