
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, BROUJOS, POTT, STEVENS AND OLASZ,
FEBRUARY 5, 1985

SENATOR MADIGAN, LABOR AND INDUSTRY, IN SENATE, AS AMENDED,
NOVEMBER 18, 1986

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

1 prescribing remedies and penalties.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Whistleblower
6 Law.

7 Section 2. Definitions.

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

11 "Appropriate authority." A Federal, State or local
12 government body, agency or organization having jurisdiction over
13 criminal law enforcement, regulatory violations, professional
14 conduct or ethics, or waste; or a member, officer, agent,
15 representative or supervisory employee of the body, agency or
16 organization. The term includes, but is not limited to, the
17 Office of Attorney General, the Department of the Auditor
18 General, the Treasury Department, the General Assembly and
19 committees of the General Assembly having the power and duty to
20 investigate criminal law enforcement, regulatory violations,
21 professional conduct or ethics, or waste.

22 "Employee." A person who performs a service for wages or
23 other remuneration under a contract of hire, written or oral,
24 express or implied, for a public body.

25 "Employer." A person supervising one or more employees,
26 including the employee in question, a superior of that <—
27 supervisor, or an agent of a public body. <—

28 "Good faith report." A report of conduct defined in this act
29 as wrongdoing or waste which is made without malice or
30 consideration of personal benefit and which the person making

1 the report has reasonable cause to believe is true.

2 "Public body." All of the following:

3 (1) A State officer, agency, department, division,
4 bureau, board, commission, council, authority or other body
5 in the executive branch of State government.

6 (2) A county, city, BOROUGH, INCORPORATED TOWN, ←
7 township, regional governing body, council, school district,
8 special district or municipal corporation, or a board,
9 department, commission, council or agency.

10 (3) Any other body which is created by Commonwealth or
11 political subdivision authority or which is funded ~~in any~~ ←
12 ~~amount~~ BY 35% OR MORE by or through Commonwealth or political ←
13 subdivision authority, or a member or employee of that body. ←

14 "Waste." An employer's conduct or omissions which result in
15 substantial abuse, misuse, destruction or loss of funds or
16 resources belonging to or derived from Commonwealth or political
17 subdivision sources.

18 "Whistleblower." A person who witnesses or has evidence of
19 wrongdoing or waste while employed and who makes a good faith
20 report of the wrongdoing or waste, verbally or in writing, to
21 one of the person's superiors, to an agent of the employer or to
22 an appropriate authority.

23 "Wrongdoing." A violation which is not of a merely technical
24 or minimal nature of a Federal or State statute or regulation,
25 of a political subdivision ordinance or regulation or of a code
26 of conduct or ethics designed to protect the interest of the
27 public or the employer.

28 Section 3. Protection of employees.

29 (a) Persons not to be discharged.--No employer may
30 discharge, threaten or otherwise discriminate or retaliate

1 against an employee regarding the employee's compensation,
2 terms, conditions, location or privileges of employment because
3 the employee or a person acting on behalf of the employee makes
4 a good faith report or is about to report, verbally or in
5 writing, to the employer or appropriate authority an instance of
6 wrongdoing or waste.

7 (b) Discrimination prohibited.--No employer may discharge,
8 threaten or otherwise discriminate or retaliate against an
9 employee regarding the employee's compensation, terms,
10 conditions, location or privileges of employment because the
11 employee is requested by an appropriate authority to participate
12 in an investigation, hearing or inquiry held by an appropriate
13 authority or in a court action.

14 Section 4. Remedies.

15 (a) Civil action.--A person who alleges a violation of this
16 act may bring a civil action in a court of competent
17 jurisdiction for appropriate injunctive relief or damages, or
18 both, within 180 days after the occurrence of the alleged
19 violation.

20 (b) Necessary showing of evidence.--An employee alleging a
21 violation of this act must show by a preponderance of the
22 evidence that, prior to the alleged reprisal, the employee or a
23 person acting on behalf of the employee had reported or was
24 about to report in good faith, verbally or in writing, an
25 instance of wrongdoing or waste to the employer or an
26 appropriate authority.

27 (c) Defense.--It shall be a defense to an action under this
28 section if the defendant proves by a preponderance of the
29 evidence that the action by the employer occurred for separate
30 and legitimate reasons, which are not merely pretextual.

1 (d) Civil service employees.--An employee covered by civil
2 service who contests a civil service action, believing it to be
3 motivated by his having made a good faith report, verbally or in
4 writing, of an instance of wrongdoing or waste, may submit as
5 admissible evidence any or all material relating to the action
6 as whistleblower and to the resulting alleged reprisal.

7 Section 5. Enforcement.

8 A court, in rendering a judgment in an action brought under
9 this act, shall order, as the court considers appropriate,
10 reinstatement of the employee, the payment of back wages, full
11 reinstatement of fringe benefits and seniority rights, actual
12 damages or any combination of these remedies. A court may also
13 award the complainant all or a portion of the costs of
14 litigation, including reasonable attorney fees and witness fees,
15 if the court determines that the award is appropriate.

16 Section 6. Penalties.

17 A person who, under color of an employer's authority,
18 violates this act shall be liable for a civil fine of not more
19 than \$500. Additionally, except where the person holds an
20 elected public office, if the court specifically finds that the
21 person, while in the employment of the Commonwealth or a
22 political subdivision, committed a violation OF SECTION 3 of ←
23 this act with the intent to discourage the disclosure of
24 criminal activity, the court may order the person's suspension
25 from public service for not more than six months. A civil fine
26 which is ordered under this section shall be paid to the State
27 Treasurer for deposit into the General Fund.

28 Section 7. Construction.

29 This act shall not be construed to require an employer to
30 compensate an employee for participation in an investigation,

1 hearing or inquiry held by an appropriate authority, or impair
2 the rights of any person under a collective bargaining
3 agreement.

4 Section 8. Notice.

5 An employer shall post notices and use other appropriate
6 means to notify employees and keep them informed of protections
7 and obligations under this act.

8 Section 9. Effective date.

9 This act shall take effect in 60 days.