

On page 1, line 1, of the Introduced bill, after "to" delete " crimes,"
 On page 1, line 2, delete ", and conflicts of interest" and insert " and crimes"
 On page 1, line 2, after "interest," insert " to revise reporter protections,"
 On the Introduced bill, delete everything after the enacting clause and insert:
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Section 1. That § 1-56-11 be AMENDED:

~~**1-56-11.** A state employee who suspects the existence of a conflict of interest, fraud, or theft has reasonable cause to suspect that improper governmental conduct or a crime, as defined in section 2 of this Act, has occurred shall report the matter immediately to any, of the following:~~

- ~~(1) The employee's immediate supervisor;~~
- ~~(2) The attorney general's office; or~~
- ~~(3) The Department of Legislative Audit pursuant to the requirements set forth in chapter 3-6C.~~

Section 2. That a NEW SECTION be added to chapter 3-6C:

Terms used in this Act mean:

- ~~(1) "Adverse employment action," constructive or actual discharge, suspension from employment, demotion, transfer, decrease in compensation or benefits, imposition of an unfavorable work schedule, or any other similar reprisal or retaliatory action;~~
- ~~(2) "Conflict of interest," conduct defined or described in §§ 5-18A-17 to 5-18A-17.6, inclusive, 42-7A-27, and 42-7A-28;~~
- ~~(3) "Crime," a criminal act attempted or committed by misusing a state employee's access, duty, position, or responsibility as a state employee, which constitutes a felony under state law;~~
- ~~(4) "Good faith report," a report made, without malice, by a reporter, which the reporter has reasonable cause to believe is accurate and true;~~
- ~~(5) "Improper governmental conduct," any conduct or omission that results in:

 - ~~(a) A conflict of interest prohibited by state law; or~~
 - ~~(b) Fraud or theft of moneys or property belonging to or derived from federal, state, or local government sources, which constitutes a felony;~~~~
- ~~(6) "Reasonable cause," a sufficient reason, based on known facts, to assume something is true;~~
- ~~(7) "Reporter," a state employee who witnesses or has evidence of improper governmental conduct or a crime, and who makes a good faith report of the improper governmental conduct or the crime, to a supervisor or other appropriate authority;~~
- ~~(8) "Required report," a report required in accordance with section 3 of this Act and pertaining to improper governmental conduct or a crime;~~
- ~~(9) "State agency," any agency, board, bureau, commission, committee, department, division, or office of this state;~~
- ~~(10) "State employee," a full-time, part-time, seasonal, or temporary employee of any state agency;~~
- ~~(11) "Supervisor," a state employee with supervisory authority over one or more state employees;~~
- ~~(12) "Supervisory authority," the power to, on a regular basis, and with use of independent judgment:

 - ~~(a) Hire, lay off, promote, discharge, assign, reward, or discipline another state employee;~~~~

- (b) Address, resolve, or review the grievance of another state employee; or
- (c) Recommend any action provided in subsection a or b of this subdivision.

Section 3. That a NEW SECTION be added to chapter 3-6C:

Any state employee who, in the regular course of the state employee's duties, has reasonable cause, based on knowledge that is not privileged, to suspect that improper governmental conduct or a crime has occurred by a state employee shall promptly notify a supervisor.

Upon receipt of a good faith report, a supervisor shall submit a required report containing the reporter's information that is not privileged to the attorney general and auditor-general in accordance with section 4 of this Act. A supervisor who destroys evidence received through the good faith report is criminally liable under § 22-11-24.

A supervisor shall promptly submit to the attorney general and auditor-general any record, as allowed by law, in the supervisor's custody or control, evidencing the improper governmental conduct or crime.

A supervisor who knowingly fails to make a required report is guilty of a Class 1 misdemeanor.

A supervisor who knowingly and intentionally fails to submit a record as required by this section is guilty of a Class 1 misdemeanor.

