

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40441-LR-138

Short Title: No Retaliation Against Mandatory Reporters. (Public)

Sponsors: Representative Greenfield.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE LABOR LAWS TO PROVIDE PROTECTION FOR
3 MANDATORY REPORTERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 95 of the General Statutes is amended by adding a new Article
6 to read:

7 "Article 21A.

8 "Protection for Mandatory Reporters.

9 **§ 95-246. Definitions; public policy.**

10 (a) The following definitions apply in this Article:

11 (1) Commissioner. – The North Carolina Commissioner of Labor.

12 (2) Employee. – Any individual employed by an employer who is required by the
13 General Statutes to serve as a mandatory reporter.

14 (3) Employer. – Any person that employs one or more employees who are
15 required by the General Statutes to serve as a mandatory reporter.

16 (4) Mandatory reporter. – An individual who is required by law to report
17 suspected abuse, neglect, or dependency of children, disabled adults, or older
18 adults or who is covered under one or more of the following mandatory
19 reporting statutes:

20 a. G.S. 90-5.4. – Duty to report.

21 b. G.S. 90-121.7. – Duty to report certain other acts or events.

22 c. G.S. 77-129. – No discharge of treated or untreated sewage in coastal
23 waters; duty of marina owner or operator to report unlawful discharge.

24 d. G.S. 143B-1017. – Duty of individuals to notify Center and
25 law-enforcement agency when missing person has been located.

26 e. G.S. 7B-301. – Duty to report abuse, neglect, dependency, or death
27 due to maltreatment.

28 f. G.S. 7B-1700.1. – Duty to report abuse, neglect, dependency.

29 g. G.S. 14-208.11A. – Duty to report noncompliance of a sex offender;
30 penalty for failure to report in certain circumstances.

31 h. G.S. 90-21.20. – Reporting by physicians and hospitals of wounds,
32 injuries and illnesses.

33 i. G.S. 108A-102. – Duty to report; content of report; immunity.

34 j. G.S. 108A-115. – Duty to report suspected fraud; content of report;
35 immunity for reporting.

36 k. G.S. 110-105.4. – Duty to report child maltreatment.



1 l. G.S. 122C-66. – Protection from abuse and exploitation; reporting.

2 (5) Protected activity. – Making a good-faith report of suspected abuse, neglect,
3 exploitation, dependency, fraud, or other conditions that threaten health,
4 safety, or welfare to the appropriate authorities as required by State law.

5 (6) Retaliatory action. – The discharge, suspension, demotion, disciplinary action,
6 reduction in salary, transfer, or other adverse employment action taken against
7 an employee in the terms, conditions, privileges, or benefits of employment.

8 (b) The General Assembly finds that when private employees are required by law to serve
9 as mandatory reporters, they may face conflicting pressures between their legal duty to report
10 and concerns about potential adverse employment consequences. These employees must be free
11 to fulfill their statutory obligations to protect vulnerable persons without intimidation,
12 harassment, or retaliatory employment action. Therefore, it is the public policy of this State that:

13 (1) Employees required by statute to report suspected abuse, neglect, dependency,
14 fraud, exploitation, or other conditions that threaten the health, safety, or
15 welfare of vulnerable persons shall fulfill their statutory reporting duties
16 without fear of retaliation from their employers.

17 (2) Employees serving as mandatory reporters under North Carolina law who
18 make good-faith reports as required by statute should be protected from
19 retaliatory actions in their employment, as their protection is essential to
20 ensure the effectiveness of the State's mandatory reporting systems and the
21 protection of the public or vulnerable populations.

22 **"§ 95-247. Protection from retaliation.**

23 (a) No employer shall take retaliatory action against an employee because the employee
24 engages in a protected activity. An employer takes retaliatory action against an employee when
25 the employee's protected activity is a substantial motivating factor in the employer's decision to
26 take adverse employment action against the employee.

27 (b) If an employee is a mandatory reporter, the employer shall provide notice to the
28 employee of their rights under this Article and provide training on mandatory reporting
29 obligations with 60 days of hiring and annually thereafter.

30 (c) To qualify for protection under this Article, an employee must document that they
31 made a mandatory report. When legally permitted, the employee should notify their employer
32 about the report within five business days of making it. This notification may be made in writing,
33 by email, or by other documented means of communication. If an employee does not provide
34 direct notification to their employer, the employee must establish in any subsequent retaliation
35 claim that the employer had knowledge of the report prior to taking the alleged retaliatory action.

