

SENATE BILL NO. 163

February 23, 2021, Introduced by Senators SANTANA, CHANG, ALEXANDER, BULLOCK, GEISS, MOSS, BRINKS, POLEHANKI, MCCANN, ANANICH, BAYER, WOJNO, HERTEL and HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to prohibit an employer from retaliating against an employee who engages in certain activities that address the employer's response to or management of coronavirus; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Coronavirus" means coronavirus disease 2019 (COVID-19).
- 3 (b) "Damages" means any of the following:
- 4 (i) Actual injury or loss.

1 (ii) Reasonable attorney fees and court costs.

2 (iii) Punitive damages.

3 (c) "Employee" means an individual who performs a service for
4 wages or other remuneration under a contract of hire, written or
5 oral, expressed or implied.

6 (d) "Employer" means a person that has 1 or more employees.
7 Employer includes an agent of the employer, this state, and a
8 political subdivision of this state.

9 (e) "Person" means an individual, partnership, corporation,
10 association, or other legal entity.

11 (f) "Retaliate" means to do or threaten to do any of the
12 following:

13 (i) Sanction.

14 (ii) Reduce pay.

15 (iii) Deny a promotion.

16 (iv) Terminate employment.

17 (v) Publicly demean or embarrass.

18 (vi) Any other form of intimidation.

19 (g) "Social media" means a service, platform, or website where
20 users communicate with one another and share media, such as
21 pictures, videos, music, and blogs, with other users free of
22 charge.

23 Sec. 3. An employer shall not retaliate against an employee
24 who criticizes or otherwise raises concerns to any of the following
25 regarding the employer's response to or management of the
26 coronavirus:

27 (a) The employer.

28 (b) Another employee.

29 (c) A department or agency of this state.

1 (d) A political subdivision of this state.

2 (e) The public, including through the use of social media.

3 Sec. 5. (1) An employee who alleges a violation of this act
4 may bring a civil action for appropriate injunctive relief or
5 damages, or both, within 90 days after the occurrence of the
6 alleged violation.

7 (2) Except as provided in chapter 64 of the revised judicature
8 act of 1961, 1961 PA 236, MCL 600.6401 to 600.6475, an action may
9 be brought under this subsection in the circuit court for the
10 county where the alleged violation occurred, or for the county
11 where the employer against whom the civil complaint is filed has
12 its principal place of business or is located.

13 (3) An employer shall not retaliate or discriminate against an
14 employee because the employee has done any of the following:

15 (a) Opposed a violation of this act.

16 (b) Filed a complaint under this act.

17 (c) Testified, assisted, or participated in a civil action
18 brought under this act.

19 Sec. 7. (1) If a collective bargaining agreement or other
20 contract that is inconsistent with this act is in effect for an
21 employee on the effective date of this act, this act applies to
22 that employee beginning on the date the collective bargaining
23 agreement or other contract expires or is amended, extended, or
24 renewed.

25 (2) This act does not permit the disclosure of information
26 that would impair or diminish the rights an individual has to the
27 continued protection of confidentiality of communications under the
28 law.

29 (3) This act does not require an employer to compensate an

1 employee for participation in an investigation, hearing, or inquiry
2 that results from an action brought under this act.

3 (4) This act applies to employees in the classified state
4 civil service to the extent that it is not inconsistent with
5 section 5 of article XI of the state constitution of 1963.