

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2301

4
5 By: Representative Thomas
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For An Act To Be Entitled

8
9 THE ARKANSAS WRONGFUL EMPLOYMENT TERMINATION ACT.
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11
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Subtitle

13
14 THE ARKANSAS WRONGFUL EMPLOYMENT
15 TERMINATION ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. This act shall be known and may be cited as the "Arkansas
20 Wrongful Employment Termination Act".
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22 SECTION 2. The common law doctrine of "employment-at-will" is
23 abolished and shall no longer be generally applicable to employment
24 agreements and relationships in the State of Arkansas, except to the extent
25 expressly exempted by the General Assembly.
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27 SECTION 3. (a) The creation of an employment agreement or employment
28 relationship, whether oral or written, shall create a special relationship
29 between employer and employee.

30 (b) In all employment agreements and employment relationships, whether
31 oral or written, there shall be an implied covenant and duty of good faith
32 and fair dealings by the employer in dealings with the employee concerning
33 material modifications in the terms of employment and the discharge or
34 termination of employment.

35 (c) The implied covenant and duty of good faith and fair dealings may
36 not be waived by an employee, and any attempt to do so shall be void and



1 ineffective as against the public policy of this state.

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3 SECTION 4. An employer may discharge or terminate an employee, not
4 otherwise bound by a valid written contract of employment for a term of
5 employment, for good cause shown, or for any reason which has a rational
6 basis and which does not violate state or federal law or public policy.

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8 SECTION 5. (a) Any employee who is discharged or terminated by an
9 employer in violation of this act, shall have a private right of action in
10 tort and may enforce the provisions of this act in circuit court.

11 (b) An employer found to have violated this act shall be liable to the
12 terminated employee for the following:

13 (1) Compensatory damages for lost wages;

14 (2) Lost benefits;

15 (3) Punitive damages; and

16 (4) Reasonable attorney's fees.

17 (c) In addition to any damages to which the terminated employee may
18 show himself or herself to be entitled, the court may grant the employee
19 reinstatement to his or her former position.

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21 SECTION 6. (a) An employer shall provide to the discharged or
22 terminated employee, before or at the time of discharge or termination, a
23 written notice containing the reason for the employment termination.

24 (b)(1) The notice shall contain the following:

25 (A) The termination date and time; and

26 (B) The primary reason for the discharge or termination.

27 (2) Failure to state a cause for the discharge or termination in
28 the notice shall create a rebuttable presumption that no good faith basis
29 existed for the discharge or termination.

30 (c)(1) In addition to all other damages, failure to provide timely and
31 sufficient notice shall subject the non-compliant employer to a civil penalty
32 of fifty dollars (\$50) per day beginning five (5) calendar days from the time
33 written demand for notice is made to an employer, by the discharged or
34 terminated employee, until proper notice is given.

35 (2)(A) Proper service of a notice of discharge on the employee
36 by the employer shall toll the accrual of the civil penalties.

1 (B) Proper service of a notice of discharge shall be made
2 by personal hand delivery, certified mail, fax, or any method of service of
3 process provided by the Arkansas Rules of Civil Procedures.

4 (d)(1) A discharged or terminated employee may file a cause of action
5 in circuit court to enforce the notice provisions in this section 6.

6 (2) If the court finds that the employer violated the notice
7 provisions of this section 6, then the employer shall be liable for
8 reasonable attorneys' fees, in addition to the accrued civil penalty.

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