

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 284

Session of
1985

INTRODUCED BY WAMBACH, IRVIS, MANDERINO, NOYE, HAYES, COHEN, PITTS, CESSAR, O'DONNELL, BOWSER, D. R. WRIGHT, McCLATCHY, DOMBROWSKI, ITKIN, FEE, PIEVSKY, ARTY, DeLUCA, ANGSTADT, ACOSTA, BURNS, AFFLERBACH, BIRMELIN, BORTNER, BOOK, BELARDI, BURD, BLAUM, BUNT, BELFANTI, BUSH, BOWLEY, BARLEY, BARBER, BOYES, BATTISTO, BLACK, CAWLEY, CLYMER, CAPPABIANCA, CIVERA, CLARK, CORNELL, COWELL, CARLSON, COLAFELLA, CIMINI, COY, COSLETT, CALTAGIRONE, DISTLER, COLE, DININNI, CARN, DURHAM, CORDISCO, DAVIES, DeWEESE, DIETZ, DONATUCCI, DORR, DALEY, DeVERTER, DEAL, FOX, DUFFY, FARGO, DAWIDA, A. C. FOSTER, JR., EVANS, FREIND, FRYER, FLICK, FREEMAN, GALLEN, FATTAH, GEIST, GAMBLE, GLADECK, GALLAGHER, GODSHALL, GEORGE, GREENWOOD, GRUITZA, GANNON, HUTCHINSON, HASAY, HARPER, HERMAN, HOWLETT, HONAMAN, JAROLIN, HERSHEY, JOSEPHS, HAGARTY, KASUNIC, JACKSON, KOSINSKI, JOHNSON, KUKOVICH, KENNEY, LLOYD, LASHINGER, LEVDANSKY, MANMILLER, LIVENGOOD, MILLER, LEVIN, MACKOWSKI, LAUGHLIN, MICOZZIE, LETTERMAN, MERRY, LESCOVITZ, McVERRY, LINTON, MOEHLMANN, LUCYK, NAHILL, McCALL, PERZEL, MURPHY, PUNT, MARKOSEK, MICHLOVIC, PHILLIPS, McHALE, PICCOLA, MRKONIC, RAYMOND, MORRIS, ROBBINS, OLIVER, REINARD, REBER, PRESTON, SCHULER, PETRARCA, SCHEETZ, PETRONE, SWIFT, PISTELLA, SEMMEL, PRATT, SAURMAN, PRESSMANN, B. SMITH, RYBAK, SIRIANNI, RICHARDSON, STAIRS, RUDY, D. W. SNYDER, SALOOM, G. M. SNYDER, STABACK, E. Z. TAYLOR, SHOWERS, TELEK, STUBAN, VROON, STEIGHNER, WASS, SWEET, WESTON, STEWART, WILSON, TRELLO, J. L. WRIGHT, TRUMAN, R. C. WRIGHT, TIGUE, WOGAN, F. E. TAYLOR, VEON, VAN HORNE, WOZNIAK, WIGGINS, WILLIAMS, YANDRISEVITS, GRUPPO, HALUSKA, MAYERNIK, KENNEDY, RIEGER, ARGALL, BALDWIN AND BROUJOS, FEBRUARY 11, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 11, 1985

AN ACT

1 Providing protection for employees who report a violation or
2 suspected violation of State, local or Federal law; providing
3 protection for employees who participate in hearings,
4 investigations, legislative inquiries or court actions; and
5 prescribing remedies and penalties.

6 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Short title.

3 This act shall be known and may be cited as the Whistleblower
4 Law.

5 Section 2. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Employee." Any person employed by the Commonwealth or a
10 political subdivision of the Commonwealth.

11 "Employer." Any person in State government supervising one
12 or more employees, including the employee in question, any of
13 the superiors of that supervisor and any agent of the employer,
14 the Commonwealth or a political subdivision of the Commonwealth.

15 "Public body." All of the following:

16 (1) A State officer, employee, agency, department,
17 division, bureau, board, commission, council, authority or
18 other body in the Executive Branch of State government.

19 (2) A county, city, township, regional governing body,
20 council, school district, special district or municipal
21 corporation, or a board, department, commission, council,
22 agency or any member or employee thereof.

