

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-1307.01 Yelana Love x2295

**HOUSE BILL 20-1415**

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**HOUSE SPONSORSHIP**

**Herod and Sullivan,**

**SENATE SPONSORSHIP**

**Pettersen and Rodriguez,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A WORKER'S RIGHTS IN THE WORKPLACE FOR CONDUCT**  
102             **RELATED TO A PRINCIPAL'S ACTIONS DURING A PUBLIC HEALTH**  
103             **EMERGENCY.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill prohibits a principal, which includes an employer, certain labor contractors, public employers, and entities that rely on independent contractors for a specified percentage of their workforce, from discriminating, retaliating, or taking adverse action against any worker who:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

- ! Raises any concern about workplace health and safety practices or hazards related to a public health emergency to the principal, the principal's agent, other workers, a government agency, or the public if the workplace health and safety practices fail to meet guidelines established by a federal, state, or local public health agency with jurisdiction over the workplace; or
- ! Voluntarily wears at the worker's workplace the worker's own personal protective equipment, such as a mask, faceguard, or gloves.

A person may seek relief for a violation of the bill by:

- ! Filing a complaint with the division of labor standards and statistics in the department of labor and employment;
- ! Bringing an action in district court, after exhausting administrative remedies; or
- ! Bringing a whistleblower action in the name of the state in district court, after exhausting administrative remedies.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 14.4 to  
 3 title 8 as follows:

4 **ARTICLE 14.4**

5 **Worker Rights Related to a Public Health Emergency**

6 **8-14.4-101. Definitions.** AS USED IN THIS ARTICLE 14.4, UNLESS  
 7 THE CONTEXT OTHERWISE REQUIRES:

8 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
 9 EMPLOYMENT.

10 (2) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND  
 11 STATISTICS IN THE DEPARTMENT.

12 (3) "PRINCIPAL" MEANS:

13 (a) AN "EMPLOYER" AS SET FORTH IN THE FEDERAL "FAIR LABOR  
 14 STANDARDS ACT OF 1938", 29 U.S.C. SEC. 203 (d);

15 (b) A FOREIGN LABOR CONTRACTOR AND A MIGRATORY FIELD  
 16 LABOR CONTRACTOR OR CREW LEADER;

1 (c) THE STATE OF COLORADO, LOCAL GOVERNMENTS, AND  
2 POLITICAL SUBDIVISIONS OF THE STATE AS DEFINED IN SECTION 1-7.5-103  
3 (6); AND

4 (d) AN ENTITY THAT CONTRACTS WITH FIVE OR MORE  
5 INDEPENDENT CONTRACTORS IN THE STATE EACH YEAR.

6 (4) "PUBLIC HEALTH EMERGENCY" MEANS:

7 (a) A PUBLIC HEALTH ORDER ISSUED BY A STATE OR LOCAL PUBLIC  
8 HEALTH AGENCY; OR

9 (b) A DISASTER EMERGENCY DECLARED BY THE GOVERNOR BASED  
10 ON A PUBLIC HEALTH CONCERN.

11 (5) "WORKER" MEANS:

12 (a) AN EMPLOYEE AS DEFINED IN SECTION 8-4-101 (5); OR

13 (b) A PERSON WHO WORKS FOR AN ENTITY THAT CONTRACTS WITH  
14 FIVE OR MORE INDEPENDENT CONTRACTORS IN THE STATE EACH YEAR.

15 **8-14.4-102. Prohibition against discrimination based on claims**  
16 **related to a public health emergency.** (1) A PRINCIPAL SHALL NOT  
17 DISCRIMINATE, TAKE ADVERSE ACTION, OR RETALIATE AGAINST ANY  
18 WORKER WHO, IN GOOD FAITH, RAISES ANY REASONABLE CONCERN ABOUT  
19 WORKPLACE VIOLATIONS OF GOVERNMENT HEALTH OR SAFETY RULES, OR  
20 ABOUT AN OTHERWISE SIGNIFICANT WORKPLACE THREAT TO HEALTH OR  
21 SAFETY, RELATED TO A PUBLIC HEALTH EMERGENCY TO THE PRINCIPAL,  
22 THE PRINCIPAL'S AGENT, OTHER WORKERS, A GOVERNMENT AGENCY, OR  
23 THE PUBLIC IF THE WORKPLACE HEALTH AND SAFETY PRACTICES FAIL TO  
24 MEET GUIDELINES ESTABLISHED BY A FEDERAL, STATE, OR LOCAL PUBLIC  
25 HEALTH AGENCY WITH JURISDICTION OVER THE WORKPLACE.

