

House Bill 1107

By: Representatives Davis of the 87th and Evans of the 83rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding public officers and employees, so as to revise provisions
3 regarding whistleblowers; to broaden the scope of persons who may report information to
4 public employers; to expand the definition of retaliation; to extend the statute of limitations
5 regarding public employer retaliation; to provide a misdemeanor offense for violations; to
6 provide a short title; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Georgia Anti-Corruption Act."

11 **SECTION 2.**

12 Chapter 1 of the Title 45 of the Official Code of Georgia Annotated, relating to general
13 provisions regarding public officers and employees, is amended by revising Code
14 Section 45-1-4, relating to complaints or information from public employees as to fraud,
15 waste, and abuse in state programs and operations, as follows:

16 "45-1-4.

17 (a) As used in this Code section, the term:

18 (1) 'Government agency' means any agency of federal, state, or local government
19 charged with the enforcement of laws, rules, or regulations.

20 (2) 'Law, rule, or regulation' includes any federal, state, or local statute or ordinance or
21 any rule or regulation adopted according to any federal, state, or local statute or
22 ordinance.

23 (3) 'Public employee' means any person who is employed by the executive, judicial, or
24 legislative branch of the state or by any other department, board, bureau, commission,
25 authority, or other agency of the state. This term also includes all employees, officials,

26 and administrators of any agency covered by the rules of the State Personnel Board and
 27 any local or regional governmental entity that receives any funds from the State of
 28 Georgia or any state agency.

29 (4) 'Public employer' means the executive, judicial, or legislative branch of the state; any
 30 other department, board, bureau, commission, authority, or other agency of the state
 31 which employs or appoints a public employee or public employees; or any local or
 32 regional governmental entity that receives any funds from the State of Georgia or any
 33 state agency.

34 (5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public
 35 employer of a public employee or any other adverse ~~employment~~ action taken by a public
 36 employer against any person, including, but not limited to, independent contractors or any
 37 a public employee in the terms or conditions of employment, for disclosing a violation
 38 of or noncompliance with a law, rule, or regulation to either a supervisor or government
 39 agency.

40 (6) 'Supervisor' means any individual:

41 (A) To whom a public employer has given authority to direct and control the work
 42 performance of the affected public employee;

43 (B) To whom a public employer has given authority to take corrective action regarding
 44 a violation of or noncompliance with a law, rule, or regulation of which the public
 45 employee complains; or

46 (C) Who has been designated by a public employer to receive complaints regarding a
 47 violation of or noncompliance with a law, rule, or regulation.

48 (b) A public employer may receive and investigate complaints or information from any
 49 person, including, but not limited to, independent contractors or any public employee
 50 concerning the possible existence of any activity constituting fraud, waste, and abuse in or
 51 relating to any state programs and operations under the jurisdiction of such public
 52 employer.

53 (c) Notwithstanding any other law to the contrary, such public employer shall not after
 54 receipt of a complaint or information from any person, including, but not limited to, any
 55 a public employee, disclose the identity of the person or public employee without the
 56 written consent of such person or public employee, unless the public employer determines
 57 such disclosure is necessary and unavoidable during the course of the investigation. In
 58 such event, the person or public employee shall be notified in writing at least seven days
 59 prior to such disclosure.

60 (d)(1) No public employer shall make, adopt, or enforce any policy or practice
 61 preventing any person or a public employee from disclosing a violation of or

62 noncompliance with a law, rule, ~~or~~ regulation, or other duty or requirement to either a
63 supervisor or a government agency, as applicable.

64 (2) No public employer shall retaliate against any person or a public employee for
65 disclosing a violation of or noncompliance with a law, rule, or regulation to either a
66 supervisor or a government agency, unless the disclosure was made with knowledge that
67 the disclosure was false or with reckless disregard for its truth or falsity.

68 (3) No public employer shall retaliate against any person, including, but not limited to,
69 independent contractors or any a public employee, for objecting to, or refusing to
70 participate in, any activity, policy, or practice of the public employer that the person or
71 public employee has reasonable cause to believe is in violation of or noncompliance with
72 a law, rule, or regulation.

73 (4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices
74 which implement, or to actions by public employers against public employees who
75 violate, privilege or confidentiality obligations recognized by constitutional, statutory, or
76 common law.

77 (e)(1)(A) Any person or ~~A~~ public employee who has been the object of retaliation in
78 violation of this Code section may institute a civil action in superior court for relief as
79 set forth in paragraph (2) of this subsection ~~within one year~~ after discovering the
80 retaliation ~~or within three years after the retaliation, whichever is earlier~~.

81 (B) In such civil action, no public employer shall have the availability of any
82 justification or excuse for any retaliation, except as provided for in this Code section.

83 (2) In any action brought pursuant to this subsection, the court may order any or all of
84 the following relief:

85 (A) An injunction restraining continued violation of this Code section;

86 (B) Reinstatement of the employee to the same position held before the retaliation or
87 to an equivalent position;

88 (C) Reinstatement of full fringe benefits and seniority rights;

89 (D) Compensation for lost wages, benefits, and other remuneration; and

90 (E) Any other compensatory damages allowable at law.

91 (f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing
92 person or public employee.

93 (g) Any agent of a public employer who violates subsection (d) of this Code section shall
94 be guilty of a misdemeanor."

95 **SECTION 3.**

96 All laws and parts of laws in conflict with this Act are repealed.