

1 AN ACT concerning civil law.

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, 15, 20, 20.1, 20.2, 25, and 30 and by adding
6 Section 31 and 32 as follows:

7 (740 ILCS 174/5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 "Retaliatory action" does not include:

26 (1) conduct undertaken at the express and specific

1 direction or request of the federal government;

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

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

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

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

19 (740 ILCS 174/15)

20 Sec. 15. Retaliation for certain disclosures prohibited.

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

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

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

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

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

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

4 (740 ILCS 174/20)

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

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

13 (740 ILCS 174/20.1)

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

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

22 (740 ILCS 174/20.2)

23 Sec. 20.2. Threatening retaliation. An employer may not

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

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

5 (740 ILCS 174/25)

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

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

9 (740 ILCS 174/30)

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

16 (1) permanent or preliminary injunctive relief;

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

19 (3) ~~(2)~~ back pay, with interest of 9% per annum up to 90
20 calendar days from the date the complaint is filed and
21 front pay; and

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

23 (5) ~~(3)~~ compensation for any costs incurred ~~damages~~
24 sustained as a result of the violation, including

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

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

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

6 (740 ILCS 174/31 new)

7 Sec. 31. Attorney General enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (740 ILCS 174/32 new)

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

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

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