

SECTION 1. SHORT TITLE

This Act shall be known and may be cited as the “Workplace Just Cause and Wrongful Discharge Act.”

SECTION 2. LEGISLATIVE FINDINGS AND PURPOSE

The Legislature finds and declares that:

1. The employment-at-will doctrine creates a severe imbalance of power between employers and employees and undermines economic security, workplace fairness, and personal dignity.
2. Modern employment relationships carry an implied covenant of good faith and fair dealing.
3. Workers should not be terminated arbitrarily, capriciously, in bad faith, or without legitimate business justification.
4. Stable employment relationships promote public health, economic stability, workplace safety, and employee well-being.
5. Employers retain the right to discipline and terminate employees for legitimate business reasons, including misconduct, poor performance, economic necessity, or operational disruption.
6. This Act is intended to abolish the doctrine of at-will employment and establish a uniform “just cause” standard for termination of employment.

SECTION 3. DEFINITIONS

As used in this Act:

(a) “Constructive discharge” means the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer that an objective, reasonable person would find so intolerable that resignation is the only reasonable alternative. Constructive discharge does not include resignation due solely to the employer’s refusal to promote the employee or improve wages, responsibilities, or other terms and conditions of employment.

(b) “Discharge” includes constructive discharge and any termination of employment, including:

1. Firing;
2. Forced resignation;
3. Elimination of position;
4. Layoff;
5. Failure to recall or rehire; or

6. Any reduction in force affecting the employee.

(c) "Employee" means an individual who works for hire under an express or implied contract of employment. The term does not include:

1. Independent contractors; or
2. Individuals covered by a collective bargaining agreement that already provides just-cause protections.

(d) "Employer" means any person, corporation, partnership, association, nonprofit organization, governmental entity, or other legal entity employing one or more employees.

(e) "Fringe benefits" means the value of employer-provided benefits including:

1. Vacation leave;
2. Sick leave;
3. Health insurance;
4. Disability insurance;
5. Life insurance;
6. Retirement or pension benefits; and
7. Other employment benefits in effect at the time of discharge.

(f) "Good faith" means an employment decision made honestly, fairly, consistently, and for legitimate business reasons rather than arbitrary, retaliatory, discriminatory, malicious, or pretextual reasons.

(g) "Just cause" means reasonable job-related grounds for dismissal based upon:

1. Failure to satisfactorily perform job duties;
2. Violation of lawful workplace rules or policies;
3. Misconduct materially affecting business operations;
4. Legitimate economic necessity; or
5. Other bona fide business reasons.

"Just cause" does not include:

1. Personal dislike;
2. Retaliation;
3. Unequal enforcement of rules;
4. Off-duty lawful conduct unrelated to job performance;
5. Reporting unlawful conduct;
6. Exercising legal rights; or
7. Arbitrary or capricious decision-making.

(h) “Lost wages” means the gross amount of wages, salary, commissions, bonuses, deferred compensation, and other earnings the employee would have received absent the wrongful discharge.

(i) “Public policy” means a policy concerning public health, safety, welfare, labor standards, civil rights, or legal compliance established by constitutional provision, statute, regulation, or common law.

(j) “Probationary period” means the initial period of employment during which the employee may be terminated without just cause pursuant to Section 5.

SECTION 4. ABOLITION OF AT-WILL EMPLOYMENT

(a) The common law doctrine of employment at will is abolished in this State.

(b) Every employment relationship shall include an implied covenant of good faith and fair dealing.

(c) After completion of the probationary period established under this Act, an employee may be discharged only for just cause.

SECTION 5. PROBATIONARY PERIOD

(a) An employer may establish a probationary period not to exceed six (6) months from the date of hire.

(b) During the probationary period, employment may be terminated by either party for any lawful reason.

(c) A probationary period shall be valid only if:

1. It is disclosed in writing at or before the time of hire; and
2. The employee receives written notice of the probationary period.

(d) If no probationary period is disclosed at or before hire, the employee shall not be considered probationary.

SECTION 6. PROGRESSIVE DISCIPLINE

(a) Except in cases of serious misconduct, gross negligence, violence, unlawful conduct, or severe policy violations, an employer shall utilize progressive discipline before discharge.

Serious misconduct means conduct causing substantial and immediate risk of significant harm to persons, property, operations, or legal compliance.

(b) Progressive discipline shall include:

1. Verbal warning;
2. Written warning;
3. Final written warning; and
4. Opportunity to correct deficiencies.

(c) Each disciplinary step shall include written documentation identifying:

1. The conduct or performance issue;
2. Relevant policies or expectations;
3. Required corrective action; and
4. Potential consequences for future violations

(d) The employee shall receive a copy of all disciplinary documentation contemporaneously with issuance.

(e) An employer may not rely upon undocumented verbal warnings, retroactive documentation, or disciplinary records created after notice of termination as evidence of just cause.

(f) Employers shall apply disciplinary policies consistently and without discrimination.

(g) Substantial failure to follow required progressive discipline shall create a rebuttable presumption that just cause did not exist.

(h) Disciplinary documentation created substantially after the alleged conduct occurred shall be presumed unreliable absent good cause.

(i) Employees shall receive copies of disciplinary documentation at the time it is issued and shall have the opportunity to submit a written response.

