

67-21-4 Choice of forum -- Remedies for employee bringing action -- Proof required.

- (1)
- (a) Except as provided in Subsection (1)(b), and subject to Subsections (1)(c) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
 - (b)
 - (i) An employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:
 - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
 - (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
 - (ii) An employee of a state institution of higher education that has adopted a policy described in Section 67-21-3.7:
 - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
 - (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
 - (c) A public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:
 - (i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or
 - (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
 - (d) A public entity employee who files a grievance under Subsection (1)(c)(i):
 - (i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;
 - (ii) may seek a remedy described in Subsection 67-21-3.5(2); and
 - (iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).
 - (e) A public entity employee who files a civil action under Subsection (1)(c)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.
- (2) An employee who brings a civil action under this section shall bring the action in the district 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 or has the person's principal place of business.
- (3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.

Amended by Chapter 427, 2013 General Session