Section 4. That a NEW SECTION be added to chapter 3-6C:

A supervisor who must submit a required report pursuant to section 3 of this Act shall prepare the required report in a form prescribed by the attorney general. One form may be used by more than one supervisor or reporter concerning the same incident of improper governmental conduct or crime.

The reporter and supervisor shall cooperate with any investigation or inquiry initiated in response to the filing of the required report.

A good faith report and supporting evidence is confidential as provided in § 1-27-1.5.

Nothing in this section may be construed to prohibit the reporter from filing a complaint pursuant to § 3-24-4.

Section 5. That a NEW SECTION be added to chapter 3-6C:

It is an affirmative defense to a prosecution under section 3 of this Act that the reporter or supervisor:

- (1) Reasonably believed the required report was made by another individual; or
- (2) Was unaware that a conflict of interest existed or that the conflict of interest was authorized pursuant to § 5-18A-17.2

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Section 6. That a NEW SECTION be added to chapter 3-6C:

Each state agency shall adopt a written policy on reporting improper governmental conduct and crime and submitting records evidencing the improper governmental conduct or crime. Each state agency shall notify and inform state employees of the obligations and protections set forth in this Act.

Section 7. That a NEW SECTION be added to chapter 3-6C:

The attorney general shall provide information to the Government Operations and Audit Committee, on an annual basis, regarding the number of reports received pursuant to sections 3 and 4 of this Act and the disposition of each report.

Section 8. That a NEW SECTION be added to chapter 3-6C:

Any state employee cooperating in making a good faith report or required report or submitting records pursuant to sections 3 and 4 of this Act is immune from any liability, civil or criminal, which might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the reported improper governmental conduct or crime. This immunity does not extend to a state employee who participated in the reported improper governmental conduct or crime.

Section 9. That a NEW SECTION be added to chapter 3-6C:

A state agency may not take adverse employment action against a reporter because the reporter:

- (1) Made a good faith report or otherwise filed a complaint;
- (2) Instituted or caused to be instituted a proceeding;
- (3) Requested or participated in an audit;
- (4) Testified, or will testify, in a proceeding; or
- (5) Exercised any other right or obligation imposed by this chapter or any law of this state.

The provisions of this section do not apply to a state employee who makes a false report or who makes a report in reckless disregard for the truth.

Section 10. That a NEW SECTION be added to chapter 3-6C:

To be eligible for protections under sections 8 and 9 of this Act, a state employee who discloses information about improper governmental conduct or a crime must do so in good faith and upon a reasonable belief that the information is accurate and true. A disclosure that is reckless or that the state employee knew or should have known was false or malicious is not a good faith report.

Section 11. That a NEW SECTION be added to chapter 3-6C:

A reporter may bring a civil action for a violation of section 9 of this Act in the circuit court of Hughes County against the reporter's supervisor, in the supervisor's official capacity, or the state agency by which the reporter is employed.

The court may order any of the following remedies:

- (1) An injunction to restrain continued violation of section 9 of this Act;
- (2) Reinstatement of the reporter to the same position or, if the position is filled, to an equivalent position;
- (3) Back pay; and
- (4) Full reinstatement of the reporter's fringe benefits and seniority rights.

The reporter may be entitled to recover reasonable attorney fees and costs.

An action pursuant to this section may not be brought more than two years after the date the unlawful adverse employment action occurred.

A reporter bringing an action under this section may not be required to exhaust existing internal procedures or other administrative remedies.

Nothing in this section may be construed to exclude a reporter's remedy pursuant to § 3-6D-22.

Section 12. That § 4-11-9 be AMENDED:

4-11-9. The auditor-general shall make detailed reports of the result of any audits or investigations made by the Department of Legislative Audit within sixty days after ~~such the~~ audits or investigations have been completed. The auditor-general shall file reports of state agencies with the Governor ~~and~~, the respective state agency, and the attorney general. The auditor-general shall file reports of political subdivisions with the respective governing board and finance director.

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