

HOUSE BILL NO. 208

INTRODUCED BY K. WAGONER, D. KARY

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A BILL FOR AN ACT ENTITLED: "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 A PENALTY FOR CIVIL LIABILITY AND REMEDIES."

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

NEW SECTION. Section 1. Retaliation unlawful -- penalty 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.

(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; ~~or~~
- (h) reduce pay, work hours, or benefits; OR
- (i) TAKE ANOTHER ADVERSE PERSONNEL ACTION.

(3) An individual ~~convicted of a violation of this section shall be imprisoned for a term not to exceed 5 years or fined an amount not to exceed \$20,000, or both.~~ WHO VIOLATES A PROVISION OF THIS SECTION IS LIABLE IN A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION. REMEDIES FOR A VIOLATION MAY INCLUDE:

- (A) REINSTATEMENT TO A LOST POSITION;
- (B) COMPENSATION FOR LOST BENEFITS, INCLUDING SERVICE CREDIT;



1 (C) COMPENSATION FOR LOST WAGES;

2 (D) PAYMENT OF REASONABLE ATTORNEY FEES;

3 (E) PAYMENT OF COURT COSTS;

4 (F) INJUNCTIVE RELIEF; AND

5 (G) COMPENSATORY DAMAGES.

6 (4) EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT A PREREQUISITE TO FILING AN ACTION UNDER THIS
7 SECTION.

8 (5) A LAWSUIT ALLEGING A VIOLATION OF THIS SECTION MUST BE BROUGHT WITHIN 2 YEARS OF THE ALLEGED
9 VIOLATION.

10 (6) THE COMMISSIONER OF POLITICAL PRACTICES IS NOT REQUIRED OR AUTHORIZED TO ENFORCE THIS SECTION.

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

14 - END -