



AN ACT REVISING LAWS RELATED TO ETHICS AND STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS AND PUBLIC EMPLOYEES; PROVIDING THAT IT IS UNLAWFUL TO RETALIATE AGAINST A PERSON WHO ALLEGES WASTE, FRAUD, OR ABUSE; AND PROVIDING FOR CIVIL LIABILITY AND REMEDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Retaliation unlawful -- civil liability -- remedies -- statute of limitations. (1) It is unlawful for a state agency, state officer, public officer, or public employee to retaliate against, or to condone or threaten retaliation against, an individual who, in good faith, alleges waste, fraud, or abuse. For purposes of this section, the term "state agency" has the meaning provided in 1-2-116.

(2) For purposes of this section, "retaliate" means to take any of the following actions against an individual because the individual, in good faith, alleged waste, fraud, or abuse:

- (a) terminate employment;
- (b) demote;
- (c) deny overtime, benefits, or promotion;
- (d) discipline;
- (e) decline to hire or rehire;
- (f) threaten or intimidate;
- (g) reassign to a position that hurts future career prospects;
- (h) reduce pay, work hours, or benefits; or
- (i) take another adverse personnel action.

(3) A person who violates a provision of this section is liable in a civil action in a court of competent jurisdiction. The provisions of 2-9-305 apply if the person is being sued in a civil action for actions taken within the course and scope of the person's employment and the person is a state officer, public officer, or public employee. For purposes of this section, the term "person" has the meaning provided in 2-5-103.

(4) Remedies available to an aggrieved individual for a violation may include:

- (a) reinstatement to a lost position;
- (b) compensation for lost benefits, including service credit;
- (c) compensation for lost wages;
- (d) payment of reasonable attorney fees;
- (e) payment of court costs;
- (f) injunctive relief; and
- (g) compensatory damages.

(5) A lawsuit alleging a violation of this section must be brought within 2 years of the alleged violation.

(6) If a state agency maintains written internal procedures under which an individual may appeal an action described in subsection (2) within the agency's organizational structure, the individual shall first exhaust those procedures before filing an action under this section. The individual's failure to initiate or exhaust available internal procedures is a defense to an action brought under this section.

(7) For purposes of this subsection, if the state agency's internal procedures are not completed within 90 days from the date the individual may file an action under this section, the agency's internal procedures are considered exhausted. The limitation period in subsection (5) is tolled until the procedures are exhausted. The provisions of the agency's internal procedures may not in any case extend the limitation period in subsection (5) more than 240 days.

(8) If the state agency maintains written internal procedures described in subsection (6), the agency shall, within 7 days of receiving written notice from the complaining individual of the action described in subsection (2), notify the individual of the existence of the written procedures and supply the individual with a copy. If the agency fails to comply with this subsection, the individual is relieved from compliance with subsection (6).

(9) The commissioner of political practices is not required or authorized to enforce this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 2, part 1, and the provisions of Title 2, chapter 2, part 1, apply to [section 1].

- END -

I hereby certify that the within bill,
HB 0208, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2017.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2017.

HOUSE BILL NO. 208

INTRODUCED BY K. WAGONER, D. KARY

AN ACT REVISING LAWS RELATED TO ETHICS AND STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS AND PUBLIC EMPLOYEES; PROVIDING THAT IT IS UNLAWFUL TO RETALIATE AGAINST A PERSON WHO ALLEGES WASTE, FRAUD, OR ABUSE; AND PROVIDING FOR CIVIL LIABILITY AND REMEDIES.