WEST VIRGINIA CODE: §16-5L-18

§16-5L-18. Willful interference; retaliation; penalties.

(a) Any individual who willfully interferes with or impedes a state or regional long-term care ombudsman or ombudsman volunteer in the performance of his or her official duties shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $100 or imprisoned in the county jail for not more than ninety days, or both fined and imprisoned.

(b) Any individual who institutes or commits a discriminatory, disciplinary, retaliatory or reprisal action against any officer or employee of a long-term care facility or government department or agency, against any resident of a long-term care facility or against any guardian, attorney in fact or against any family member of any resident of a long-term care facility for having filed a complaint with or provided information in good faith to a state or regional long-term ombudsman or ombudsman volunteer to aid the long-term care ombudsman or ombudsman volunteer in carrying out the duties pursuant to this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $100, or imprisoned in the county jail for not more than ninety days, or both fined and imprisoned.

(c) Any individual violating the provisions of subsection (a) or (b) of this section shall, for the second or any subsequent offense under either of these subsections, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $250, or imprisoned in the county jail for not more than ninety days, or both fined and imprisoned. Each day of a continuing violation after conviction shall be considered a separate offense.

(d) There shall be a rebuttable presumption in any civil action that any reprisal action, as defined below, within ninety days of the incident, is discriminatory, disciplinary or retaliatory in violation of the public policy of this state. For the purpose of this section, the term "reprisal action" refers to action taken by the entity involved in a complaint or report against the person making the complaint or report, or the person with respect to whom the complaint or report was made because of the complaint or report, and includes, but is not limited to, the following:

(1) Discharge or transfer from a long-term care facility;

(2) Termination of service;

(3) Restriction or prohibition of access to the long-term care facility or its residents;

(4) Discharge from or termination of employment;

(5) Demotion or reduction in remuneration for services;

(6) Any restriction of rights affecting the person's ability to perform his or her employment duties or responsibilities or affecting the person's health, safety or welfare; or

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(7) Any restriction against a state or regional long-term care ombudsman or ombudsman volunteer which impedes the carrying out of duties pursuant to this article.

(e) Nothing in this section shall be construed as to infringe upon the rights of an employer to supervise, discipline or terminate an employee for other reasons.

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