

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Whistleblower Act is amended by changing Sections 5, 15, 20, 20.1, 20.2, 25, and 30 and by adding Section 31 and 32 as follows:

(740 ILCS 174/5)

Sec. 5. Definitions. As used in this Act:

"Adverse employment action" means an action that a reasonable employee would find materially adverse. An action is materially adverse when it could dissuade a reasonable worker from disclosing or threatening to disclose information protected by Section 15 or from refusing under Section 20.

"Employer" means: an individual, sole proprietorship, partnership, firm, corporation, association, and any other entity that has one or more employees in this State, including a political subdivision of the State; a unit of local government; a school district, combination of school districts, or governing body of a joint agreement of any type formed by two or more school districts; a community college district, State college or university, or any State agency whose major function is providing educational services; any authority including a department, division, bureau, board,

commission, or other agency of these entities; and any person acting within the scope of his or her authority, express or implied, on behalf of those entities in dealing with its employees ~~within the scope of his or her authority express or implied on behalf of those entities in dealing with its employees.~~

"Employee" means any individual permitted to work ~~who is employed on a full time, part time, or contractual basis~~ by an employer unless:

(1) the individual has been and will continue to be free from control and direction over the performance of his or her work, both under his or her contract of service with his or her employer and in fact;

(2) the individual performs work which is either outside the usual course of business or is performed outside all of the places of business of the employer unless the employer is in the business of contracting with parties for the placement of employees; and

(3) the individual is in an independently established trade, occupation, profession, or business.

"Employee" also includes, but is not limited to, a licensed physician who practices his or her profession, in whole or in part, at a hospital, nursing home, clinic, or any medical facility that is a health care facility funded, in whole or in part, by the State.

"Public body" means any of the following: the State; any

officer, board, political subdivision, or commission of the State; any institution supported in whole or in part by public funds; units of local government; and school districts.

"Retaliatory action" means an adverse employment action or the threat of an adverse employment action by an employer or his or her agent to penalize or any non-employment action that would dissuade a reasonable worker from disclosing information under this Act. "Retaliatory action" includes, but is not limited to:

(1) taking, or threatening to take, any action that would intentionally interfere with an employee's ability to obtain future employment or post-termination retaliation to intentionally interfere with a former employee's employment;

(2) taking, or threatening to take, any action prohibited by subsection (G) of Section 2-102 of the Illinois Human Rights Act; or

(3) contacting, or threatening to contact, United States immigration authorities, or otherwise reporting, or threatening to report, an employee's suspected or actual citizenship or immigration status or the suspected or actual citizenship or immigration status of an employee's family or household member to a federal, State, or local agency.

"Retaliatory action" does not include:

(1) conduct undertaken at the express and specific

direction or request of the federal government;

(2) truthful, performance-related information about an employee or former employee provided in good faith to a prospective employer at the request of the prospective employer; or

(3) conduct undertaken if specifically required by State or federal law. "Employee" also includes, but is not limited to, a licensed physician who practices his or her profession, in whole or in part, at a hospital, nursing home, clinic, or any medical facility that is a health care facility funded, in whole or in part, by the State.

"Supervisor" means any individual who has the authority to direct and control the work performance of the affected employee; or any individual who has managerial authority to take corrective action regarding a violation of the law, rule, or regulation disclosed by an employee in accordance with Section 15.

(Source: P.A. 95-128, eff. 1-1-08; 96-1253, eff. 1-1-11.)

(740 ILCS 174/15)

Sec. 15. Retaliation for certain disclosures prohibited.

(a) An employer may not take retaliatory action ~~retaliate~~ against an employee who discloses or threatens to disclose to a public body conducting an investigation, or in a court, an administrative hearing, or any other proceeding initiated by a public body, information related to an activity, policy, or

practice of the employer where the employee has a good faith belief that the activity, policy, or practice (i) violates ~~in~~ a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation or (ii) poses a substantial and specific danger to employees, public health, or safety.

(b) An employer may not take retaliatory action ~~retaliate~~ against an employee for disclosing or threatening to disclose information to a government or law enforcement agency information related to an activity, policy, or practice of the employer, where the employee has a good faith belief that the activity, policy, or practice of the employer (i) violates reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation or (ii) poses a substantial and specific danger to employees, public health, or safety.

(c) An employer may not take retaliatory action against an employee for disclosing or threatening to disclose to any supervisor, principal officer, board member, or supervisor in an organization that has a contractual relationship with the employer who makes the employer aware of the disclosure, information related to an activity, policy, or practice of the employer if the employee has a good faith belief that the activity, policy, or practice (i) violates a State or federal

law, rule, or regulation or (ii) poses a substantial and specific danger to employees, public health, or safety.

