Lisa Baumann *Legislative Service Commission*

H.B. 382

125th General Assembly
(As Introduced)

Reps. Widowfield, Peterson, McGregor, Gilb, D. Evans, Kearns, Setzer, Schlichter, DeWine, S. Smith, Carano, Distel, DeGeeter, Driehaus, Strahorn, Miller, D. Stewart

BILL SUMMARY

- Prohibits any hospital from directly or indirectly requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment.
- Specifies actions that do or do not constitute violations of the prohibition against mandatory overtime.
- Provides remedies for violations of the prohibition against mandatory overtime.

CONTENT AND OPERATION

Prohibition against mandatory overtime

(R.C. 3727.18 and 3727.181)

The bill prohibits any hospital from directly or indirectly requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment with the hospital. "Overtime" is defined as an amount of time that is worked in excess of an agreed upon, predetermined, regularly scheduled full-time or part-time work week. "Registered nurse" and "licensed practical nurse" have the same meanings as in the chapter governing the practice of nursing (Revised Code Chapter 4723.).[1]

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[1] *Specifically, "registered nurse" means an individual who holds a current, valid license under Ohio law that authorizes the individual to engage in the practice of nursing as a registered nurse. "Licensed practical nurse" means an individual who holds a current,*

Actions that constitute violations of the prohibition

(R.C. 3727.182)

Certain actions taken by a hospital constitute violations of the prohibition against requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment. These actions include the following:

- Terminating or proposing to terminate the employment of a registered nurse or licensed practical nurse with the hospital solely because the nurse chooses not to work overtime.

- Taking or proposing to take disciplinary or retaliatory action against a registered nurse or licensed practical nurse solely because the nurse chooses not to work overtime.

Actions that do not constitute violations of the prohibition

(R.C. 3727.183(A))

The bill does *not* prohibit any of the following actions:

- A registered nurse or licensed practical nurse from voluntarily working overtime.

- A hospital from offering overtime to a registered nurse or licensed practical nurse or permitting a registered nurse or licensed practical nurse to work overtime when the nurse chooses.

- A hospital from requesting or scheduling a registered nurse or licensed practical nurse to work overtime if the hospital is experiencing a staffing shortage as a direct result of an occasion or instance that has been publicly declared as an emergency or disaster by the Governor of Ohio or the President of the United States.

No effect on conflicting provisions of labor agreements

(R.C. 3727.183(B))

The bill provides that its prohibition against mandatory overtime does not affect any conflicting provisions of labor agreements entered into by employee

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valid license under Ohio law that authorizes the individual to engage in the practice of nursing as a licensed practical nurse. (R.C. 4723.01, not in the bill.)

organizations and employers with regard to overtime a registered nurse or licensed practical nurse is required to work in a hospital. Thus, if a labor union representing registered nurses or licensed practical nurses enters into a labor agreement with a hospital that mandates a certain amount of overtime, the labor agreement prevails.

Remedies for violation

(R.C. 3727.184(A), 3727.185, and 3727.186)

The bill provides that if the Ohio Department of Health (ODH) determines that a violation of the prohibition against mandatory overtime has occurred, the Department must notify the hospital and give the hospital an opportunity for an administrative hearing.[2] If the hospital fails to request a hearing or ODH determines after conducting a hearing that the violation has occurred, ODH must impose a civil money penalty on the hospital of not more than $10,000. If more than one violation is involved, ODH must impose a separate civil money penalty for each violation. Any money collected from these penalties must be deposited in the General Operations Fund and used solely for purposes of enforcing the prohibition against mandatory overtime.

In addition, through the Attorney General or an appropriate prosecuting attorney,[3] the Director of Health may apply to the common pleas court of the county in which a hospital is located for a temporary or permanent injunction restraining the hospital from violating the prohibition against mandatory overtime. On a showing that the violation has occurred, the court must grant an order enjoining the violation.

The bill specifies that the remedies provided above are in addition to all penalties and other remedies available under any Revised Code provision.

Rulemaking

(R.C. 3727.187)

The bill requires ODH to adopt rules as it considers necessary to implement the prohibition against mandatory overtime and provisions related to this prohibition. The rules must be adopted in accordance with the Ohio Administrative Procedure Act.

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[2] *The administrative hearing must be conducted in accordance with the Ohio Administrative Procedure Act (Revised Code Chapter 119.).*

[3] *The bill does not define an "appropriate prosecuting attorney."*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-27-04	p. 1553

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