26 (2) (a) A PRINCIPAL SHALL NOT REQUIRE OR ATTEMPT TO REQUIRE  
27 A WORKER TO SIGN A CONTRACT OR OTHER AGREEMENT THAT WOULD

1 LIMIT OR PREVENT THE WORKER FROM DISCLOSING INFORMATION ABOUT  
2 WORKPLACE HEALTH AND SAFETY PRACTICES OR HAZARDS RELATED TO A  
3 PUBLIC HEALTH EMERGENCY OR TO OTHERWISE ABIDE BY A WORKPLACE  
4 POLICY THAT WOULD LIMIT OR PREVENT SUCH DISCLOSURES.

5 (b) A CONTRACT OR AGREEMENT THAT VIOLATES SUBSECTION  
6 (2)(a) OF THIS SECTION IS VOID AND UNENFORCEABLE AS CONTRARY TO  
7 THE PUBLIC POLICY OF THIS STATE. A PRINCIPAL'S ATTEMPT TO IMPOSE  
8 SUCH A CONTRACT OR AGREEMENT IS AN ADVERSE ACTION IN VIOLATION  
9 OF THIS ARTICLE 14.4.

10 (3) A PRINCIPAL SHALL NOT DISCRIMINATE, TAKE ADVERSE  
11 ACTION, OR RETALIATE AGAINST A WORKER WHO VOLUNTARILY WEARS AT  
12 THE WORKER'S WORKPLACE THE WORKER'S OWN PERSONAL PROTECTIVE  
13 EQUIPMENT, SUCH AS A MASK, FACEGUARD, OR GLOVES, IF THE PERSONAL  
14 PROTECTIVE EQUIPMENT:

15 (a) PROVIDES A HIGHER LEVEL OF PROTECTION THAN THE  
16 EQUIPMENT PROVIDED BY THE PRINCIPAL;

17 (b) IS RECOMMENDED BY A FEDERAL, STATE, OR LOCAL PUBLIC  
18 HEALTH AGENCY WITH JURISDICTION OVER THE WORKER'S WORKPLACE;  
19 AND

20 (c) DOES NOT RENDER THE WORKER INCAPABLE OF PERFORMING  
21 THE WORKER'S JOB.

22 (4) A PRINCIPAL SHALL NOT DISCRIMINATE, TAKE ADVERSE  
23 ACTION, OR RETALIATE AGAINST A WORKER FOR OPPOSING ANY PRACTICE  
24 THE WORKER REASONABLY BELIEVES IS UNLAWFUL UNDER THIS ARTICLE  
25 14.4 OR FOR MAKING A CHARGE, TESTIFYING, ASSISTING, OR  
26 PARTICIPATING IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR  
27 HEARING AS TO ANY MATTER THE WORKER REASONABLY BELIEVES TO BE

1 UNLAWFUL UNDER THIS ARTICLE 14.4.

2 (5) [REDACTED] THIS SECTION DOES NOT APPLY TO A WORKER WHO  
3 DISCLOSES INFORMATION:

4 (a) THAT THE WORKER KNOWS TO BE FALSE; OR

5 (b) WITH RECKLESS DISREGARD FOR THE TRUTH OR FALSITY OF THE  
6 INFORMATION.

7 [REDACTED]

8 (6) NOTHING IN THIS SECTION AUTHORIZES A WORKER TO SHARE  
9 INDIVIDUAL HEALTH INFORMATION THAT IS OTHERWISE PROHIBITED FROM  
10 DISCLOSURE UNDER STATE OR FEDERAL LAW.

11 **8-14.4-103. Principal post notice of rights - rules.** (1) A  
12 PRINCIPAL SHALL POST NOTICE OF A WORKER'S RIGHTS UNDER THIS  
13 ARTICLE 14.4 IN A CONSPICUOUS LOCATION ON THE PRINCIPAL'S PREMISES.

14 (2) THE DIVISION SHALL PROMULGATE RULES TO ESTABLISH THE  
15 FORM OF THE NOTICE REQUIRED IN SUBSECTION (1) OF THIS SECTION.

16 **8-14.4-104. Relief for aggrieved person.** (1) A PERSON MAY  
17 SEEK RELIEF FOR A VIOLATION OF THIS ARTICLE 14.4 BY:

18 (a) FILING A COMPLAINT WITH THE DIVISION PURSUANT TO SECTION  
19 8-14.4-105; OR

20 (b) BRINGING AN ACTION IN DISTRICT COURT PURSUANT TO  
21 SECTION 8-14.4-106.

