

Senate Bill 117

By: Senators Williams of the 25th, Payne of the 54th, Anderson of the 24th, Burns of the 23rd, Strickland of the 42nd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to  
2 general provisions regarding public officers and employees, so as to provide a misdemeanor  
3 offense for violations regarding complaints by public employees; to provide for related  
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to general  
8 provisions regarding public officers and employees, is amended by revising Code  
9 Section 45-1-4, relating to complaints or information from public employees as to fraud,  
10 waste, and abuse in state programs and operations, as follows:

11 "45-1-4.

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

13 (1) 'Government agency' means any agency of federal, state, or local government  
14 charged with the enforcement of laws, rules, or regulations.

15 (2) 'Law, rule, or regulation' includes any federal, state, or local statute or ordinance or  
16 any rule or regulation adopted according to any federal, state, or local statute or  
17 ordinance.

18 (3) 'Public employee' means any person who is employed by the executive, judicial, or  
19 legislative branch of the state or by any other department, board, bureau, commission,  
20 authority, or other agency of the state. Such This term also includes all employees,  
21 officials, and administrators of any agency covered by the rules of the State Personnel  
22 Board and any local or regional governmental entity that receives any funds from the  
23 State of Georgia or any state agency.

24 (4) 'Public employer' means the executive, judicial, or legislative branch of the state; any  
25 other department, board, bureau, commission, authority, or other agency of the state  
26 which employs or appoints a public employee or public employees; or any local or  
27 regional governmental entity that receives any funds from the State of Georgia or any  
28 state agency.

29 (5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public  
30 employer of a public employee or any other adverse employment action taken by a public  
31 employer against a public employee in the terms or conditions of employment for  
32 disclosing a violation of or noncompliance with a law, rule, or regulation to either a  
33 supervisor or government agency.

34 (6) 'Supervisor' means any individual:

35 (A) To whom a public employer has given authority to direct and control the work  
36 performance of the affected public employee;

37 (B) To whom a public employer has given authority to take corrective action regarding  
38 a violation of or noncompliance with a law, rule, or regulation of which the public  
39 employee complains; or

40 (C) Who has been designated by a public employer to receive complaints regarding a  
41 violation of or noncompliance with a law, rule, or regulation.

42 (b) A public employer may receive and investigate complaints or information from any  
43 public employee concerning the possible existence of any activity constituting fraud, waste,  
44 and abuse in or relating to any state programs and operations under the jurisdiction of such  
45 public employer.

46 (c) Notwithstanding any other law to the contrary, such public employer shall not after  
47 receipt of a complaint or information from a public employee disclose the identity of the  
48 public employee without the written consent of such public employee, unless the public  
49 employer determines such disclosure is necessary and unavoidable during the course of the  
50 investigation. In such event, the public employee shall be notified in writing at least seven  
51 days prior to such disclosure.

52 (d)(1) No public employer shall make, adopt, or enforce any policy or practice  
53 preventing a public employee from disclosing a violation of or noncompliance with a law,  
54 rule, or regulation to either a supervisor or a government agency.

55 (2) No public employer shall retaliate against a public employee for disclosing a  
56 violation of or noncompliance with a law, rule, or regulation to either a supervisor or a  
57 government agency, unless the disclosure was made with knowledge that the disclosure  
58 was false or with reckless disregard for its truth or falsity.

59 (3) No public employer shall retaliate against a public employee for objecting to, or  
60 refusing to participate in, any activity, policy, or practice of the public employer that the  
61 public employee has reasonable cause to believe is in violation of or noncompliance with  
62 a law, rule, or regulation.

63 (4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices  
64 which implement, or to actions by public employers against public employees who  
65 violate, privilege or confidentiality obligations recognized by constitutional, statutory, or  
66 common law.

67 (e)(1) A public employee who has been the object of retaliation in violation of this Code  
68 section may institute a civil action in superior court for relief as set forth in paragraph (2)

69 of this subsection within one year after discovering the retaliation or within three years  
70 after the retaliation, whichever is earlier.

71 (2) In any action brought pursuant to this subsection, the court may order any or all of  
72 the following relief:

73 (A) An injunction restraining continued violation of this Code section;

74 (B) Reinstatement of the employee to the same position held before the retaliation or  
75 to an equivalent position;

76 (C) Reinstatement of full fringe benefits and seniority rights;

77 (D) Compensation for lost wages, benefits, and other remuneration; and

78 (E) Any other compensatory damages allowable at law.

79 (f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing  
80 public employee.

81 (g) Any agent of a public employer who violates subsection (d) of this Code section shall  
82 be guilty of a misdemeanor."

83 **SECTION 2.**

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