

Robert Vaughn

*State Whistleblower Statutes and the Future of Whistleblower Protection*

51 Admin. L. Rev. 581 (1999)

Abstract by Christine Parsadaian

This article examines whistleblower statutes as a group to establish various trends and suggests the differences among whistleblower statutes lies largely on the variety of inherent perceptions regarding whistleblowers. While certain statutes are based on negative perceptions, every statute varies, and the majority of statutes generally support whistleblower rights. To reveal the negative and positive stereotypes statutes hold regarding whistleblowers, such as whether or not their complaints tend to be credible, the author first examines which of the three basic whistleblower conceptions a statute incorporates. For example, the author notes that while statutes generally always protect disclosure regarding violations of law, disclosures regarding health and safety risks require a substantially higher burden of proof, suggesting that in grey areas of the law whistleblowers have a more difficult time establishing their case. Subsequently, the author proceeds by examining the statutory trends on disclosure prohibitions and notes the surprising trend that prohibitions on disclosure are omitted by a number of states.

Moreover, the article analyzes the pros and cons of the differing ways statutes handle issues like internal disclosures, reprisal, and remedies, and suggests that oftentimes statutes are either inflexible, over inclusive, or under inclusive. The author subsequently shifts to highlighting the importance of statutory provisions regarding the right to disobey and suggests that these provisions are important in the necessary development of an employee's right to disobey illegal orders. Lastly, the article examines the differences between both federal and state whistleblower statutes and the private and public sectors and the implications of these differences. For example, the author finds that because federal statutes rely on administrative relief while state statutes rely on judicial relief, federal employees may be subject to more gridlock in their whistleblower claims. Ironically, however, the author notes that notwithstanding the differences between public and private sector employment, public and private sector whistleblower statutes are largely similar.