

SENATE BILL 156

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 50,
relative to enacting the At-Will Employment Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following as a new part 7:

Section 50-1-701. This part shall be known and may be cited as the At-Will Employment Act.

Section 50-1-702. This general assembly finds and declares that:

(1) At-will employment is the traditional relationship between employer and employee that allows either party to abandon the relationship at any time in a manner not inconsistent with applicable state, local or federal laws;

(2) Some courts and law making bodies have weakened the at-will employment doctrine, making it more difficult for employers to justify discharging an employee. These bodies have often relied on amorphous terms such as "against public policy" or require a showing of "just cause" to justify discharging an employee;

(3) Litigation of improper discharge cases results in substantial expense to employers and creates disincentives for employers to expand business operations within the state;

(4) In light of the fundamental right to contract, an employer and employee should be free to contract on their own terms;

(5) Existing state, local, and federal laws provide adequate protections for employees, making modification of at-will employment unnecessary;

(6) Modifications of at-will employment often cause changes in an employer's hiring practices, hurting employees in the long run; and

(7) As a result, it is against the public policy interests of this state to weaken the concept of at-will employment. Courts should not create causes of action that are inconsistent with this stated public policy.

Section 50-1-703. As used in this part:

(1) "At-will employment" means employment terminable at the will of the employer or the employee, without notice, at any time for any reason that is not prohibited by law;

(2) "Employer" means an individual, partnership, corporation, association, government entity, or other legal entity that has supervision and control over the labor of one or more employees; and

(3) "Modification" means transformation of an at-will employment contract to any other form of employment contract.

Section 50-1-704.

(a) Employment of an individual is at-will employment unless the individual and the individual's employer are subject to a written contract specifying either of the following:

(1) That the individual is employed for a specific term; or

(2) That the individual's employment may be terminated by the employer only for cause.

(b) Modification of an individual's at-will employment contract is effective only upon execution of a written agreement for modification of the contract, signed by the individual and either the individual's employer or the authorized representative of the individual's employer.

(c) An employee handbook shall not be construed to be an employment contract if the handbook has a conspicuously placed and clearly expressed contractual disclaimer.

Section 50-1-705.

(a) An employee has a claim against an employer for termination of employment only if one (1) or more of the following circumstances has occurred:

(1) The employer has terminated the employment relationship of an employee in breach of an employment contract as set forth in § 50-1-704, in which case the remedies for the breach are limited to the remedies for a breach of contract;

(2) The employer has terminated the employment relationship of an employee in violation of a state, local or federal statute. If the statute provides a remedy to an employee for a violation of the statute, the remedies provided to an employee for a violation of the statute are the exclusive remedies for the violation of the statute or the public policy arising out of the statute, including, but not limited to:

(A) The federal Civil Rights Act of 1964;

(B) The federal Occupational Health and Safety Act of 1970; or

(C) The federal Fair Labor Standards Act / Wage and Hour Act, as amended; or

(3) The employer has terminated the employment relationship of an employee in retaliation for any of the following:

(A) Refusal of the employee to commit any act in violation of state, local or federal law;

(B) Exercising rights given to an employee under state, local or federal law; or

(C) The disclosure by the employee in a reasonable manner that the employee has information or a reasonable belief that the employer, or an employee of the employer, has violated, is violating or will violate a state, local or federal law to either the employer or a representative of the employer who the employee reasonably believes is in a managerial or supervisory position and has the authority to investigate the information provided by the employee and to take action to prevent further violations of the state, local or federal law.

Section 50-1-706. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.