

Senate Bill 396

By: Senators McLaurin of the 14th, Jones II of the 22nd, Jackson of the 41st, Orrock of the 36th, Sims of the 12th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding labor and industrial relations, so as to prohibit retaliatory
3 actions by certain employers against certain employees for disclosing potentially unlawful
4 activities; to provide for definitions; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 style="text-align:center">**SECTION 1.**

8 Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general
9 provisions regarding labor and industrial relations, is amended by adding a new Code section
10 to read as follows:

11 "34-1-11.

12 (a) As used in this Code section, the term:

13 (1) 'Adverse employment action' means an action that a reasonable employee would find
14 materially adverse.

15 (2) 'Employee' means:

16 (A) Any individual permitted to work by an employer unless the individual:

17 (i) Has been and will continue to be free from control and direction over the
18 performance of his or her work, both under his or her contract of service with his or
19 her employer and in fact;

20 (ii) Performs work which is either outside the usual course of business or is
21 performed outside all of the places of business of the employer unless the employer
22 is in the business of contracting with parties for the placement of employees; and

23 (iii) Is in an independently established trade, occupation, profession, or business; and

24 (B) A licensed physician who practices his or her profession, in whole or in part, at a
25 hospital, nursing home, clinic, or any medical facility that is a healthcare facility
26 funded, in whole or in part, by this state.

27 (3) 'Employer' means an individual, sole proprietorship, partnership, firm, corporation,
28 association, or any other entity that has one or more employees in this state, including a
29 political subdivision of the state; a unit of local government; a school district,
30 combination of school districts, or governing body of a joint agreement of any type
31 formed by two or more school districts; a community college district, state college or
32 university, or any state agency whose major function is providing educational services;
33 any authority including a department, division, bureau, board, commission, or other
34 agency of these entities; and any person acting within the scope of his or her authority,
35 express or implied, on behalf of those entities in dealing with its employees.

36 (4) 'Public body' means this state, any officer, board, political subdivision, or
37 commission of this state, any institution supported in whole or in part by public funds,
38 units of local government, and school districts.

39 (5) 'Retaliatory action' means:

40 (A) Adverse employment action or the threat of adverse employment action by an
41 employer or his or her agent to penalize or any nonemployment action that would
42 dissuade a reasonable worker from disclosing information under this Code section.

43 (B) Such term includes, but is not limited to:

44 (i) Taking, or threatening to take, any action that would intentionally interfere with
45 an employee's ability to obtain future employment or post-termination retaliation to
46 intentionally interfere with a former employee's employment; or

47 (ii) Contacting, or threatening to contact, United States immigration authorities, or
48 otherwise reporting, or threatening to report, an employee's suspected or actual
49 citizenship or immigration status or the suspected or actual citizenship or immigration
50 status of an employee's family or household member to a federal, state, or local
51 agency.

52 (C) Such term shall not include:

53 (i) Conduct undertaken at the express and specific direction or request of the federal
54 government;

55 (ii) Truthful, performance related information about an employee or former employee
56 provided in good faith to a prospective employer at the request of the prospective
57 employer; or

58 (iii) Conduct undertaken if specifically required by state or federal law.

59 (7) 'Supervisor' means any individual who has the authority to direct and control the
60 work performance of the affected employee or any individual who has managerial
61 authority to take corrective action regarding a violation of the law, rule, or regulation
62 disclosed by an employee.

63 (b)(1) An employer may not take retaliatory action against an employee who discloses
64 or threatens to disclose to a public body conducting an investigation, or in a court, an
65 administrative hearing, or any other proceeding initiated by a public body, information
66 related to an activity, policy, or practice of the employer, where the employee has a good
67 faith belief that the activity, policy, or practice violates a state or federal law, rule, or
68 regulation or poses a substantial and specific danger to employees, public health, or
69 safety.

70 (2) An employer may not take retaliatory action against an employee for disclosing or
71 threatening to disclose information to a government or law enforcement agency
72 information related to an activity, policy, or practice of the employer, where the employee
73 has a good faith belief that the activity, policy, or practice of the employer violates a state
74 or federal law, rule, or regulation or poses a substantial and specific danger to employees,
75 public health, or safety.

76 (3) An employer may not take retaliatory action against an employee for disclosing or
77 threatening to disclose to any supervisor, principal officer, board member, or supervisor
78 in an organization that has a contractual relationship with the employer who makes the
79 employer aware of the disclosure, information related to an activity, policy, or practice
80 of the employer if the employee has a good faith belief that the activity, policy, or
81 practice violates a state or federal law, rule, or regulation or poses a substantial and
82 specific danger to employees, public health, or safety."

83

SECTION 2.

84 All laws and parts of laws in conflict with this Act are repealed.