

**61-1-105 Remedies for employee bringing action.**

- (1) As used in this section, "actual damages" means damages for injury or loss caused by a violation of Section 61-1-104.
- (2)
  - (a) An employee who alleges a violation of Section 61-1-104 may bring a civil action for injunctive relief, actual damages, or both.
  - (b) An employee may not bring a civil action under this section more than:
    - (i) four years after the day on which the violation of Section 61-1-104 occurs; or
    - (ii) two years after the date when facts material to the right of action are known or reasonably should be known by the employee alleging a violation of Section 61-1-104.
- (3) An employee may bring an action under this section in the district court for the county where:
  - (a) the alleged violation occurs;
  - (b) the employee resides; or
  - (c) the person against whom the civil complaint is filed resides or has a principal place of business.
- (4) To prevail in an action brought under this section, an employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on the employee's behalf, engaged or intended to engage in an activity protected under Section 61-1-104.
- (5) A court may award as relief for an employee prevailing in an action brought under this section:
  - (a) reinstatement with the same fringe benefits and seniority status that the individual would have had, but for the adverse action;
  - (b) two times the amount of back pay otherwise owed to the individual, with interest;
  - (c) compensation for litigation costs, expert witness fees, and reasonable attorney fees;
  - (d) actual damages; or
  - (e) any combination of the remedies listed in this Subsection (5).
- (6)
  - (a) An employer may file a counter claim against an employee who files a civil action under this section seeking attorney fees and costs incurred by the employer related to the action filed by the employee and the counter claim.
  - (b) The court may award an employer who files a counter claim under this Subsection (6) attorney fees and costs if the court finds that:
    - (i) there is no reasonable basis for the civil action filed by the employee; or
    - (ii) the employee is not protected under Section 61-1-104 because:
      - (A) the employee engaged in an act described in Subsections 61-1-104(2)(a) through (c); or
      - (B) Subsection 61-1-104(2)(d) applies.

Enacted by Chapter 318, 2011 General Session