



General Assembly

February Session, 2022

***Raised Bill No. 5245***

LCO No. 1500



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

***AN ACT CONCERNING FORCED ARBITRATION AGREEMENTS AND  
ALLOWING CERTAIN COURT ACTIONS TO BE BROUGHT ON  
BEHALF OF THE STATE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) As used in this section:

2 (1) "Public enforcement action" means a civil action brought pursuant  
3 to this section to enforce protections enforceable by the state pursuant  
4 to chapter 557 or 558 of the general statutes or section 46a-60 or 46a-81c  
5 of the general statutes;

6 (2) "Responsible state official" means a person authorized to enforce  
7 any provision of chapter 557 or 558 of the general statutes or section 46a-  
8 60 or 46a-81c of the general statutes or to impose or seek penalties or  
9 other remedies for violations of such chapter or section, including  
10 persons delegated to act on the responsible state official's behalf with  
11 respect to enforcing such chapter or section, imposing or seeking  
12 penalties or other remedies for violations of such chapter or section or  
13 receiving and disposing of notices pursuant to this section;

14 (3) "Relator" means a whistle-blower or a representative organization  
15 that acts as a qui tam plaintiff in a public enforcement action under this  
16 section;

17 (4) "Representative organization" means a nonprofit corporation or a  
18 labor organization that assists in enforcement pursuant to this section  
19 and that has been selected by a whistle-blower, in writing, in a form  
20 prescribed by the Attorney General, to initiate a public enforcement  
21 action on the whistle-blower's behalf; and

22 (5) "Whistle-blower" means any current or former employee,  
23 contractor, subcontractor or employee of a contractor or subcontractor  
24 of a defendant.

25 (b) A relator may, on behalf of the state and in the name of the state,  
26 initiate a public enforcement action pursuant to the procedures specified  
27 in this section. Such action may be brought in the Superior Court and  
28 may allege one or more violations of chapter 557 or 558 of the general  
29 statutes or section 46a-60 or 46a-81c of the general statutes that have  
30 affected one or more individuals aggrieved by the same defendant and  
31 may seek any injunctive and declaratory relief that the state would be  
32 entitled to seek.

33 (c) For purposes of a public enforcement action brought pursuant to  
34 this section, whenever the state is authorized to assess a civil penalty,  
35 the court is authorized to assess such a civil penalty. To the extent that  
36 the state is authorized to determine whether an employer has violated a  
37 provision of this section, the court may determine whether an employer  
38 has committed such a violation.

39 (d) For any violation of a provision of this section where no civil  
40 penalty is provided, there shall be a civil penalty of five hundred dollars.  
41 Such civil penalty shall be awarded for each party aggrieved by each  
42 violation during each two-week period that such violation is found to  
43 have occurred.

44 (e) The court may award civil penalties in an amount that is less than

45 the amount specified in subsection (d) if the court determines that to do  
46 otherwise would result in an award that is arbitrary and oppressive or  
47 confiscatory.

48 (f) The state may assess penalties if the state has intervened in a public  
49 enforcement action brought pursuant to this section.

50 (g) Nothing in this section shall limit the state's right to seek  
51 restitution and damages, where available, for relators as part of a public  
52 enforcement action in which it has intervened.

53 (h) A relator that prevails in a public enforcement action pursuant to  
54 this section shall be entitled to an award by the court of reasonable  
55 attorney's fees and costs, whether or not the state has intervened in such  
56 action.

57 (i) Any civil penalty awarded in a public enforcement action  
58 pursuant to this section shall be distributed as follows: (1) Where the  
59 state has not intervened, (A) thirty per cent to the relator, (B) twenty per  
60 cent to the Office of the Attorney General, and (C) fifty per cent to the  
61 office of the state official responsible for enforcement of such action,  
62 twenty-five per cent of which shall be deposited into the community  
63 outreach and workplace account in accordance with subsection (b) of  
64 section 2 of this act; and (2) where the state has intervened, (A) twenty  
65 per cent to the relator, (B) thirty per cent to the Office of the Attorney  
66 General, and (C) fifty per cent to the office of the state official responsible  
67 for enforcement of such action, twenty-five per cent of which shall be  
68 deposited into the community outreach and workplace account in  
69 accordance with subsection (b) of section 2 of this act.

70 (j) The relator shall equitably distribute all penalties due the relator  
71 among the parties aggrieved by the practices complained of in the  
72 public enforcement action. The relator shall submit a written  
73 distribution summary to the state and the state may order a different  
74 distribution not later than sixty days after receipt of the summary,  
75 provided the relator shall receive compensation in an amount that  
76 reflects the burdens and risks assumed by the relator in prosecuting the

77 action, including any costs incurred by a representative organization  
78 that serves as a relator.

79 (k) The right to bring a public enforcement action under this section  
80 shall not be impaired by any private agreement.

