



Sub. H.B. 203*

123rd General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

Reps. Wilson, Ogg, Taylor, Maier, Patton, Gardner, Jerse, Corbin, Krupinski, Britton, Ford, Krebs, Metelsky, Pringle, DePiero, Padgett, Olman, Logan, Barrett, Opfer, Thomas, Terwilleger, Allen, Jolivette, Sullivan, James, D. Miller, Verich, Distel, Sutton, Sulzer, Bender, Redfern, Evans, Buchy, Carey, O'Brien, Flannery, Willamowski, Roberts, Hollister, Perry, Hartnett, Brading, Damschroder, Schuler, Ferderber, Vesper, Tiberi, Jones, Grendell, Mettler, Metzger, Gooding, Hoops, Roman, Householder, Callender, Cates, Hood, Gerberry, Austria, Aslanides, Stapleton, Stevens, Healy, Salerno

BILL SUMMARY

- Prohibits an employer from terminating an employee who also is a volunteer firefighter or a volunteer provider of emergency medical services when that employee misses or is late to work because of an emergency to which the employee was dispatched.

CONTENT AND OPERATION

Overview

Ohio is an employment-at-will state with respect to private sector employment. Consequently, in the absence of a written employment agreement or a collective bargaining agreement, an oral employment agreement between an employer and employee is terminable at-will by either party for any reason that is not contrary to law. Moreover, there is a strong presumption in favor of an at-will contract unless the terms of the contract or other circumstances clearly manifest the parties' intent to bind each other.

* *This analysis was prepared before the report of the Senate Insurance, Commerce, and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Various exceptions to the basic employment-at-will doctrine exist that are founded upon implied contract and public policy. Statutory limitations in both state and federal law on the employment-at-will doctrine also exist. For example, an employee may not be discharged in violation of state or federal anti-discrimination laws, for voting or serving on a jury, for having a court-ordered child support wage assignment, for "whistleblowing," or for filing a workers' compensation claim. (For a more detailed discussion of the doctrine, see "Employment-At-Will and Wrongful Discharge in Ohio," **Members Only** brief, volume 121 issue 17, October 21, 1996.)

An employee who is discharged in violation of a statute, public policy, or the terms of an express or implied contract is considered to have been "wrongfully discharged" and may bring an action for breach of contract or in tort.

Termination-related provisions

The bill prohibits an employer from terminating an employee who is a member of a volunteer fire department, who is employed by a political subdivision as a volunteer firefighter, or who is a volunteer provider of emergency medical services because that employee, when acting as a volunteer firefighter or provider of emergency medical services, is absent from or late to the employee's employment in order to respond to an emergency prior to the time the employee is to report to work. If an employer purposefully violates this provision, the employee may bring a civil action for reinstatement to the employee's former position of employment, payment of back wages, and full reinstatement of fringe benefits and seniority rights. A terminated employee must commence an action within one year after the date of the violation in the court of common pleas in the county where the place of employment is located.

Other special provisions

The bill specifies that an employer may charge any time that an employee who is a volunteer firefighter or volunteer provider of emergency medical services loses from employment because of his or her response to an emergency against the employee's regular pay. Additionally, at the employer's request, an employee who loses time from employment to respond to an emergency must provide the employer with a statement from the chief of the volunteer fire department or the medical director or chief administrator of the cooperating physician advisory board of the medical services organization, as applicable, stating that the employee responded to an emergency and the time of that response.

Notification provisions

Employee notice

An employee who is a volunteer firefighter or volunteer provider of emergency medical services is required by the bill do to all of the following:

(1) Notify the employee's employer of the employee's status as a volunteer by submitting to the employer a written notice signed by the chief of the volunteer fire department or the medical director or chief administrator of the cooperating physician advisory board of the emergency medical organization with which the employee serves, within 30 days after either certification as a volunteer or the date the State Fire Marshal gives notice to the volunteer's department or organization, as described below (see "**State Fire Marshal notice**");

(2) Make every effort to notify the employee's employer that the employee may report late to or be absent from work due to the employee's dispatch to an emergency;

(3) If the notification described in (2) above cannot be made either due to the extreme circumstances of the emergency or the inability to contact the employer, submit to the employee's employer a written statement from the appropriate chief, medical director, or chief administrator that explains why prior notice was not given;

(4) Notify that employee's employer when the employee's status as a volunteer changes, including when the employee's status as a volunteer is terminated.

State Fire Marshal notice

The State Fire Marshal is required by the bill to notify every volunteer fire department and every volunteer emergency medical organization of the bill's provisions within 30 days after the bill's effective date.

Definitions

For purposes of the bill, "emergency" means going to, attending to, or coming from a fire, a medical emergency, a hazardous or toxic materials spill and cleanup, or other situation that poses an imminent threat of loss of life or property to which the fire department or provider of emergency medical services has been or later could be dispatched. "Emergency medical services" and "emergency medical service organization" have the same meaning as in the Emergency Medical Services Law (R.C. Chapter 4765.). "Volunteer firefighter" has the same

meaning as in the Volunteer Fire Fighters' Dependents Fund Law (R.C. Chapter 146.).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-23-99	p. 225
Reported, H. Commerce & Labor	05-24-00	p. 2109
Passed House (95-0)	09-13-00	p. 2240
Reported, S. Insurance, Commerce, & Labor	---	---

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