23 (3) Any other body which is created by State or local
24 authority or which is primarily funded by or through State or
25 local authority or any member or employee of that body.

26 (4) A law enforcement agency or any member or employee
27 of a law enforcement agency.

28 (5) The judiciary and any member or employee of the
29 judiciary.

30 "Whistleblower." A person who witnesses or has evidence of a

1 violation of a law, rule or regulation or of fraud or other
2 wrongdoing while employed and who reports the violation,
3 verbally or in writing, to any of his superiors or any agent of
4 his employer. The term includes any person who reports a
5 violation, verbally or in writing, to the Office of Attorney
6 General, the Department of the Auditor General, the Treasury
7 Department or any other agency which has jurisdiction over
8 fraud, crime, corruption, violations of law or law enforcement
9 powers.

10 Section 3. Protection of employees.

11 (a) Persons not to be discharged.--No public body may
12 discharge, threaten or otherwise discriminate against an
13 employee regarding the employee's compensation, terms,
14 conditions, location or privileges of employment because the
15 employee or a person acting on behalf of the employee reports or
16 is about to report, verbally or in writing, a violation or a
17 suspected violation of a law or a rule or regulation promulgated
18 by the Commonwealth, a political subdivision of the Commonwealth
19 or the United States unless the employee knows that the report
20 is false.

21 (b) Discrimination prohibited.--No public body may
22 discharge, threaten or otherwise discriminate against an
23 employee regarding the employee's compensation, terms,
24 conditions, location or privileges of employment because the
25 employee is requested by a public body to participate in an
26 investigation, hearing or inquiry held by a public body or in a
27 court action.

28 Section 4. Remedies.

29 (a) Civil action.--A person who alleges a violation of this
30 act may bring a civil action for appropriate injunctive relief

1 or damages, or both, within 90 days after the occurrence of the
2 alleged violation.

3 (b) Jurisdiction.--An action begun under this section may be
4 brought in the court of the county where the alleged reprisal
5 occurred, the county where the complainant resides or the county
6 where the person against whom the civil complaint is filed
7 resides or has his principal place of business.

8 (c) Necessary showing of evidence.--An employee alleging
9 discrimination under this act must show by clear and convincing
10 evidence that, prior to the alleged reprisal, the employee or a
11 person acting on behalf of the employee had reported or was
12 about to report, verbally or in writing, a violation or a
13 suspected violation of a law of the Commonwealth, a political
14 subdivision of the Commonwealth or the United States to a public
15 body.

16 (d) Civil service employees.--An employee covered by civil
17 service who contests a civil service action, believing it to be
18 motivated by his having reported or been about to report a
19 violation of government law, rule or regulation, may submit as
20 admissible evidence any or all material relating to the action
21 as whistleblower and to the resulting alleged reprisal.

22 (e) Definition.--As used in this section, the term "damages"
23 means actual damages for loss or injury caused by each violation
24 of this act, as well as punitive damages in cases where the
25 reprisal is determined to have damaged the reputation,
26 diminished the community status or discredited the professional
27 or occupational standing of the complainant, plus reasonable
28 attorney fees.

29 Section 5. Enforcement.

30 A court, in rendering a judgment in an action brought under

1 this act, shall order, as the court considers appropriate,
2 reinstatement of the employee, the payment of back wages, full
3 reinstatement of fringe benefits and seniority rights, actual
4 damages, punitive damages or any combination of these remedies.
5 A court may also award the complainant all or a portion of the
6 costs of litigation, including reasonable attorney fees and
7 witness fees, if the court determines that the award is
8 appropriate.

9 Section 6. Penalties.

10 A person who violates this act shall be liable for a civil
11 fine of not more than \$500 or suspension from public service for
12 not more than six months, or both. A civil fine which is ordered
13 under this act shall be submitted to the State Treasurer for
14 deposit into the General Fund.

15 Section 7. Construction.

16 This act shall not be construed to require an employer to
17 compensate an employee for participation in an investigation,
18 hearing or inquiry held by a public body, or impair the rights
19 of any person under a collective bargaining agreement.

20 Section 8. Notice.

21 An employer shall post notices and use other appropriate
22 means to notify employees and keep them informed of protections
23 and obligations under this act.

24 Section 9. Effective date.

25 This act shall take effect in 60 days.