81 (l) Notwithstanding any other provision of the general statutes, a  
82 public enforcement action to recover penalties imposed pursuant to this  
83 section shall be commenced within the same period of time that the state  
84 is authorized to file a public enforcement action based on the same set  
85 of alleged violations. The statute of limitations for bringing a public  
86 enforcement action pursuant to this section shall be tolled from the date  
87 a relator files a notice pursuant to subsection (q) of this section or the  
88 date the state commences an investigation, whichever is earlier.

89 (m) A relator may not bring a public enforcement action pursuant to  
90 this section: (1) If the state, on the same facts and theories, cites a person  
91 within the period of time that the state is authorized to file a public  
92 enforcement action for a violation of the same authority under which  
93 such relator is attempting to recover a civil penalty or other remedy; or  
94 (2) for any violation of a posting, notice, agency reporting or filing  
95 requirement, except where the filing or reporting requirement involves  
96 mandatory payroll or injury reporting.

97 (n) No person shall retaliate in any manner against any relator or  
98 potential relator or other person, or threaten to retaliate against any  
99 relator, potential relator or another person, because: (1) The relator or  
100 potential relator or other person has brought or is perceived to have  
101 brought a public enforcement action, (2) the relator or potential relator  
102 or other person has cooperated in a public enforcement action, or (3) the  
103 person believes that the relator or potential relator or other person may  
104 bring a public enforcement action or cooperate with one.

105 (o) Any person aggrieved by a violation of subsection (n) of this  
106 section may bring an action in the Superior Court for compensatory,  
107 liquidated and punitive damages or equitable relief, including restraint  
108 of prohibited acts, restitution of wages or benefits, reinstatement of

109 employment, costs, reasonable attorney's fees and other appropriate  
110 relief.

111 (p) There is a rebuttable presumption that any adverse action taken  
112 against a relator not later than ninety days after the relator has filed an  
113 action pursuant to subsection (b) of this section is retaliatory.

114 (q) Before filing a public enforcement action pursuant to this section,  
115 a relator shall submit written notice of such action to each responsible  
116 state official and to the Attorney General. The notice shall be construed  
117 by the responsible state office and the Attorney General in the light most  
118 favorable to the relator and shall include: (1) The name, address and  
119 contact information of the alleged violator, (2) the name and contact  
120 information of the relator, (3) the name, address and contact information  
121 of the representative organization and, if the action is brought by a  
122 representative organization, a statement of the organization's  
123 qualifications as a representative organization, (4) the name, address  
124 and contact information of the relator's legal counsel, if such relator has  
125 legal counsel, and (5) a statement of the underlying claim.

126 (r) If the state intends to investigate the alleged violation contained in  
127 the public enforcement action, it shall notify the relator of its decision  
128 not later than sixty days after receiving notice pursuant to subsection (q)  
129 of this section.

130 (s) After the filing of a public enforcement action, the state may  
131 intervene as of right and proceed with any and all claims in the action.

132 (t) The provisions of this section shall be construed in light of its  
133 remedial purpose to expand the enforcement of state law protecting  
134 employees.

135 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) There is established an  
136 account to be known as the "community outreach and workplace  
137 account" which shall be a separate, nonlapsing account within the  
138 General Fund. The account shall contain any moneys required by law to  
139 be deposited in the account. Moneys in the account shall be expended

140 by the Labor Department for the purpose of awarding grants as  
141 provided in subsection (c) of this section.

142 (b) Twenty-five per cent of any civil penalties distributed in  
143 accordance with subparagraph (C) of subdivision (1) of subsection (i) of  
144 section 1 of this act and subparagraph (C) of subdivision (2) of  
145 subsection (i) of section 1 of this act shall be deposited into the  
146 community outreach and workplace account.

147 (c) The Labor Commissioner shall, from time to time, distribute funds  
148 from the community outreach and workplace account to labor or  
149 nonprofit organizations to fund outreach, education and technical  
150 assistance pertaining to employee rights in the workplace. Grants  
151 provided under this section shall be used for activities to assist workers  
152 in enforcing employment rights, including, but not limited to, outreach,  
153 community-based education events, training materials, technical  
154 assistance, counseling, research and referral services. When considering  
155 applications for such grants, the commissioner shall give priority to  
156 projects that provide services to especially vulnerable workers,  
157 including low-wage, immigrant, refugee and contingent workers,  
158 women, lesbian, gay, bisexual or transgendered workers, workers with  
159 disabilities and injured workers.

160 (d) The Labor Department may adopt regulations in accordance with  
161 the provisions of chapter 54 of the general statutes to implement the  
162 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	New section
Sec. 2	<i>October 1, 2022</i>	New section

**Statement of Purpose:**

To allow employees to sue employers on behalf of the state after having waived their personal rights to sue by signing forced arbitration agreements.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*