22 [REDACTED]

23 (2) A PERSON SHALL EXHAUST ADMINISTRATIVE REMEDIES  
24 PURSUANT TO SECTION 8-14.4-105 PRIOR TO BRINGING AN ACTION IN  
25 COURT.

26 **8-14.4-105. Enforcement by the division - rules.** (1) (a) WITHIN  
27 TWO YEARS AFTER AN ALLEGED VIOLATION OF THIS ARTICLE 14.4, AN

1 AGGRIEVED INDIVIDUAL OR WHISTLEBLOWER MAY FILE A COMPLAINT  
2 AGAINST A PRINCIPAL WITH THE DIVISION AS SPECIFIED IN THIS  
3 SUBSECTION (1).

4 (b) UNTIL THE DATE THE DIVISION MAKES A COMPLAINT FORM  
5 PUBLICLY AVAILABLE:

6 (I) AN AGGRIEVED INDIVIDUAL OR WHISTLEBLOWER MAY FILE A  
7 COMPLAINT OF A VIOLATION OF THIS ARTICLE 14.4 WITH THE DIVISION IN  
8 ANY FORM, BY MAIL OR ELECTRONIC MAIL;

9 (II) THE DIVISION MAY LATER REQUIRE THE AGGRIEVED  
10 INDIVIDUAL OR WHISTLEBLOWER TO COMPLETE THE DIVISION'S COMPLAINT  
11 FORM; AND

12 (III) THE FILING DATE IS THE DATE OF THE CLAIMANT'S ORIGINAL  
13 FILING, EVEN IF THE DIVISION LATER REQUESTS ADDITIONAL INFORMATION  
14 OR COMPLETION OF THE DIVISION'S COMPLAINT FORM.

15 (c) AFTER THE DIVISION MAKES A COMPLAINT FORM PUBLICLY  
16 AVAILABLE, AN AGGRIEVED INDIVIDUAL OR WHISTLEBLOWER MAY FILE A  
17 COMPLAINT ONLY BY COMPLETING THE REQUIRED FORM.

18 (2) THE DIVISION SHALL EITHER:

19 (a) INVESTIGATE ALLEGED PRINCIPAL VIOLATIONS OF, OR  
20 INTERFERENCE WITH RIGHTS OR RESPONSIBILITIES UNDER, THIS ARTICLE  
21 14.4 AND COMPLAINTS FILED WITH THE DIVISION BY AGGRIEVED  
22 INDIVIDUALS AND WHISTLEBLOWERS; OR

23 (b) AUTHORIZE AN AGGRIEVED INDIVIDUAL OR WHISTLEBLOWER  
24 TO PROCEED WITH AN ACTION IN DISTRICT COURT AS PROVIDED IN  
25 SECTIONS 8-14.4-106 AND 8-14.4-107. A PERSON WHO RECEIVES  
26 AUTHORIZATION PURSUANT TO THIS SUBSECTION (2)(b) IS CONSIDERED TO  
27 HAVE EXHAUSTED ADMINISTRATIVE REMEDIES.

1 (3) IN AN INVESTIGATION OF ALLEGED PRINCIPAL RETALIATION OR  
2 INTERFERENCE WITH WORKER RIGHTS, IF AN INVESTIGATION YIELDS A  
3 DETERMINATION THAT:

4 (a) A VIOLATION HAS OCCURRED, THE DIVISION MAY AWARD  
5 REASONABLE ATTORNEY FEES AND IMPOSE FINES PURSUANT TO SECTION  
6 8-1-140 (2);

7 (b) RIGHTS OF MULTIPLE WORKERS HAVE BEEN VIOLATED, THE  
8 VIOLATION AS TO EACH WORKER IS A SEPARATE VIOLATION FOR PURPOSES  
9 OF FINES, PENALTIES, OR OTHER REMEDIES; AND

10 (c) A WORKER WAS FIRED, VOLUNTARILY LEFT EMPLOYMENT, OR  
11 EXPERIENCED A REDUCTION IN PAY DUE TO A PRINCIPAL'S VIOLATION,  
12 THE DETERMINATION MAY INCLUDE AN ORDER TO:

13 (I) REINSTATE OR REHIRE THE WORKER AND PAY THE WORKER'S  
14 BACK PAY UNTIL REINSTATEMENT OR REHIRING; OR

15 (II) PAY THE WORKER FRONT PAY FOR A REASONABLE PERIOD  
16 AFTER THE ORDER, IF REINSTATEMENT OR REHIRING IS DETERMINED NOT  
17 TO BE FEASIBLE.

