

SENATE BILL No. 629

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-33-6-4; IC 34-11-2-1; IC 34-28-10.

Synopsis: Cause of action for employer retaliation. Establishes a cause of action for an employee who is affected by an employer's action in retaliation for the employee making a report of child abuse or neglect in good faith. Provides that a prevailing plaintiff may be awarded reasonable attorney's fees. Specifies that the statute of limitations for the cause of action based on such a retaliatory adverse employment action is three years from the date of the adverse employment action.

Effective: July 1, 2019.

Busch

January 15, 2019, read first time and referred to Committee on Judiciary.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 629

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 31-33-6-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]: **Sec. 4. An employee who:**
4 **(1) is dismissed;**
5 **(2) has salary increases or employment related benefits**
6 **withheld;**
7 **(3) is transferred or reassigned;**
8 **(4) is denied a promotion that the employee would have**
9 **received;**
10 **(5) is demoted; or**
11 **(6) has the employee's salary reduced;**
12 **by an employer solely in retaliation for making a report of child**
13 **abuse or neglect in good faith may file an action against the**
14 **employer under IC 34-28-10-2.**
15 SECTION 2. IC 34-11-2-1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a) Except as**
17 **provided in subsection (b), an action relating to the terms, conditions,**



1 and privileges of employment except actions based upon a written
 2 contract (including, but not limited to, hiring or the failure to hire,
 3 suspension, discharge, discipline, promotion, demotion, retirement,
 4 wages, or salary) must be brought within two (2) years of the date of
 5 the act or omission complained of.

6 **(b) An action brought under IC 34-28-10-2 against an employer
 7 for recovery of an employee's losses relating to retaliation for
 8 making a report of child abuse or neglect in good faith must be
 9 commenced not later than three (3) years from the date of the
 10 adverse employment action.**

11 SECTION 3. IC 34-28-10 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]:

14 **Chapter 10. Remedies for Improper Employer Retaliation
 15 Because of Child Abuse or Neglect Report**

16 **Sec. 1. An employer may not, solely in retaliation for an
 17 employee making a report of child abuse or neglect in good faith,
 18 do any of the following:**

- 19 (1) Dismiss the employee.
- 20 (2) Withhold salary increases or employment related benefits
 21 from the employee.
- 22 (3) Transfer or reassign the employee.
- 23 (4) Deny a promotion that the employee would have received.
- 24 (5) Demote the employee.
- 25 (6) Reduce the employee's pay.

26 **Sec. 2. An employee who is adversely affected by an employer's
 27 action described in section 1 of this chapter may bring an action
 28 against the employer to recover the employee's losses, including:**

- 29 (1) to recover the wages the person lost as a result of the
 30 action;
- 31 (2) to obtain an order for reinstatement by the employer; or
- 32 (3) to recover the wages the person lost as a result of the
 33 action and to obtain an order for reinstatement by the
 34 employer.

35 **Sec. 3. In an action under this chapter, a court may award
 36 reasonable attorney's fees to:**

- 37 (1) the employee if the employee prevails; or
- 38 (2) the employer if:
 - 39 (A) the employer prevails; and
 - 40 (B) the court finds that the action is frivolous or was
 41 brought in bad faith.

42 **Sec. 4. An action brought under this chapter must be**



1 **commenced not later than three (3) years from the date of the**
2 **adverse employment action.**

