

Model Captive Audience Statute

Imprisonment.

An employer shall not use any physical restraint, employment termination or other employment-related adverse consequences or any overt or implied threat of the same to induce an employee to participate in communications with the employer or its representatives concerning religious or political matters or the employees' exercise of rights to self-organization for purposes of collective bargaining or other mutual aid or protection, except with respect to any communications which the employer is required by law to make and then only to the extent of such legal requirement.

No Retaliation

It shall be unlawful for any employer or employer's agent or representative to take any action against an individual in retaliation for the exercise of rights under this or against any individual who mistakenly, but in good faith, alleges noncompliance with this Chapter. In any civil proceeding brought under this Chapter, if the plaintiff establishes that he or she or the subject worker was employed by the defendant, exercised rights under this Chapter or alleged in good faith that the defendant was not complying with this Chapter, was thereafter terminated, demoted or otherwise penalized by the defendant, and that action took place within sixty (60) days after such advocacy, then a rebuttable presumption shall arise that the defendant's action was taken in retaliation for the exercise of rights protected by this Chapter. The defendant must prove that the true and entire reason for the termination, demotion or penalty was a legitimate business reason. The plaintiff may rebut the defendant's asserted legitimate business reason by showing that it was, in fact, a pretext.

Definitions

"Employer" as used herein shall mean any private nonprofit institution of higher education or any nonprofit general hospital facility the real property of which is the basis of grant in lieu of taxes under **Sec. 12-20a**. "Employee" as used herein shall mean any person employed by an employer and shall include Research Assistants or Fellows, Teaching Assistants or Fellows and Interns and Residents working on the premises of an employer.

Enforcement.

(a) The Attorney General or an employee claiming violation of this article may bring a civil action against the employee's employer to enforce the provisions of this article and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this article, including but not limited to back pay, reinstatement or injunctive relief.

(b) An employee terminated in violation of Section ___ shall recover treble his or her lost normal daily compensation and fringe benefits, together with interest thereon, and any consequential damages suffered by the employee. Interim earnings, including amounts the employee could have earned with reasonable diligence, shall be deducted from the amount awarded for lost wages. Before interim earnings are deducted from lost wages, there shall be deducted from the interim earnings any reasonable amounts expended by the employee in searching for, obtaining, or relocating to new employment.

(c) The court shall award reasonable attorney's fees and costs to the Attorney General or to an employee for prevailing in any enforcement action.

(d) No remedy set forth in this section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.