

# HOUSE BILL NO. 4873

August 29, 2019, Introduced by Reps. Kennedy, Rabhi, Sowerby, Brenda Carter, LaGrand, Lasinski, Brixie, Coleman, Sabo, Ellison, Clemente, Liberati, Sneller, Haadsma, Kuppa, Witwer, Cherry, Stone, Shannon, Cynthia Johnson, Pagan, Wittenberg, Greig, Hood, Manoogian, Tyrone Carter, Elder, Hoadley, Chirkun, Tate, Whitsett, Hammoud, Camilleri, Anthony, Warren, Cambensy, Hertel and Love and referred to the Committee on Commerce and Tourism.

A bill to amend 1980 PA 469, entitled  
"The whistleblowers' protection act,"  
by amending sections 1, 2, and 3 (MCL 15.361, 15.362, and 15.363),  
section 3 as amended by 1982 PA 146.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1           Sec. 1. As used in this act:
- 2           (a) "Employee" means a person who performs a service for wages
- 3           or other remuneration under a contract of hire, written or oral,
- 4           express or implied. Employee includes a person employed by ~~the~~**this**



1 state or a political subdivision of ~~the~~**this** state except state  
2 classified civil service.

3 (b) "Employer" means a person who has 1 or more employees.  
4 Employer includes an agent of an employer and ~~the~~**this** state or a  
5 political subdivision of ~~the~~**this** state.

6 (c) "Person" means an individual, sole proprietorship,  
7 partnership, corporation, association, or any other legal entity.

8 (d) "Public body" means all of the following:

9 (i) A state officer, employee, agency, department, division,  
10 bureau, board, commission, council, authority, or other body in the  
11 executive branch of state government.

12 (ii) An agency, board, commission, council, member, or employee  
13 of the legislative branch of state government.

14 (iii) A county, city, township, village, intercounty, intercity,  
15 or regional governing body, a council, school district, special  
16 district, or municipal corporation, or a board, department,  
17 commission, council, agency, or any member or employee thereof.

18 (iv) Any other body which is created by state or local  
19 authority or which is primarily funded by or through state or local  
20 authority, or any member or employee of that body.

21 (v) A law enforcement agency or any member or employee of a  
22 law enforcement agency.

23 (vi) The judiciary and any member or employee of the  
24 ~~judiciary.~~**judicial branch of state government.**

25 (e) **"State employee ombudsman" means the state employee**  
26 **ombudsman appointed in the state employee ombudsman act.**

27 Sec. 2. ~~An~~**Unless the employee knows the report is false, an**  
28 employer shall not discharge, threaten, or otherwise discriminate  
29 against an employee regarding the employee's compensation, terms,



1 conditions, location, or privileges of employment because the  
 2 employee, or a person acting on behalf of the employee, reports or  
 3 is about to report, verbally or in writing, a violation or a  
 4 suspected violation of a law or regulation or rule promulgated  
 5 pursuant to law of this state, a political subdivision of this  
 6 state, or the United States to a public body, ~~unless the employee~~  
 7 ~~knows that the report is false,~~ **the press, or the state employee**  
 8 **ombudsman**, or because an employee is requested by a public body **or**  
 9 **the state employee ombudsman** to participate in an investigation,  
 10 hearing, or inquiry held by that public body, ~~or the state~~  
 11 **employee ombudsman** or **in** a court action.

12       Sec. 3. (1) A person who alleges a violation of this act may  
 13 bring a civil action for appropriate injunctive relief, or actual  
 14 damages, or both within 90 days after the occurrence of the alleged  
 15 violation of this act.

16       (2) An action commenced ~~pursuant to~~ **under** subsection (1) may  
 17 be brought in the circuit court for the county where the alleged  
 18 violation occurred, the county where the complainant resides, or  
 19 the county where the person against whom the civil complaint is  
 20 filed resides or has his or her principal place of business.

21       (3) As used in subsection (1), "damages" means damages for  
 22 injury or loss caused by each violation of this act, including  
 23 reasonable attorney fees.

24       (4) ~~An~~ **In an action under subsection (1), an** employee shall  
 25 show by clear and convincing evidence that he or she or a person  
 26 acting on his or her behalf was about to report, verbally or in  
 27 writing, a violation or a suspected violation of a law of this  
 28 state, a political subdivision of this state, or the United States  
 29 to a public body, **the press, or the state employee ombudsman.**



1           Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.

3           Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4872 (request no.  
5 02710'19) of the 100th Legislature is enacted into law.

