

HOUSE BILL No. 1182

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11; IC 12-10-3-11.

Synopsis: Whistleblower protection for state employees. Provides that for purposes of the false claims and whistleblower protection statute, the Medicaid false claims and whistleblower protection statute, and a statute providing whistleblower protection relating to adult protective services, the term "employee" includes a state employee, and the term "employer" includes the state of Indiana.

Effective: November 1, 2017 (retroactive).

DeLaney

January 8, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1182

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-11-5.5-8, AS ADDED BY P.L.222-2005,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 NOVEMBER 1, 2017 (RETROACTIVE)]: Sec. 8. **(a) As used in this**
4 **section, the following apply:**
5 **(1) "Employee" refers to any employee, including a state**
6 **employee.**
7 **(2) "Employer" refers to any employer, including the state of**
8 **Indiana as an employer of a state employee.**
9 **(a)(b)** An employee who has been discharged, demoted, suspended,
10 threatened, harassed, or otherwise discriminated against in the terms
11 and conditions of employment by the employee's employer because the
12 employee:
13 (1) objected to an act or omission described in section 2 of this
14 chapter; or
15 (2) initiated, testified, assisted, or participated in an investigation,
16 an action, or a hearing under this chapter;
17 is entitled to all relief necessary to make the employee whole.



1 ~~(b)~~ (c) Relief under this section may include:

- 2 (1) reinstatement with the same seniority status the employee
3 would have had but for the act described in subsection ~~(a)~~; **(b)**;
4 (2) two (2) times the amount of back pay owed the employee;
5 (3) interest on the back pay owed the employee; and
6 (4) compensation for any special damages sustained as a result of
7 the act described in subsection ~~(a)~~; **(b)**, including costs and
8 expenses of litigation and reasonable attorney's fees.

9 ~~(c)~~ (d) An employee may bring an action for the relief provided in
10 this section in any court with jurisdiction.

11 SECTION 2. IC 5-11-5.7-8, AS AMENDED BY P.L.109-2014,
12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 NOVEMBER 1, 2017 (RETROACTIVE)]: Sec. 8. **(a) As used in this**
14 **section, "employee" refers to any employee, including a state**
15 **employee.**

16 ~~(a)~~ (b) An employee, contractor, or agent who has been discharged,
17 demoted, suspended, threatened, harassed, or otherwise discriminated
18 against in the terms and conditions of employment because of lawful
19 acts done by the employee, contractor, agent, or associated others to:

- 20 (1) object to or otherwise stop an act or omission described in
21 section 2 of this chapter;
22 (2) initiate, testify, assist, or participate in an investigation, an
23 action, or a hearing; or
24 (3) perform any other lawful act in furtherance of other efforts to
25 stop one (1) or more violations under this chapter;

26 is entitled to all relief necessary to make the employee, contractor, or
27 agent whole.

28 ~~(b)~~ (c) Relief under this section must include:

- 29 (1) reinstatement with the same seniority status the employee,
30 contractor, or agent would have had but for the act described in
31 subsection ~~(a)~~; **(b)**;
32 (2) two (2) times the amount of back pay;
33 (3) interest on the back pay; and
34 (4) compensation for any special damages sustained as a result of
35 the act described in subsection ~~(a)~~; **(b)**, including costs and
36 expenses of litigation and reasonable attorney's fees.

37 ~~(c)~~ (d) An employee, contractor, or agent may bring an action for
38 the relief provided in this section in any court with jurisdiction.

39 ~~(d)~~ (e) A civil action under this section may not be brought more
40 than three (3) years after the date the retaliation occurred.

41 SECTION 3. IC 12-10-3-11 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE NOVEMBER 1, 2017 (RETROACTIVE)]:



- 1 Sec. 11. (a) As used in this section, the following apply:
 2 (1) "Employee" refers to any employee, including a state
 3 employee.
 4 (2) "Employer" refers to any employer, including the state of
 5 Indiana as an employer of a state employee.
 6 (a) (b) A person, other than a person against whom a complaint
 7 concerning an endangered adult has been made, who in good faith:
 8 (1) makes or causes to be made a report required to be made
 9 under this chapter;
 10 (2) testifies or participates in any investigation or administrative
 11 or judicial proceeding on matters arising from the report;
 12 (3) makes or causes to be made photographs or x-rays of an
 13 endangered adult; or
 14 (4) discusses a report required to be made under this chapter with
 15 the division, the adult protective services unit, a law enforcement
 16 agency, or other appropriate agency;
 17 is immune from both civil and criminal liability arising from those
 18 actions.
 19 (b) (c) An individual may not be excused from testifying before a
 20 court or grand jury concerning a report made under this chapter on the
 21 basis that the testimony is privileged information, unless the individual
 22 is an attorney, a physician, a clergyman, a husband, or a wife who is not
 23 required to testify under IC 34-46-3-1.
 24 (c) (d) An employer may not discharge, demote, transfer, prepare a
 25 negative work performance evaluation, or reduce benefits, pay, or work
 26 privileges, or take any other action to retaliate against an employee who
 27 in good faith files a report under this chapter.
 28 SECTION 4. An emergency is declared for this act.

