

70A.28 Prohibitions relating to certain actions by state employees — penalty — civil remedies.

1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive or legislative branch of state government shall not require an employee of the state to inform the person that the employee made a disclosure of information permitted by this section and shall not prohibit an employee of the state from disclosing any information to a member or employee of the general assembly or from disclosing information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.

2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, a disclosure of information to the office of ombudsman, or a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.

3. Subsections 1 and 2 do not apply if the disclosure of the information is prohibited by statute.

4. A person who violates subsection 1 or 2 commits a simple misdemeanor.

5. Subsection 2 may be enforced through a civil action.

a. A person who violates subsection 2 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 2, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the attorney general.

6. Subsection 2 may also be enforced by an employee through an administrative action pursuant to the requirements of this subsection if the employee is not a merit system employee or an employee covered by a collective bargaining agreement. An employee eligible to pursue an administrative action pursuant to this subsection who is discharged, suspended, demoted, or otherwise receives a reduction in pay and who believes the adverse employment action was taken as a result of the employee's disclosure of information that was authorized pursuant to subsection 2, may file an appeal of the adverse employment action with the public employment relations board within thirty calendar days following the later of the effective date of the action or the date a finding is issued to the employee by the office of ombudsman pursuant to section 2C.11A. The findings issued by the ombudsman may be introduced as evidence before the public employment relations board. The employee has the right to a hearing closed to the public, but may request a public hearing. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. If the public employment relations board finds that the action taken in regard to the employee was in violation of subsection 2, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

7. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for the employee's declining to participate in contributions or donations to charities or community organizations.

8. The director of the department of administrative services or, for employees of the general assembly or of the state board of regents, the legislative council or the state board of regents, respectively, shall provide procedures for notifying new state employees of the provisions of this section and shall periodically conduct promotional campaigns to provide similar information to state employees. The information shall include the toll-free telephone number of the ombudsman.

9. For purposes of this section, "*state employee*" and "*employee*" include, but are not limited to, persons employed by the general assembly and persons employed by the state board of regents.

84 Acts, ch 1219, §4

C85, §79.28

85 Acts, ch 20, §1; 87 Acts, ch 19, §4; 87 Acts, ch 27, §2; 89 Acts, ch 124, §2

C93, §70A.28

96 Acts, ch 1100, §2 – 5; 2003 Acts, ch 145, §286; 2006 Acts, ch 1153, §14, 15; 2007 Acts, ch 126, §18; 2013 Acts, ch 10, §28; 2013 Acts, ch 140, §55

Referred to in §2C.11A, 8F.3

[P] See also §8A.417, 70A.29

[T] Subsections 2, 6, and 8 amended