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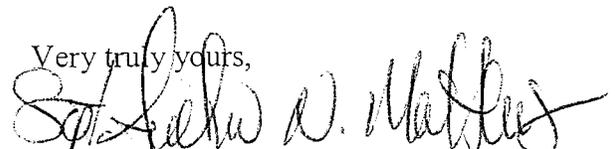
**RE: An Act Concerning the Protection of Whistleblowers  
Raised Bill No. 335/LCO No. 1915**

Dear Committee Members:

My name is Andrew Matthews and I am a Sergeant with the Connecticut State Police. I would like to thank you for giving me the opportunity to share with you my experiences and comments regarding the current Whistleblower law and the proposed above-referenced bill. Please find attached written comments to the bill, as well as an outline of my testimony at the Public Hearing.

Again, I thank you for the opportunity and if you have any questions or concerns please do not hesitate to contact me at (203) 232-2332. Furthermore, if any member of the Committee would like to discuss the Whistleblower proposed legislation or issues concerning whistleblowers, I would be more than happy to meet and discuss the issues further.

Very truly yours,



Sgt. Andrew N. Matthews

Att.

AN ACT CONCERNING THE PROTECTION OF WHISTLEBLOWERS. BILL NO. 335

Section 1. Section 4-61dd:

PROPOSED NEW LEGISLATION

(b)(2)

**Proposed bill language:** *“If the Attorney General determines that such personnel action was in retaliation of such employee’s or contractor’s disclosure of information pursuant to this section, the Attorney General may intervene in any proceeding, pursuant to subdivision (3) or this subsection.”*

Comment:

If the Attorney General determines that such personnel action was in retaliation of such employee’s disclosure – the Attorney General shall have authority to enforce such recommendations against the employer/state agency he indicates in his report. Typically, the employer/state agency denies and ignores the Attorney General’s whistleblower retaliation report, rendering such report frivolous. As such, the recommendations of the Attorney General should be enforced against the employer to give it any credence.

Furthermore, it is unclear whether the Attorney General himself or others in his office would be intervening on behalf of the whistleblower and to what capacity, a mere advocate or actual representation. Would the Attorney General hire a law firm to represent the whistleblower? \*Taxpayers money!

(b) (3)(A)

**Proposed bill language:** *“a state or quasi-public agency employee ... may file a complaint against the state agency, the quasi public agency ... concerning such personnel action with the Chief Human Rights Referee”.*

Comment:

This provision should also allow the complaint to be filed against the employee(s) and/or officers who were responsible for ordering or taking the adverse personnel action against the whistleblower.

**Proposed bill language:** *“If, during the pendency of the hearing, the human rights referee has reasonable cause to believe that an officer or employee has taken additional personnel action in violation of subdivision (1) of subsection (b) of this section, such referee may order such temporary equitable relief, including, but not limited to, an order reinstating the person filing the complaint to the same position held before such personnel action was taken.”*

Comment:

Not only shall the human rights referee have the authority to order temporary equitable relief with regards to reinstating the person filing the complaint to the same position held before such personnel action, but there should be orders imposed against the employer/employee who took the retaliatory action against the whistleblower, for example a re-assignment or transfer in work location so they are not in contact with each other. Additionally, the referee shall be permitted to order that the employer allow the whistleblower to take a paid leave of absence pending the CHRO matter.

### ADDITIONAL COMMENTS TO THE CURRENT STATUTE

Section 4-61dd

(a)

Line 10: “the Attorney General shall make such investigation as the Attorney General *deems proper* regarding such report and any other information that may be reasonably derived from such report.”

Comment:

There is too much discretion given to the Attorney General on the extent of the investigation. Each Auditors of Public Accounts report should be reviewed and investigated thoroughly to the largest extent possible to either substantiate the protected act of disclosure or to refute the charges.

However, in the context of the Attorney General conducting an investigation, pursuant to (b)(2), regarding a claim of whistleblower retaliation the investigation should be mandated.

Line 21: “Upon the conclusion of the investigation, the Attorney General shall *where necessary*, report any findings to the Governor, or in matters involving criminal activity, to the Chief State’s Attorney.”

Comment:

Again, there is too much discretion given to the Attorney General to determine when it is appropriate to report his findings to the Governor’s office. It should be required that all findings and reports by the Attorney General, as well as the initial report by the Auditors of Public Accounts, to be submitted to the Governor’s office for review.

Furthermore, this appears to be the end of the Attorney General’s office involvement. There needs to be statutory authority given to his office to mandate State Agency officials/departments to abide by the recommendations – or change them to “orders” – of the Attorney General. At a minimum, these “orders” should be made temporary until a adjudicative proceeding – ie. CHRO.

**(b) (2)**

“If a state or quasi-public agency employee ... alleges that a personnel action has been threatened or taken in violation of subdivision (1) of this subsection, the employee *may notify the Attorney General, who shall investigate pursuant to subsection (a) of this section.*”

Comment:

Please also refer to the above comments pertaining to section (a).

There should be language that requires the investigation and report of the findings to be completed within 180 days of the date of the complaint. Too often, the investigations are perpetually delayed, while in the mean time, the whistleblowers are continuing to be retaliated against and subject to hostile work environments. Moreover, more often than not this is the case where a whistleblower is being subject to retaliation even by the most subtle of adverse personnel actions, which on its face may not appear to be retaliatory to the employer.

**(b)(3)(A)**

Lines 16-17: “If, after the hearing, the human rights referee finds a violation, the referee may award the aggrieved employee reinstatement to the employee’s former position ... reasonable attorneys’ fees, and any other damages.”

Comment:

This provision should also include the award of any other equitable remedies deemed reasonable by the referee, for example the cessation of certain personnel actions by the employer against the whistleblower. Furthermore, it should be explicit that in ALL cases the referee may award reasonable attorneys’ fees, loss wages and other damages, including damages for emotional distress. Given the testimony in the prior Black and Latino Caucus regarding race in the Department of Public Safety and Department of Corrections, it is quite apparent that being subject to adverse retaliatory actions by your employer and/or employees acting as agents of the employer imposes a great emotional toll on the aggrieved employee.

Furthermore, it should also be explicit if not here then referred to by another CT Gen. Statute that a state agency cannot request or collect attorneys’ fees from the person who made the complaint, if the complaint is unfounded. (\*Whistleblower simply cannot prove that it was retaliatory, not necessarily that it didn’t happen)

**(c)**

Line 1: “Any employee of a state or quasi-public agency ... *who is found to have knowingly and maliciously made false charges* under subsection (a) of this section, shall be subject to disciplinary action by such employee’s appointing authority up to an including dismissal.”

Comment:

If this provision must in fact be maintained, then it should be the CHRO referee who determines whether the employee knowingly and maliciously made false charges of unethical practices etc... against a state agency employer.

This entire provision should be struck from the statute as it goes against the legislative intent of protecting whistleblowers. Not only are whistleblowers putting their careers and livelihood on the line when disclosing such controversial information but they then have to also be concerned about retribution for doing what they felt was the correct act in disclosing such information.

Furthermore, employers are using this provision of the whistleblower statute as affirmative defenses to their retaliatory actions in CHRO matters, alleging that the whistleblower's "misconduct" of filing whistleblower retaliation complaint is subject to discipline within the state agency/employer. This in itself is retaliatory against the whistleblower and it demonstrates the ignorance and intolerance for whistleblowers to speak the truth of corruption.