18 (4) DETERMINATIONS MADE BY THE DIVISION UNDER THIS SECTION  
19 ARE APPEALABLE PURSUANT TO SECTION 8-4-111.5 AND RULES  
20 PROMULGATED BY THE DEPARTMENT REGARDING APPEALS AND STRATEGIC  
21 ENFORCEMENT.

22 **8-14.4-106. Relief authorized.** (1) AN AGGRIEVED INDIVIDUAL  
23 MAY, WITHIN NINETY DAYS AFTER EXHAUSTING ADMINISTRATIVE  
24 REMEDIES PURSUANT TO SECTION 8-14.4-105, COMMENCE AN ACTION IN  
25 DISTRICT COURT AGAINST A PRINCIPAL FOR A VIOLATION OF THIS ARTICLE  
26 14.4.

27 (2) A COURT MAY ORDER AFFIRMATIVE RELIEF THAT THE COURT

1 DETERMINES TO BE APPROPRIATE, INCLUDING THE FOLLOWING RELIEF,  
2 AGAINST A RESPONDENT WHO IS FOUND TO HAVE ENGAGED IN A  
3 DISCRIMINATORY, ADVERSE, OR RETALIATORY EMPLOYMENT PRACTICE  
4 PROHIBITED BY THIS ARTICLE 14.4:

5 (a) REINSTATEMENT OR REHIRING OF A WORKER, WITH OR  
6 WITHOUT BACK PAY;

7 (b) THE GREATER OF EITHER:

8 (I) TEN THOUSAND DOLLARS; OR

9 (II) ANY LOST PAY RESULTING FROM THE VIOLATION, INCLUDING  
10 BACK PAY FOR A REINSTATED OR REHIRED WORKER AND FRONT PAY FOR  
11 A WORKER WHO IS NOT REINSTATED OR REHIRED; AND

12 (c) ANY OTHER EQUITABLE RELIEF THE COURT DEEMS  
13 APPROPRIATE.

14 (3) (a) IN ADDITION TO THE RELIEF AVAILABLE PURSUANT TO  
15 SUBSECTION (2) OF THIS SECTION, IN A CIVIL ACTION BROUGHT BY A  
16 PLAINTIFF UNDER THIS ARTICLE 14.4 AGAINST A DEFENDANT WHO IS  
17 FOUND TO HAVE ENGAGED IN AN INTENTIONAL DISCRIMINATORY,  
18 ADVERSE, OR RETALIATORY EMPLOYMENT PRACTICE, THE PLAINTIFF MAY  
19 RECOVER COMPENSATORY AND PUNITIVE DAMAGES AS SPECIFIED IN THIS  
20 SUBSECTION (3).

21 (b) A PLAINTIFF MAY RECOVER PUNITIVE DAMAGES AGAINST A  
22 DEFENDANT IF THE PLAINTIFF DEMONSTRATES BY CLEAR AND CONVINCING  
23 EVIDENCE THAT THE DEFENDANT ENGAGED IN A DISCRIMINATORY,  
24 ADVERSE, OR RETALIATORY EMPLOYMENT PRACTICE WITH MALICE OR  
25 RECKLESS INDIFFERENCE TO THE RIGHTS OF THE PLAINTIFF. HOWEVER, IF  
26 THE DEFENDANT DEMONSTRATES GOOD-FAITH EFFORTS TO COMPLY WITH  
27 THIS ARTICLE 14.4 AND TO PREVENT DISCRIMINATORY, ADVERSE, AND



1 RETALIATORY EMPLOYMENT PRACTICES IN THE WORKPLACE, THE COURT  
2 SHALL NOT AWARD PUNITIVE DAMAGES AGAINST THE DEFENDANT.

3 (c) A PLAINTIFF MAY RECOVER COMPENSATORY DAMAGES  
4 AGAINST A DEFENDANT FOR OTHER PECUNIARY LOSSES, EMOTIONAL PAIN  
5 AND SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT  
6 OF LIFE, AND OTHER NONPECUNIARY LOSSES.

