

CHAPTER 2

TESTIMONY PROVIDED BY STATE EMPLOYEES TO LEGISLATIVE COMMITTEES

§21. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 167 (NEW).]

1. Legislative committee. "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.
[PL 1985, c. 167 (NEW).]

2. Nonpartisan staff. "Nonpartisan staff" means the directors and staffs of the Office of Policy and Legal Analysis, the Office of Fiscal and Program Review, the Office of the Revisor of Statutes, the Legislative Information Office, the Law and Legislative Reference Library, the Office of Program Evaluation and Government Accountability, the Office of Legislative Information Technology and the Office of the Executive Director of the Legislative Council.
[PL 2015, c. 102, §7 (AMD).]

3. Own time. "Own time" means an employee's personal time or authorized leave time, earned as a condition of employment.
[PL 1985, c. 167 (NEW).]

4. State employee. "State employee" means any employee of an agency, independent agency or parts of agencies which receive support from the General Fund or that are established, created or incorporated by reference to the laws, except nonpartisan staff of the Legislature.
[PL 1989, c. 483, Pt. A, §5 (AMD).]

5. Supervisor. "Supervisor" means a commissioner, bureau chief, director, manager or any other person who oversees or supervises state employees in their employment.
[PL 1985, c. 167 (NEW).]

6. Legislative inquiry. "Legislative inquiry" means any request made by a legislative committee or individual Legislator to a state employee for public information or the state employee's personal opinion.
[PL 1989, c. 483, Pt. A, §6 (NEW); PL 1989, c. 878, Pt. A, §8 (AMD).]

SECTION HISTORY

PL 1985, c. 167 (NEW). PL 1985, c. 737, §B5 (AMD). PL 1989, c. 483, §§A5,A6 (AMD). PL 1989, c. 878, §A8 (AMD). PL 2015, c. 102, §7 (AMD).

§22. Right to provide testimony

State employees have the right to represent themselves and testify before a legislative committee on their own time. State employees have the right to respond to any legislative inquiry. A state employee who complies with this chapter shall not be denied the right to testify before a legislative committee. [PL 1989, c. 483, Pt. A, §7 (AMD).]

SECTION HISTORY

PL 1985, c. 167 (NEW). PL 1989, c. 483, §A7 (AMD).

§23. Discharge of, threats to or discrimination against state employees for testimony presented to legislative committees

A supervisor shall not discharge, threaten or otherwise discriminate against a state employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this chapter, testified before or provides information to a legislative committee. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§24. Presentation of testimony and information

1. Type of information. This chapter protects any state employee who, in compliance with this chapter, presents testimony or information relating to departments or agencies of State Government and which testimony or information pertains to:

- A. Successes, failures or problems of current programs; [PL 1985, c. 167 (NEW).]
- B. Advantages, disadvantages or other relevant information about proposed programs; and [PL 1985, c. 167 (NEW).]
- C. The means of improving existing programs and alternatives to existing programs. [PL 1985, c. 167 (NEW).]

[PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§25. Exclusion of testimony and information from protection

1. Liability of state employees. This chapter does not authorize the presentation to a legislative committee or protect any state employee who presents to a legislative committee the following:

- A. Slander; and [PL 1985, c. 167 (NEW).]
- B. Libel. [PL 1985, c. 167 (NEW).]

[PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§26. Nonpartisan legislative staff

Nonpartisan staff of the Legislature shall be subject to the policies and rules of the Legislative Council as these policies and rules relate to testifying or providing information to legislative committees. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§27. Representatives of agencies and departments

1. Department testimony and information. Nothing in this chapter may be construed to prohibit a state employee from testifying before or present information to a legislative committee as a representative of a department or agency of State Government and who has been authorized by the commissioner or director of that department or agency to act in this capacity. [PL 1985, c. 167 (NEW).]

[PL 1985, c. 167 (NEW).]

2. Misrepresentations of state employees. A state employee who represents oneself as a spokesperson or representative of a department or agency without the authorization of the commissioner or director of that organization is not protected by the provisions of this chapter and is subject to the penalty in subsection 3.

[RR 2023, c. 2, Pt. B, §8 (COR).]

3. Penalty. Any person who violates this section is guilty of a Class E crime.

[PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW). RR 2023, c. 2, Pt. B, §8 (COR).

§28. Civil actions for injunctive relief or other remedies

A state employee who alleges a violation of that employee's rights under this chapter may bring a civil action, including an action for injunctive relief, within 120 days after the occurrence of that alleged violation. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. [RR 2023, c. 2, Pt. B, §9 (COR).]

An employee must establish each and every element of the case by a preponderance of the evidence. [RR 2023, c. 2, Pt. B, §9 (COR).]

SECTION HISTORY

PL 1985, c. 167 (NEW). RR 2023, c. 2, Pt. B, §9 (COR).

§29. Remedies ordered by court

A court, in rendering a judgment in an action brought pursuant to this chapter, may order reinstatement of this employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§30. Penalties for violations

A person who violates sections 22, 23 and 24 is liable for a civil fine of \$10 for each day of willful violation, which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW).

§31. Collective bargaining rights

This chapter shall not be construed to diminish or impair the rights of the State or respective bargaining agent under any collective bargaining agreement. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW). PL 1985, c. 378, §2 (NEW). PL 1985, c. 737, §A14 (RP).

§32. Jury trial; common-law rights

Any action brought under this chapter may be heard by a jury. Nothing in this chapter may be construed to derogate any common-law rights of an employee. [PL 1985, c. 167 (NEW).]

SECTION HISTORY

PL 1985, c. 167 (NEW). PL 1985, c. 378, §2 (NEW). PL 1985, c. 737, §A14 (RP).

§33. Bureau of Human Resources to inform supervisors and state employees

The State Human Resources Officer is responsible for informing supervisors and state employees about the provisions of this chapter. The State Human Resources Officer, at a minimum, shall distribute a sufficient number of copies of this chapter, which shall be visibly posted in all state buildings, in order to notify the greatest possible number of state employees about the provisions in this chapter. [PL 1985, c. 785, Pt. B, §9 (AMD); PL 2023, c. 412, §3 (REV).]

The State Human Resources Officer shall use the necessary means to instruct all supervisory personnel about the provisions in this chapter. [PL 1985, c. 785, Pt. B, §9 (AMD); PL 2023, c. 412, §3 (REV).]

SECTION HISTORY

PL 1985, c. 167 (NEW). PL 1985, c. 785, §B9 (AMD). PL 2023, c. 412, §3 (REV).

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