



SUPPORT

S.3862 and A.10218-A (Benedetto)

MFY Legal Services, Inc. envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 8,000 New Yorkers each year. MFY's Workplace Justice Project (WJP) advocates on behalf of low-income workers and handles a range of employment problems, including unpaid wage claims, discrimination, and barriers to employment.

Based upon this work, MFY strongly supports S3862 and A5696, which would close critical loopholes in New York's existing Whistleblower Protection Statute, Labor Law Section 740, and ensure that employees who speak out about illegal business conduct will receive the protections they deserve.

Currently, workplace advocates are forced to advise clients who speak up about workplace health and safety violations—often serious conditions endangering the life and health of workers and others—that they have no way to go to court to get their job back if they lose their jobs. Similarly, workers who complain that their employer is committing tax fraud also have no legal protections if their employment is terminated as a result of their whistleblowing. In one case, a young woman who worked for a day care was fired for this reason. Her employer wanted to pay her in cash. She agreed, but asked that her employer withhold taxes and report her earnings. The employer failed to do so. When she asked for a correct Form W-2, she was told she was no longer needed at work for her regular shifts.

Under New York's existing whistleblower statute, such employees receive no meaningful protection: if they speak out about employer abuse, they are likely to face retaliation with no recourse in the courts. It is time New York updated its whistleblower statute to protect both employees who courageously speak out about illegal employer conduct – and the broader New York community that is harmed by these abuses.

S3862/A5696 provides critical, common sense reforms to New York's whistleblower law, including:

- Protecting workers who report any type of legal violation, not just violations that pose a substantial and specific danger to the public health and safety. Only one other state, Ohio, has protections that are as limited as New York's current whistleblower statute.

- Protecting workers who reasonably, and in good faith, report employer conduct that they believe is illegal but is not technically illegal. New York is currently one of the five states with the least protective provisions in this area.
- Allowing whistleblowers to report violations directly to a public authority, not the supervisor, in limited circumstances.
- Expanding the types of reprisals against whistleblowers that are illegal.
- Ensuring whistleblowers are adequately protected against retaliation and can pursue legal claims (for example, allowing two years to file a claim, providing the right to a jury trial, and expanding the types of remedies available).

These common-sense changes will close loopholes that currently leave whistleblowers in New York unprotected and without recourse. New York was once a leader in protecting whistleblowers, but our laws have not kept pace. It is critical that New York pass S3862/A5696 so that brave employees who report illegal conduct by employers are fully protected against retaliation. MFY calls on the state legislature to enact this legislation, which will close loopholes in the existing law.

For the reasons stated above, MFY Legal Services strongly supports the passage of S.3862 and A.10218-A.

Please call Maia Goodell at 212-417-3749 or mgoodell@mfy.org if you have any questions.