7 (d) IN DETERMINING THE APPROPRIATE LEVEL OF DAMAGES TO  
8 AWARD A PLAINTIFF WHO HAS BEEN THE VICTIM OF AN INTENTIONAL  
9 DISCRIMINATORY, ADVERSE, OR RETALIATORY EMPLOYMENT PRACTICE,  
10 THE COURT SHALL CONSIDER THE SIZE AND ASSETS OF THE DEFENDANT  
11 AND THE EGREGIOUSNESS OF THE DISCRIMINATORY, ADVERSE, OR  
12 RETALIATORY EMPLOYMENT PRACTICE.

13 (e) COMPENSATORY OR PUNITIVE DAMAGES AWARDED PURSUANT  
14 TO THIS SUBSECTION (3) ARE IN ADDITION TO, AND DO NOT INCLUDE,  
15 FRONT PAY, BACK PAY, INTEREST ON BACK PAY, OR ANY OTHER TYPE OF  
16 RELIEF AWARDED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

17 (4) IF A PLAINTIFF IN A CIVIL ACTION FILED UNDER THIS ARTICLE  
18 14.4 SEEKS COMPENSATORY OR PUNITIVE DAMAGES PURSUANT TO  
19 SUBSECTION (3) OF THIS SECTION, ANY PARTY TO THE CIVIL ACTION MAY  
20 DEMAND A TRIAL BY JURY.

21 (5) THE COURT SHALL AWARD REASONABLE ATTORNEY FEES TO A  
22 PLAINTIFF WHO PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS  
23 SECTION.

24 **8-14.4-107. Whistleblower enforcement - qui tam - definition.**

25 (1) AS USED IN THIS SECTION, "WHISTLEBLOWER" MEANS A WORKER WITH  
26 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS ARTICLE 14.4, OR THE  
27 WORKER'S REPRESENTATIVE.

1           (2) (a) A WHISTLEBLOWER WHO HAS EXHAUSTED THE  
2 ADMINISTRATIVE REMEDIES PURSUANT TO SECTION 8-14.4-105 MAY BRING  
3 A CIVIL ACTION AGAINST A PRINCIPAL FOR A VIOLATION OF THIS ARTICLE  
4 14.4 ON BEHALF OF THE STATE IN DISTRICT COURT PURSUANT TO THIS  
5 SECTION. THE STATE MAY INTERVENE IN THE ACTION TO PROSECUTE IN ITS  
6 OWN NAME.

7           (b) AT THE TIME THAT THE ACTION IS FILED, THE WHISTLEBLOWER  
8 SHALL GIVE WRITTEN NOTICE TO THE DIVISION OF THE SPECIFIC  
9 PROVISIONS OF THIS ARTICLE 14.4 ALLEGED TO HAVE BEEN VIOLATED.

10          (c) IF THE COURT FINDS THAT A VIOLATION HAS OCCURRED, THE  
11 COURT MAY ENTER A JUDGMENT AGAINST THE PRINCIPAL OF NOT LESS  
12 THAN ONE HUNDRED DOLLARS AND NOT MORE THAN ONE THOUSAND  
13 DOLLARS FOR EACH VIOLATION, AND FOR APPROPRIATE INJUNCTIVE AND  
14 EQUITABLE RELIEF. THE COURT SHALL AWARD THE WHISTLEBLOWER  
15 REASONABLE ATTORNEY FEES. THE ATTORNEY FEES ARE NOT SUBJECT TO  
16 THE DISTRIBUTION SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

17          (3) THE PROCEEDS OF ANY JUDGMENT ENTERED PURSUANT TO THIS  
18 SECTION SHALL BE DISTRIBUTED AS FOLLOWS:

19           (a) SEVENTY-FIVE PERCENT TO THE DIVISION FOR ENFORCEMENT  
20 OF THIS ARTICLE 14.4; AND

21           (b) TWENTY-FIVE PERCENT TO THE FIRST WHISTLEBLOWER WHO  
22 FILED THE ACTION.

23          (4) THE RIGHT TO BRING AN ACTION UNDER THIS SECTION SHALL  
24 NOT BE IMPAIRED BY ANY PRIVATE CONTRACT. AN ACTION UNDER THIS  
25 SECTION SHALL BE TRIED PROMPTLY, WITHOUT REGARD TO CONCURRENT  
26 ADJUDICATION OF PRIVATE CLAIMS.

27           **8-14.4-108. Rulemaking.** THE DIVISION MAY PROMULGATE RULES

1       NECESSARY TO IMPLEMENT THIS ARTICLE 14.4.

2               **SECTION 2. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety.