

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2055

By: Representative Hammer

For An Act To Be Entitled

AN ACT CONCERNING REMEDIES AVAILABLE TO PERSONS
TERMINATED IN VIOLATION OF THE ARKANSAS WHISTLE-
BLOWER ACT; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING REMEDIES AVAILABLE TO PERSONS
TERMINATED IN VIOLATION OF THE ARKANSAS
WHISTLE-BLOWER ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 21-1-605 is amended to read as follows:
21-1-605. Remedies.

(a) A court in rendering judgment under this subchapter may order any or all of the following remedies:

(1) An injunction to restrain continued violation of the provisions of this subchapter;

(2) The reinstatement of the public employee to the same position held before the adverse action or to an equivalent position;

(3) The reinstatement of full fringe benefits and retirement service credit;

(4) The compensation for lost wages, benefits, and any other remuneration; or

(5) The payment by the public employer of reasonable court costs and attorney's fees.

(b)(1)(A) A public employee alleging in a civil action that he or she was terminated from his or her position as the result of adverse action



prohibited under § 21-1-603 may request an expedited hearing on the issue of the public employee being reinstated to the public employee's position until the resolution of the civil action brought under this subchapter.

(2) If at an expedited hearing the public employee demonstrates that a reasonable person would conclude that his or her termination was a result of adverse action prohibited under § 21-1-603, the court shall order that the public employee be:

(A) Reinstated to his or her position until the conclusion of the civil action brought under this subchapter; or

(B) Reinstated to his or her positions and placed on paid administrative leave until the conclusion of the civil action brought under this subchapter.

SECTION 2. Arkansas Code § 21-1-703 is amended to read as follows:

21-1-703. Appeals.

(a) The Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration shall promulgate rules that:

(1) Provide a process for appeals of the grievance decisions of state agencies; and

(2) Provide a procedure for the nonbinding mediation consistent with this subchapter, including without limitation:

(A) The filing and form of a request for nonbinding mediation;

(B) The method of notice of and the scheduling of the nonbinding mediation to be provided to a party;

(C) Rules for conduct of the nonbinding mediation;

(D) Appropriate evidence to be considered at the nonbinding mediation; and

(E) Considerations to be made in resolving the nonbinding mediation.

(b)(1)(A) The rules promulgated under subdivision (a)(1) of this section shall provide without limitation that an employee be afforded a hearing within fifteen (15) business days of the filing of his or her appeal if the employee alleges that he or she was terminated by a state agency for the following actions under § 21-1-603:

(i) Communicating in good faith to an appropriate authority:

(a) The existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer; or

(b) A violation or suspected violation of a law, rule, or regulation adopted under the law of this state or a political subdivision of the state;

(ii) Participating or giving information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review;

(iii) Objecting or refusing to carry out a directive that the employee reasonably believes violates a law, rule, or regulation adopted under the authority of the laws of the state or a political subdivision of the state; or

(iv) A report of loss of public funds under § 25-1-124.

(B) A hearing under subdivision (b)(1)(A) of this section shall take place before the occurrence of a state agency hearing pursuant to the grievance filed by the person.

(C)(i) An employee requesting a hearing under subdivision (b)(1)(A) of this section shall submit with his or her request for a hearing evidence that he or she committed one of the actions under subdivision (b)(1)(A)(i)-(iv) of this section. Evidence under this subdivision (b)(1)(C)(i) that is confidential under § 21-1-607 or other provisions of law shall remain confidential when submitted in support of a request for a hearing or otherwise utilized in the appeal of the grievance decision.

(ii) If the person fails to demonstrate that he or she committed one of the actions under subdivision (b)(1)(A)(i)-(iv) of this section, the office shall not schedule a hearing under subdivision (b)(1)(A) of this section.

(2) If the employee demonstrates at the hearing that a reasonable person would conclude that the state agency terminated the employee as a result of the employee's activities under subdivision (b)(1)(A)-(D) of this section, the employee shall be:

(A) Reinstated to his or her position until the conclusion

of the grievance; or

(B) Reinstated to his or her position and placed on administrative leave until the conclusion of the grievance

(3) An employee filing an appeal of a grievance decision under this section does not waive his or her right to file a claim under the Arkansas Whistle-Blower Act, § 21-1-601 et seq.

SECTION 3. Arkansas Code § 21-1-704(a)(1)(D)(i), concerning nonbinding mediation, is amended to add an additional subdivision to read as follows:

(d) Reporting a loss of public funds under § 25-1-124.

APPROVED: 04/01/2017