



Rep. Marcus C. Evans, Jr.

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10300HB5561ham001

LRB103 39293 JRC 71882 a

1 AMENDMENT TO HOUSE BILL 5561

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5561 by replacing  
3 everything after the enacting clause with the following:

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

1 a political subdivision of the State; a unit of local  
2 government; a school district, combination of school  
3 districts, or governing body of a joint agreement of any type  
4 formed by two or more school districts; a community college  
5 district, State college or university, or any State agency  
6 whose major function is providing educational services; any  
7 authority including a department, division, bureau, board,  
8 commission, or other agency of these entities; and any person  
9 acting within the scope of his or her authority, express or  
10 implied, on behalf of those entities in dealing with its  
11 employees. ~~within the scope of his or her authority express or~~  
12 ~~implied on behalf of those entities in dealing with its~~  
13 ~~employees.~~

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

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

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

26 (3) the individual is in an independently established

1 trade, occupation, profession, or business.

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

7 "Public body" means any of the following: the State; any  
8 officer, board, political subdivision, or commission of the  
9 State; any institution supported in whole or in part by public  
10 funds; units of local government; and school districts.

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

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

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

25 (3) contacting, or threatening to contact, United  
26 States immigration authorities, or otherwise reporting, or

1       threatening to report, an employee's suspected or actual  
2       citizenship or immigration status or the suspected or  
3       actual citizenship or immigration status of an employee's  
4       family or household member to a federal, State, or local  
5       agency.

6       "Retaliatory action" does not include:

7           (1) conduct undertaken at the express and specific  
8           direction or request of the federal government;

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

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

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

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

1 (740 ILCS 174/15)

2 Sec. 15. Retaliation for certain disclosures prohibited.

3 (a) An employer may not take retaliatory action ~~retaliate~~  
4 against an employee who discloses or threatens to disclose to  
5 a public body conducting investigation, or in a court, an  
6 administrative hearing, or any other proceeding initiated by a  
7 public body, information related to an activity, policy, or  
8 practice of the employer where the employee has a good faith  
9 belief that the activity, policy, or practice (i) violates ~~in~~  
10 ~~a court, an administrative hearing, or before a legislative~~  
11 ~~commission or committee, or in any other proceeding, where the~~  
12 ~~employee has reasonable cause to believe that the information~~  
13 ~~discloses a violation of~~ a State or federal law, rule, or  
14 regulation or (ii) poses a substantial and specific danger to  
15 employees, public health, or safety.

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

26 (c) An employer may not take retaliatory action against an

1 employee for disclosing or threatening to disclose to any  
2 supervisor, principal officer, board member, or supervisor in  
3 an organization that has a contractual relationship with the  
4 employer who makes the employer aware of the disclosure,  
5 information related to an activity, policy, or practice of the  
6 employer if the employee has a good faith belief that the  
7 activity, policy, or practice(i) violates a State or federal  
8 law, rule, or regulation or (ii) poses a substantial and  
9 specific danger to employees, or public health, or safety.

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

11 (740 ILCS 174/20)

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

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

20 (740 ILCS 174/20.1)

21 Sec. 20.1. Other retaliation. Any other act or omission  
22 not otherwise specifically set forth in this Act, whether  
23 within or without the workplace, also constitutes retaliatory  
24 action ~~retaliation~~ by an employer under this Act if the act or

1 omission would be materially adverse to a reasonable employee  
2 and is because of the employee disclosing or attempting to  
3 disclose public corruption or wrongdoing.

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

5 (740 ILCS 174/20.2)

6 Sec. 20.2. Threatening retaliation. An employer may not  
7 threaten any employee with any act or omission if that act or  
8 omission would constitute retaliatory action ~~retaliation~~  
9 against the employee under this Act.

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

11 (740 ILCS 174/25)

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

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

15 (740 ILCS 174/30)

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

22 (1) permanent or preliminary injunctive relief;

23 (2) reinstatement with the same seniority status that

1 the employee would have had, but for the violation;

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

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

6 (5) ~~(3)~~ compensation for any costs incurred ~~damages~~  
7 sustained as a result of the violation, including  
8 litigation costs, expert witness fees, and reasonable  
9 attorney's fees; and.

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

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

13 (740 ILCS 174/31 new)

14 Sec. 31. Attorney General enforcement.

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

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

24 (1) require an individual or entity to file a  
25 statement or report in writing, under oath or otherwise,



1 as to all information the Attorney General may consider  
2 necessary;

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

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

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

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

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

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

24 (d) (1) In an action brought under this Act, the Attorney  
25 General may obtain, as a remedy, monetary damages to the  
26 State, restitution, and equitable relief, including any

1 permanent or preliminary injunction, temporary restraining  
2 order, or other order, including an order enjoining the  
3 defendant from engaging in a violation, or order any action as  
4 may be appropriate.

5 The Attorney General may request, and the court may grant,  
6 any remedy available under Section 30 of this Act to the  
7 employee or employees affected by the violation. Additionally,  
8 the Attorney General may request and the court may impose a  
9 civil penalty not to exceed \$10,000 for each repeat violation  
10 within a 5-year period. For purposes of this Section, each  
11 violation of this Act for each employee that the employer took  
12 or threatened to take retaliatory action against shall  
13 constitute a separate and distinct violation.

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

17 (740 ILCS 174/32 new)

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

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

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