(j) Disciplinary action initiated within ninety (90) days following protected activity, complaints, leave requests, safety reports, or participation in investigations shall create a rebuttable presumption of retaliation or pretext.

SECTION 7. WRONGFUL DISCHARGE

A discharge is wrongful if:

1. The employee was discharged without just cause after completion of the probationary period;

2. The discharge violated the employer's written personnel policies or contractual commitments;
3. The discharge was retaliatory, including retaliation for:
 - Reporting unlawful conduct;
 - Refusing to violate the law;
 - Filing complaints or grievances;
 - Exercising workplace rights; or
 - Participating in protected activity;
4. The discharge violated public policy; or
5. The discharge was made in bad faith.

SECTION 8. BURDEN OF PROOF

(a) The employer bears the burden of proving just cause for discharge.

(b) Where an employer deviates from established disciplinary policies or practices, the employer bears the burden of proving the deviation was justified and made in good faith. Performance expectations used as a basis for discipline or discharge must have been communicated to the employee beforehand in a reasonably understandable manner.

(c) Ambiguities in disciplinary records shall be construed against the employer where the employer controlled creation and retention of the records.

(d) Subjective criteria shall not alone constitute just cause absent identifiable job-related performance deficiencies.

(e) A discharge may not be based solely upon uncorroborated subjective assessments where objective evidence would reasonably be available.

(f) Evidence relevant to determining just cause includes:

1. Whether workplace rules were communicated beforehand;
2. Whether an investigation was conducted;
3. Whether substantial evidence supported the decision;
4. Whether rules were applied consistently; and
5. Whether the discipline imposed was proportionate.

(g) Evidence of similar treatment of other employees, including patterns of retaliation, selective enforcement, fabricated discipline, or coercive management practices, shall be admissible by employee to establish intent, bad faith, or pretext.

(h) Knowingly fabricated disciplinary records, knowingly false performance documentation, destruction of relevant records, or material misrepresentation during proceedings shall support punitive damages and adverse evidentiary inferences.

(i) Substantial inconsistencies in the employer's stated reasons for discharge may create a presumption of pretext.

SECTION 9. REMEDIES

(a) An employee subjected to wrongful discharge may recover:

1. Lost wages;
2. Lost fringe benefits;
3. Front pay;
4. Reinstatement where appropriate;
5. Emotional distress damages;
6. Compensatory damages;
7. Punitive damages for willful or malicious violations;
8. Attorney's fees and costs; and
9. Pre- and post-judgment interest.

(b) Interim earnings shall offset back pay awards, reduced by reasonable expenses incurred in seeking replacement employment.

(c) Punitive damages may be awarded upon clear and convincing evidence of fraud, malice, retaliation, or reckless disregard of employee rights.

SECTION 10. ADMINISTRATIVE AND CIVIL ENFORCEMENT

(a) An employee may:

1. File a complaint with the State Department of Labor; or
2. Bring a civil action in a court of competent jurisdiction.

(b) The Department of Labor may:

1. Investigate complaints;
2. Conduct mediation;
3. Order reinstatement or back pay;
4. Assess civil penalties; and
5. Enforce compliance.

(c) Exhaustion of internal grievance procedures shall not be required unless:

1. The procedures are written;

2. The employee received notice of them; and
3. The procedures are completed within ninety (90) days.

SECTION 11. LIMITATIONS PERIOD

(a) A civil action under this Act must be filed within:

1. Two (2) years of the discharge; or
2. One (1) year after completion of internal procedures, whichever is later.

SECTION 12. NONWAIVER OF RIGHTS

(a) Rights under this Act may not be waived prospectively.

(b) Any agreement requiring waiver of rights under this Act as a condition of employment is void and unenforceable.

(c) Mandatory arbitration agreements covering claims under this Act are unenforceable unless entered knowingly and voluntarily after the dispute arises.

SECTION 13. RELATIONSHIP TO OTHER LAWS

(a) This Act supplements and does not diminish rights available under:

1. Anti-discrimination laws;
2. Whistleblower protections;
3. Workers' compensation laws;
4. Wage and hour laws; or
5. Other state or federal protections.

(b) Employees may pursue remedies under this Act in addition to other available causes of action unless double recovery would result.

SECTION 14. SEVERABILITY

If any provision of this Act or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 15. EFFECTIVE DATE

This Act takes effect on _____ and applies to all employment relationships existing on or after that date.

Key Strategic Differences From Existing State Bills

This model bill is stronger than most existing proposals because it:

- Fully abolishes at-will employment rather than merely creating limited wrongful discharge claims;
- Preserves emotional distress and compensatory damages;
- Prevents employers from contracting around protections through arbitration or waivers;
- Places the burden on employers to prove just cause;
- Requires progressive discipline;
- Preserves other legal remedies rather than preempting them;
- Includes retaliation and bad-faith standards;
- Covers constructive discharge; and
- Allows both agency enforcement and private lawsuits.

The strongest existing enacted framework is Montana's Wrongful Discharge From Employment Act, but it significantly limits damages and preempts many common-law claims.

The broadest abolition approach comes from North Carolina and Mississippi, which explicitly abolish at-will employment and recognize good-faith employment obligations.