

No. 2014-87

AN ACT

HB 118

Amending the act of December 12, 1986 (P.L.1559, No.169), entitled "An act providing protection for employees who report a violation or suspected violation of State, local or Federal law; providing protection for employees who participate in hearings, investigations, legislative inquiries or court actions; and prescribing remedies and penalties," further providing for the definitions of "appropriate authority," "employee," "employer" and "good faith report," for protection of employees, for enforcement and for penalties.

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

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

Section 2. Definitions.

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

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

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

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

- (1) *An individual.*
- (2) *A partnership.*
- (3) *An association.*
- (4) *A corporation for profit.*
- (5) *A corporation not for profit.*

"Good faith report." A report of conduct defined in this act as wrongdoing or waste which is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true. ***An employer is not barred from taking disciplinary***

action against the employee who completed the report if the employee's report was submitted in bad faith.

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Section 2. Section 3(a) of the act is amended and the section is amended by adding a subsection to read:

Section 3. Protection of employees.

(a) Persons not to be discharged.—No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste *by a public body or an instance of waste by any other employer as defined in this act.*

* * *

(c) *Disclosure prohibition.—An appropriate authority to which a violation of this act was reported may not disclose the identity of a whistleblower without the whistleblower's consent unless disclosure is unavoidable in the investigation of the alleged violation.*

Section 3. Sections 5 and 6 of the act are amended to read:

Section 5. Enforcement.

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

Section 6. Penalties.

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

Section 4. This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 2014

TOM CORBETT