(Source: P.A. 95-128, eff. 1-1-08.)

(740 ILCS 174/20)

Sec. 20. Retaliation for certain refusals prohibited. An employer may not take retaliatory action ~~retaliate~~ against an employee for refusing to participate in an activity that the employee has a good faith belief that such participation would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act.

(Source: P.A. 96-555, eff. 8-18-09.)

(740 ILCS 174/20.1)

Sec. 20.1. Other retaliation. Any other act or omission not otherwise specifically set forth in this Act, whether within or without the workplace, also constitutes retaliatory action ~~retaliation~~ by an employer under this Act if the act or omission would be materially adverse to a reasonable employee and is because of the employee disclosing or attempting to disclose public corruption or wrongdoing.

(Source: P.A. 96-555, eff. 8-18-09.)

(740 ILCS 174/20.2)

Sec. 20.2. Threatening retaliation. An employer may not

threaten any employee with any act or omission if that act or omission would constitute retaliatory action ~~retaliation~~ against the employee under this Act.

(Source: P.A. 96-555, eff. 8-18-09.)

(740 ILCS 174/25)

Sec. 25. Criminal ~~Civil~~ penalty. Violation of this Act is a Class A misdemeanor.

(Source: P.A. 93-544, eff. 1-1-04.)

(740 ILCS 174/30)

Sec. 30. Damages and penalties for the employee. If an employer takes any retaliatory action against an employee in violation of Section 15 or 20, the employee may bring a civil action against the employer for all relief necessary to make the employee whole, including but not limited to the following, as appropriate:

(1) permanent or preliminary injunctive relief;

(2) reinstatement with the same seniority status that the employee would have had, but for the violation;

(3) ~~(2)~~ back pay, with interest of 9% per annum up to 90 calendar days from the date the complaint is filed and front pay; and

(4) liquidated damages of up to \$10,000;

(5) ~~(3)~~ compensation for any costs incurred ~~damages~~ ~~sustained~~ as a result of the violation, including

litigation costs, expert witness fees, and reasonable attorney's fees; ~~and-~~

(6) additionally, the court shall award a civil penalty of \$10,000 payable to the employee.

(Source: P.A. 93-544, eff. 1-1-04.)

(740 ILCS 174/31 new)

Sec. 31. Attorney General enforcement.

(a) Whenever the Attorney General has reasonable cause to believe that any person or entity has engaged in a practice prohibited by this Act, the Attorney General may, pursuant to the authority conferred by Section 6.3 of the Attorney General Act, initiate or intervene in a civil action in the name of the People of the State in any appropriate court to obtain appropriate relief.

(b) Before initiating an action, the Attorney General may conduct an investigation and may:

(1) require an individual or entity to file a statement or report in writing, under oath or otherwise, as to all information the Attorney General may consider necessary;

(2) examine under oath any person alleged to have participated in, or with knowledge of, the alleged violation; or

(3) issue subpoenas or conduct hearings in aid of any investigation.

(c) Service by the Attorney General of any notice requiring a person or entity to file a statement or report, or of a subpoena upon any person or entity, shall be made:

(1) personally by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided in the Code of Civil Procedure when a complaint is filed; or

(2) by mailing by certified mail a duly executed copy thereof to the person to be served at his or her last known abode or principal place of business within this State or, if the person is not a natural person, in the manner provided in the Code of Civil Procedure when a complaint is filed.

The Attorney General may compel compliance with investigative demands under this Section through an order by any court of competent jurisdiction.

(d) (1) In an action brought under this Act, the Attorney General may obtain, as a remedy, monetary damages to the State, restitution, and equitable relief, including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in a violation, or order any action as may be appropriate.

The Attorney General may request, and the court may grant, any remedy available under Section 30 of this Act to the employee or employees affected by the violation. Additionally,

the Attorney General may request and the court may impose a civil penalty not to exceed \$10,000 for each repeat violation within a 5-year period. For purposes of this Section, each violation of this Act for each employee that the employer took or threatened to take retaliatory action against shall constitute a separate and distinct violation.

(2) A civil penalty imposed under this subsection shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund.

(740 ILCS 174/32 new)

Sec. 32. Defenses to actions. It shall be a defense to any action brought under this Act that the retaliatory action was predicated solely upon grounds other than the employee's exercise of any rights protected by this Act.

Section 90. Applicability. The changes made by this amendatory Act of the 103rd General Assembly apply to claims arising or complaints filed on or after January 1, 2025.

Section 99. Effective date. This Act takes effect on January 1, 2025.