

HOUSE BILL NO. 4392

April 12, 2023, Introduced by Reps. Witwer, Breen, Hood, Farhat, Brabec, Morse, Price, Weiss, Snyder, Brenda Carter, Tsernoglou, Hope, Andrews, Edwards, Haadsma, Wilson and Scott and referred to the Committee on Labor.

A bill to amend 1980 PA 469, entitled
"The whistleblowers' protection act,"
by amending sections 1, 2, and 3 (MCL 15.361, 15.362, and 15.363),
section 3 as amended by 1982 PA 146.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Employee" means a person who performs a service for wages
- 3 or other remuneration under a contract of hire, written or oral,
- 4 express or implied. Employee includes a person employed by ~~the~~**this**

1 state or a political subdivision of ~~the~~**this** state, ~~except~~**not**
 2 **including the** state classified civil service.

3 (b) "Employer" means a person who has 1 or more employees.
 4 Employer includes an agent of an employer and ~~the~~**this** state or a
 5 political subdivision of ~~the~~**this** state.

6 (c) "Person" means an individual, sole proprietorship,
 7 partnership, corporation, association, or any other legal entity.

8 (d) "Public body" means all of the following:

9 (i) A state officer, employee, agency, department, division,
 10 bureau, board, commission, council, authority, or other body in the
 11 executive branch of state government.

12 (ii) An agency, board, commission, council, member, or employee
 13 of the legislative branch of state government.

14 (iii) A county, city, township, village, intercounty, intercity,
 15 or regional governing body, a council, school district, special
 16 district, or municipal corporation, or a board, department,
 17 commission, council, agency, or any member or employee thereof.

18 (iv) Any other body which is created by state or local
 19 authority or which is primarily funded by or through state or local
 20 authority, or any member or employee of that body.

21 (v) A law enforcement agency or any member or employee of a
 22 law enforcement agency.

23 (vi) The judiciary and any member or employee of the
 24 ~~judiciary.~~**judicial branch of state government.**

25 (e) **"State employee ombudsman" means the state employee**
 26 **ombudsman appointed under the state employee ombudsman act.**

27 Sec. 2. An employer shall not discharge, threaten, or
 28 otherwise discriminate against an employee regarding the employee's
 29 compensation, terms, conditions, location, or privileges of

1 employment because the employee, or a person acting on behalf of
 2 the employee, reports or is about to report, verbally or in
 3 writing, a violation or a suspected violation of a law or
 4 regulation or rule promulgated pursuant to law of this state, a
 5 political subdivision of this state, or the United States to a
 6 public body, **the press, or the state employee ombudsman**, unless the
 7 employee knows that the report is false, or because an employee is
 8 requested by a public body **or the state employee ombudsman** to
 9 participate in an investigation, hearing, or inquiry held by that
 10 public body ~~—or the state employee ombudsman~~ or **in** a court action.

11 Sec. 3. (1) A person who alleges a violation of this act may
 12 bring a civil action for appropriate injunctive relief, or actual
 13 damages, or both within 90 days after the occurrence of the alleged
 14 violation of this act.

15 (2) An action ~~commenced pursuant to~~ **brought under** subsection
 16 (1) may be brought in the circuit court for the county where the
 17 alleged violation occurred, the county where the complainant
 18 resides, or the county where the person against whom the civil
 19 complaint is filed resides or ~~has his or her~~ **where the person's**
 20 principal place of business **is located**.

21 (3) As used in subsection (1), "damages" means damages for
 22 injury or loss caused by each violation of this act, including
 23 reasonable attorney fees.

24 (4) ~~An~~ **In an action under subsection (1), an** employee shall
 25 show by clear and convincing evidence that ~~he or she~~ **the employee**
 26 or a person acting on ~~his or her~~ **the employee's** behalf was about to
 27 report, verbally or in writing, a violation or a suspected
 28 violation of a law of this state, a political subdivision of this
 29 state, or the United States to a public body, **the press, or the**

1 **state employee ombudsman.**

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No. _____ or House Bill No. 4397 (request no.
6 02105'23) of the 102nd Legislature is enacted into law.