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1 **HOUSE BILL NO. 1754**
2 Offered January 13, 2021
3 Prefiled December 16, 2020
4 *A BILL to amend and reenact §§ 40.1-27.3 and 65.2-308 of the Code of Virginia, relating to*
5 *employment; retaliatory discharge by employer; Workers' Compensation.*
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Patrons—Carter, Hurst, Levine and Samirah
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8 Referred to Committee on Labor and Commerce
9 ────────────

10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That §§ 40.1-27.3 and 65.2-308 of the Code of Virginia are amended and reenacted as follows:**
12 **§ 40.1-27.3. Retaliatory action against employee prohibited.**
13 A. ~~An~~ *No* employer *or person* shall ~~not~~ discharge, discipline, threaten, discriminate against, or
14 penalize an employee, or take other retaliatory action regarding an employee's compensation, terms,
15 conditions, location, or privileges of employment, because the employee:
16 1. Or a person acting on behalf of the employee in good faith reports a violation of any federal or
17 state law or regulation to a supervisor or to any governmental body or law-enforcement official;
18 2. Is requested by a governmental body or law-enforcement official to participate in an investigation,
19 hearing, or inquiry;
20 3. Refuses to engage in a criminal act that would subject the employee to criminal liability;
21 4. Refuses an employer's order to perform an action that violates any federal or state law or
22 regulation and the employee informs the employer that the order is being refused for that reason; ~~or~~
23 5. Provides information to or testifies before any governmental body or law-enforcement official
24 conducting an investigation, hearing, or inquiry into any alleged violation by the employer of federal or
25 state law or regulation*; or*
26 *6. Has filed or intends to file a claim under Title 65.2 or has testified or is about to testify in any*
27 *proceeding under Title 65.2.*
28 B. This section does not:
29 1. Authorize an employee to make a disclosure of data otherwise protected by law or any legal
30 privilege;
31 2. Permit an employee to make statements or disclosures knowing that they are false or that they are
32 in reckless disregard of the truth; or
33 3. Permit disclosures that would violate federal or state law or diminish or impair the rights of any
34 person to the continued protection of confidentiality of communications provided by common law.
35 C. A person who alleges a violation of this section may bring a civil action in a court of competent
36 jurisdiction within one year of the employer's prohibited retaliatory action. The court may order as a
37 remedy to the employee (i) an injunction to restrain continued violation of this section, (ii) the
38 reinstatement of the employee to the same position held before the retaliatory action or to an equivalent
39 position, and (iii) compensation for lost wages, benefits, and other remuneration, together with interest
40 thereon, as well as reasonable attorney fees and costs.
41 **§ 65.2-308. Discharge of employee for exercising rights prohibited; civil action; relief.**
42 A. No employer or person shall discharge*, discipline, threaten, discriminate against, or penalize* an
43 employee ~~solely~~ ~~because~~*, or take other retaliatory action regarding an employee's compensation, terms,*
44 *conditions, location, or privileges of employment, if such action is motivated by knowledge or belief that*
45 the employee intends to file or has filed a claim under this title or has testified or is about to testify in
46 any proceeding under this title. The discharge of a person who has filed a fraudulent claim is not a
47 violation of this section.
48 B. The employee may bring an action in a circuit court having jurisdiction over the employer or
49 person who allegedly discharged the employee in violation of this section. The court shall have
50 jurisdiction, for cause shown, to restrain violations and order appropriate relief, including actual damages
51 and attorney's fees to successful claimants and the rehiring or reinstatement of the employee, with back
52 pay plus interest at the judgment rate as provided in § 6.2-302.