36 (d) This Article shall not be construed to do any of the following:

37 (1) Prevent an employer from taking appropriate disciplinary action against an
38 employee for legitimate work performance issues unrelated to the employee's
39 protected activity.

40 (2) Override an employer's obligations to maintain confidentiality of information
41 as may be required by federal or State law.

42 (3) Diminish or replace any other whistleblower protections provided under State
43 or federal law.

44 **"§ 95-248. Enforcement.**

45 (a) Any employee who believes that an employer has violated the provisions of this
46 Article may file a written complaint with the Commissioner. The Commissioner shall investigate
47 and issue a determination within 90 days of receipt of the complaint. If the Commissioner
48 determines that a violation of this Article has occurred, the Commissioner may take one or more
49 of the following actions:

50 (1) Order the employer to cease and desist from the violation.

- 1 (2) Order reinstatement of the employee to the same position held before the
2 retaliatory action or an equivalent position.
3 (3) Order compensation for lost wages, benefits, and other remuneration.
4 (4) Assess a civil penalty against the employer not to exceed five thousand dollars
5 (\$5,000) per violation.

6 (b) An employee may bring a civil action against the employer in the General Court of
7 Justice for violations of this Article within one year after the alleged violation occurred or within
8 90 days of the Commissioner's determination, whichever is later. A court may award reasonable
9 costs and attorneys' fees to the prevailing party.

10 (c) The employee shall have the initial burden of establishing a prima facie case by
11 preponderance of the evidence that protected activity was a substantial motivating factor in the
12 retaliatory action. A prima facie case consists of evidence showing (i) the employee engaged in
13 protected activity, (ii) the employer took adverse action against the employee, and (iii) there is a
14 causal connection between the protected activity and the adverse action. If the employee
15 establishes a prima facie case, the burden shifts to the employer to articulate a legitimate,
16 non-retaliatory reason for the adverse employment action. If the employer meets this burden, the
17 employee must then demonstrate that the employer's stated reason is a pretext for retaliation.

18 (d) Any adverse employment action taken against an employee within 60 days of the
19 employee engaging in protected activity may give rise to a rebuttable presumption that the action
20 was retaliatory. An employer may rebut this presumption with clear and convincing evidence
21 that the adverse employment action was taken for legitimate, non-retaliatory reasons. The
22 existence of regular employee performance documentation created before the employer had
23 knowledge of a mandatory report may be sufficient evidence to rebut the presumption under this
24 subsection.

25 (e) The Commissioner shall establish reasonable confidentiality measures during
26 investigations, balancing the need to protect sensitive information with the parties' rights to due
27 process.

28 **"§ 95-249. Miscellaneous provisions.**

29 (a) For employment contracts executed prior to the effective date of this Article, the
30 protections provided herein shall be construed as supplemental to existing contractual rights and
31 shall not be interpreted to nullify valid contractual provisions. Employers may include in new or
32 renewed employment contracts provisions relating to mandatory reporting procedures that do not
33 diminish the protections provided by this Article.

34 (b) This Article creates a narrow exception to the at-will employment doctrine solely for
35 the purpose of protecting mandatory reporters from retaliation. An employee has no right to
36 continued employment under this Article beyond the protection from retaliatory action for
37 engaging in protected activity.

38 (c) The remedies, procedures, and rights set forth in this Article are in addition to and not
39 in lieu of any other remedies, procedures, or rights available under any other State or federal law.

40 (d) If any provision of this Article or its application to any person or circumstance is held
41 invalid or unenforceable, the remainder of this Article or the application of the provision to other
42 persons or circumstances is not affected.

43 (e) The Commissioner shall adopt policies and rules for the implementation and
44 enforcement of this Article. Beginning January 1, 2026, the Commissioner shall collect and
45 maintain data on complaints, determinations, and resolutions under this Article and shall report
46 periodically to the General Assembly."

47 **SECTION 2.** G.S. 95-241(a) is amended by adding a new subdivision to read:

48 "(6) Exercise rights under Article 21A of this Chapter. Actions brought under this
49 subdivision shall be in accordance with the provisions of G.S. 95-248."

50 **SECTION 3.** This act becomes effective July 1, 2025, and applies to acts or
51 omissions occurring on or after that date.