

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 105 Session of 2011

INTRODUCED BY ELLIS, GERGELY, ADOLPH, AUMENT, BAKER, BARBIN, BEAR, BENNINGHOFF, BOYD, B. BOYLE, BRENNAN, BRIGGS, BROOKS, BURNS, BUXTON, CALTAGIRONE, CARROLL, CAUSER, CHRISTIANA, COHEN, D. COSTA, P. COSTA, COX, CREIGHTON, CRUZ, CUTLER, DAY, DEASY, DENLINGER, DePASQUALE, DeWEESE, FARRY, FLECK, FREEMAN, GABLER, GALLOWAY, GEORGE, GIBBONS, GINGRICH, GOODMAN, GRELL, GROVE, HAHN, HARPER, HARRIS, HORNAMAN, HUTCHINSON, JOSEPHS, KAUFFMAN, M.K. KELLER, KILLION, KNOWLES, KORTZ, MAHONEY, MAJOR, MARSHALL, MARSICO, MATZIE, METCALFE, METZGAR, MICCARELLI, MILLARD, MILLER, MUNDY, MURPHY, MUSTIO, OBERLANDER, M. O'BRIEN, O'NEILL, PASHINSKI, PAYTON, PEIFER, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, READSHAW, REED, REESE, REICHLEY, ROAE, ROSS, SABATINA, SAMUELSON, SANTARSIERO, SANTONI, SAYLOR, SCAVELLO, SHAPIRO, S. H. SMITH, SONNEY, STEVENSON, STURLA, SWANGER, J. TAYLOR, TURZAI, VEREB, VULAKOVICH, WAGNER, WATSON, WHITE, K. SMITH AND CLYMER, JANUARY 20, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 20, 2011

AN ACT

1 Amending the act of December 12, 1986 (P.L.1559, No.169),
2 entitled "An act providing protection for employees who
3 report a violation or suspected violation of State, local or
4 Federal law; providing protection for employees who
5 participate in hearings, investigations, legislative
6 inquiries or court actions; and prescribing remedies and
7 penalties," further providing for the definitions of
8 "employee" and "employer," for protection of employees, for
9 enforcement and for penalties.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definitions of "employee" and "employer" in
13 section 2 of the act of December 12, 1986 (P.L.1559, No.169),
14 known as the Whistleblower Law, are amended to read:

1 Section 2. Definitions.

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

5 * * *

6 "Employee." A person who performs a service for wages or
7 other remuneration under a contract of hire, written or oral,
8 express or implied, for [a public body] an employer.

9 "Employer." [A person supervising one or more employees,
10 including the employee in question; a superior of that
11 supervisor; or an agent of a public body.] A public body or any
12 of the following which receives money from a public body to
13 perform work or provide services:

14 (1) An individual.

15 (2) A partnership.

16 (3) An association.

17 (4) A corporation for profit.

18 (5) A corporation not for profit.

19 * * *

20 Section 2. Sections 3(a), 5 and 6 of the act are amended to
21 read:

22 Section 3. Protection of employees.

23 (a) Persons not to be discharged.--No employer may
24 discharge, threaten or otherwise discriminate or retaliate
25 against an employee regarding the employee's compensation,
26 terms, conditions, location or privileges of employment because
27 the employee or a person acting on behalf of the employee makes
28 a good faith report or is about to report, verbally or in
29 writing, to the employer or appropriate authority an instance of
30 wrongdoing or waste by a public body or an instance of waste by

1 any other employer.

2 * * *

3 Section 5. Enforcement.

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

13 Section 6. Penalties.

14 A person who, under color of an employer's authority,
15 violates this act shall be liable for a civil fine of not more
16 than [\$500] \$10,000. Additionally, except where the person holds
17 an elected public office, if the court specifically finds that
18 the person, while in the employment of the Commonwealth or a
19 political subdivision, committed a violation of this act with
20 the intent to discourage the disclosure of criminal activity,
21 the court may order the person's suspension from public service
22 for not more than [six months] seven years. A civil fine which
23 is ordered under this section shall be paid to the State
24 Treasurer for deposit into the General Fund.

25 Section 3. This act shall take effect in 60 days.