

Accountability Report Card Summary 2022
Mississippi

Mississippi has a mediocre state whistleblower law:

- Scoring only 51 out of a possible 100 points; and
- Ranking 38th out of 51 (50 states and the District of Columbia).

Mississippi has a fairly narrow statute (19 out of 33 possible points) with limited usability (9 out of 33) and relatively strong remedies (23 out of 33).

Mississippi's full Whistleblower Report Card
Narrative summary of Mississippi's law

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Coverage, Usability & Strength — Rating on a 100 Point Scale

Protection of Public Employee from Reprisal for Giving Information to Investigative
Body or Agency- Miss. Code Ann. § 25-9-171 to -177 (1991)

A. Breadth of Coverage (33 points possible from 10 factors).

Does the statute cover disclosures of –

Factor	Maximum Points	Awarded Points
1. Violation of state or federal law, rules or regulations	6 points	6 points ¹
2. Gross mismanagement	3 points	3 points
3. Abuse of authority (including violations of agency policy)	3 points	3 points
4. Waste of public funds or resources	3 points	3 points
5. Danger to health and/or public safety and/or environment	5 points	3 points
6. Communication of scientific opinion or alteration of technical findings	5 points	0 points
7. Breaches of professional ethical canons	5 points	0 points

Does the statute provide –

8. Employee may refuse to carry out illegal or improper orders	1 point	0 points
9. Prohibition on “gag orders” to prevent employee disclosures	1 point	0 points
10. Whistleblower protection does not preclude collective bargaining or other rights	1 point	1 point
	<u>Maximum Score</u> <u>33 points</u>	<u>Awarded Score</u> <u>19 points</u>

¹ “Improper governmental action” means any action by a state employee undertaken in the performance of the employee’s official duties which is in violation of any federal or state law or regulation, an abuse of authority, results in substantial abuse, misuse, destruction, waste or loss of public funds or public resources, constitutes a substantial and specific danger to the public health or safety, or reflects discrimination based on race or gender. Miss. Code Ann. § 25-9-171(d).

B. Usability: Scope of Protection (33 points possible from 10 factors)

Do the laws protect disclosures made to –

Factor	Maximum Points	Awarded Points
1. Any person or organization, including public media	24 points	0 points

Or does the statute protect disclosures made to –

2. Any state executive or legislative body or person employed by such entities	4 points	0 points
3. Testimony in any official proceeding	4 points	3 points ²
4. Any state or federal law enforcement or investigative body or entity or its employees	3 points	3 points ³
5. Any federal or non-state governmental entity	3 points	0 points
6. Co-workers or supervisors within the scope of duty	3 points	0 points
7. Anyone as provided in paragraphs 2 thru 6 (above) without prior disclosure to another state official or supervisor	3 points	3 points

Does the state law –

8. Require an investigation by state auditor or other investigative entity of whistleblower disclosures	1 point	0 points ⁴
9. Have a statute of limitations of one year or longer for filing complaints	3 points (2 points if 6 months or longer and 1 point if 60 days or longer)	0 points ⁵
10. Allow qui tam or false claim actions for recovery of “bounty” in cases of fraud against the state	5 points (2 points if a qui tam statute of limited scope)	0 points
	<u>Maximum Score</u> <u>33 points</u>	<u>Awarded Score</u> <u>9 points</u>

² Testimony made to a state investigative body is protected, and does not need to be made under oath. Miss. Code Ann. § 25-9-173(1).

³ State investigative body. Miss. Code Ann. § 25-9-172.

⁴ Investigation of the claim is not required. § 25-9-172(1).

⁵ No mention in the statute. Other state statutes may prescribe the limitation period, or it may be a term of the employment contract.

State Legislation Protecting State Employee Whistleblowers (updated July 2022)

State: Mississippi

Statute: Protection of Public Employee from Reprisal for Giving Information to Investigative Body or Agency- Miss. Code Ann. § 25-9-171 to -177 (1991)

Provisions: The Mississippi statute protects an employee who in good faith reports an alleged improper governmental action to a state investigative body, or who has allegedly made such a report. No state agency may subject a whistleblower to workplace reprisal as a direct result of their disclosure, nor can they take retaliatory action such as demotion, reduction in pay, suspension, dismissal, denial of promotion or employment, because the public employee testified or provided information to a state investigative body about improper government action whether or not the testimony or information was given under oath. “Improper governmental action” means any action by a state employee, other than the one providing information, which is undertaken in the performance of the employee’s official duties, whether or not the action is within the scope of the employee’s employment and which is in violation of any federal or state law or regulation, is an abuse of authority or results in substantial abuse, misuse, destruction, waste or loss of public funds or public resources, constitutes a substantial and specific danger to the public health or safety, or is discrimination based on race or gender. The term does not include personnel action for which other remedies exist, including, but not limited to, employee grievances, dismissals, suspensions, violation of the state personnel system, labor agreement violations, or any personnel action which may be taken under federal or state law.

The term “state investigative body” means the Mississippi Attorney General, State Auditor, the Ethics Commission, standing committees of the Legislature, or any district attorney. Upon receipt of a signed written complaint of alleged improper governmental action, a state investigative body shall have the authority to investigate the complaint in accordance with its powers and duties under Mississippi laws. This is the only entity to which a whistleblower may disclose information. A governmental entity is not precluded from taking any action in accordance with established personnel policies against an employee who knowingly and intentionally provides false information to a state investigative body.

Any person who is a whistleblower, and who as a result has been subjected to workplace reprisal or retaliatory action, is entitled to the legal remedies provided by the statute. Any state agency who violates the prohibitions against dismissing or adversely affecting the compensation or employment of a state public employee or who takes reprisal or retaliatory action against a whistleblower shall be liable to the public employee for back pay and reinstatement. In addition, such an employee is entitled to sue for injunctive relief, compensatory damages, court costs and reasonable attorney’s fees. In such actions, the public employee shall prove by a preponderance of the evidence that his dismissal or other adverse action would not have occurred without his providing information or testimony to a state investigative body. The civil action remedies are supplemental to

other remedies, judicial or administrative, provided for under law. Such remedies shall be exhausted before such civil actions may be brought.

Each member of a state agency's governing board or authority may be found individually liable for a civil fine of up to \$10,000 for each violation of the statute. In any instance, where an agency does not have such a board or authority, the agency's executive director may be found individually liable for a similar fine.