



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5170

Introduced 2/9/2024, by Rep. Abdelnasser Rashid

SYNOPSIS AS INTRODUCED:

740 ILCS 174/5
740 ILCS 174/10
740 ILCS 174/15
740 ILCS 174/20
740 ILCS 174/30

Amends the Whistleblower Act. Defines "adverse action" to have the same meaning as "adverse employment action" in the Civil Rights Act of 1964. Defines "retaliation" to mean the protected activity proximately caused any adverse action by any employer. Prohibits an employer from making, adopting, or enforcing any rule, regulation, or policy that prevents the disclosure or for retaliating against an employee for disclosing information to a government or law enforcement agency if the employee has a good faith belief that the disclosed information is a violation of law (now, a "reasonable cause to believe"). Prohibits an employer from retaliating against an employee for refusing to participate in any past, current, or future activity that could result in a violation of a municipal, county, State, or federal law or rule. Allows an employee to request front pay in a civil action for a violation of this Act.

LRB103 39415 JRC 69598 b

1 AN ACT concerning employment.

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

4 Section 5. The Whistleblower Act is amended by changing
5 Sections 5, 10, 15, 20, and 30 as follows:

6 (740 ILCS 174/5)

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

8 "Adverse action" has the same meaning as "adverse
9 employment action" as that term is used in the Civil Rights Act
10 of 1964. "Adverse action" includes retaliatory acts taken
11 after the employment relationship between the employer and
12 employee has ended.

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

1 acting within the scope of his or her authority express or
2 implied on behalf of those entities in dealing with its
3 employees.

4 "Employee" means any individual who is employed on a
5 full-time, part-time, or contractual basis by an employer.
6 "Employee" also includes, but is not limited to, a licensed
7 physician who practices his or her profession, in whole or in
8 part, at a hospital, nursing home, clinic, or any medical
9 facility that is a health care facility funded, in whole or in
10 part, by the State.

11 "Retaliation" means the protected activity proximately
12 caused any adverse action taken by an employer.

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

14 (740 ILCS 174/10)

15 Sec. 10. Certain policies prohibited. An employer may not
16 make, adopt, or enforce any rule, regulation, or policy
17 preventing an employee from disclosing information to a
18 government or law enforcement agency if the employee has a
19 reasonable or good faith belief ~~reasonable cause to believe~~
20 that the information discloses a violation of a State or
21 federal law, rule, or regulation.

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

23 (740 ILCS 174/15)

24 Sec. 15. Retaliation for certain disclosures prohibited.

1 (a) An employer may not retaliate against an employee who
2 discloses information in a court, an administrative hearing,
3 or before a legislative commission or committee, or in any
4 other proceeding, where the employee has a reasonable or good
5 faith belief ~~reasonable cause to believe~~ that the information
6 discloses a violation of a municipal, county, State or federal
7 law, rule, or regulation.

8 (b) An employer may not retaliate against an employee for
9 disclosing information to a government or law enforcement
10 agency, whether that agency is the employer or a third party,
11 where the employee has a reasonable or good faith belief
12 ~~reasonable cause to believe~~ that the information discloses a
13 past, current, or future violation of a municipal, county,
14 State, or federal law, rule, or regulation by the employer or a
15 third party, including any individual. If the employee can
16 articulate a coherent basis, even if mistaken, for contending
17 the specific conduct identified is illegal, the disclosure is
18 protected.

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

20 (740 ILCS 174/20)

21 Sec. 20. Retaliation for certain refusals prohibited. An
22 employer may not retaliate against an employee for refusing to
23 participate in any past, current, or future ~~an~~ activity that
24 would result in a violation of a municipal, county, State or
25 federal law, rule, or regulation, including, but not limited

1 to, violations of the Freedom of Information Act, by the
2 employer or a third party, including any individual.
3 Invitations to participate in illegal activity do not need to
4 be explicit.

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

6 (740 ILCS 174/30)

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

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

14 (2) front pay in lieu of reinstatement;

15 (3) ~~(2)~~ back pay, with interest; and

16 (4) ~~(3)~~ compensation for any damages sustained as a
17 result of the violation, including litigation costs,
18 expert witness fees, and reasonable attorney's fees.

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