



#1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

Wrongful Termination Laws: Illegal Reasons

You should always be mindful of wrongful termination laws. Firing someone for the wrong reason could land you in a whole lot of legal hot water.

A majority of all employees in the United States are "at will" employees. What this means is that you can fire these employees at any time and for any reason, so long as the reason is not discriminatory, retaliatory or otherwise illegal.

Both state and federal laws are in place that prohibit employers from firing employees for certain reasons. These wrongful termination laws will apply whether the employee is at will or the employee is working under an employment contract.

Wrongful Termination Laws: Discrimination

Under federal law, it is illegal for employers to fire an employee because of the employee's race, gender, national origin, disability, religion or age (so long as the employee is at least 40 years old). In addition to these "protected classes," federal law also makes it illegal for employers to fire an employee because she is pregnant or has a medical condition that is related to her pregnancy or childbirth.

A majority of states also have wrongful termination laws that prevent employers from terminating employees for all of the reasons listed under the federal laws. Some states also take their wrongful termination laws further and add more "protected classes."

For example, some states also include sexual orientation in this list of protected classes. An employer in such a state would be prohibited from terminating an employee just because they were gay or lesbian. In addition, some states write their wrongful termination laws in such a way that they cover a wider range of employees than the federal laws do.

Wrongful Termination Laws: Retaliation

Generally speaking, it is illegal for an employer to terminate an employee for asserting his or her rights under federal or state anti-discrimination laws. Employees have been known to build successful retaliation claims even when the underlying discrimination claim doesn't work out in their favor. As an example, if you fired an employee for complaining that she was not receiving equal pay to the men in similar positions, you may end up losing a retaliation lawsuit even if you end up showing that your pay schedules were not discriminatory based on gender.

Wrongful Termination Laws: Refusing to Take a Lie Detector Test

Under the federal Employee Polygraph Protection Act, employers are not allowed to fire employees on the basis that they refused to take a lie detector test. In addition to this federal law, many states also have laws that prohibit employers from firing employees because they refused a polygraph test.

Wrongful Termination Laws: Aliens

Under the federal Immigration Reform and Control Act, employers are prohibited from firing employees on the basis of their alien status. So long as the employee is legally eligible for employment within the United States, an employer cannot fire that employee solely on the basis of their alien status.

Wrongful Termination Laws: Complaints about OSHA Violations

Under the federal Occupation Safety and Health Act (OSHA), employers are prohibited from terminating employees because they make complaints about the employer's OSHA violations. These complaints are often made about an employer that does not meet state or federal health and safety standards.

Wrongful Termination Laws: Violations of Public Policy

There are a number of states that have laws that prohibit employers from terminating employees when the terminations are in violation of public policy. In other words, these laws stop employers from firing employees for reasons that the public would find morally reprehensible or ethically wrong. These laws are often difficult for employers to follow, as morals and ethics are subjective and will vary from state to state. It is not uncommon for some state laws to differ from the laws of other states.

However, despite this subjectivity, there are some common themes that are found in many states' laws. Many states agree that the following would be in violation of public policy:

- Terminating an employee because he or she refused to commit an illegal act that was ordered of her by a superior (such as refusing to destroy documents that must be maintained according to state or federal law).
- Terminating an employee because the employee complained about his or her employer's illegal activities (such as firing an employee that made a complaint to the federal government about his employer's illegal dumping of toxic materials). These laws are often referred to as "whistleblower statutes."
- Terminating an employee because the employee exercised his or her legal right (such as taking a permissible family leave).

Employer Fears about Wrongful Termination Laws

Even the most careful employer that follows all of the guidelines that are set out above can feel uncomfortable about wrongful termination laws. Many employers fear that a former employee will come back with a lawyer in tow and file a wrongful termination lawsuit. One way that you can alleviate these fears is to have all outgoing employees sign a "release" where the employee agrees not to sue the employer in exchange for some benefit (such a severance package).

FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

BLOGS – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

FINDLAW ANSWERS – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

NEWS & NEWSLETTERS – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

FIND A LAWYER – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



DO-IT-YOURSELF FORMS & CONTRACTS – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

FINDLAW VIDEO – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday

HAVE A LEGAL QUESTION?
NEED TO FIND AN AFFORDABLE,
QUALIFIED ATTORNEY?

Protect yourself, your family or
your business with a legal plan
or form from LegalStreet

www.LEGALSTREET.com

Copyright © 2013 FindLaw, a Thomson Reuters business. All rights reserved. The information contained in this article is for informational purposes only and does not constitute legal advice. The use and distribution of this article is subject to the Creative Commons BY-NC-ND license, which can be viewed at <http://creativecommons.org/licenses/by-nc-nd/3.0/>. You must attribute the article by providing the title of the article, FindLaw copyright notice and link to the original work. You may not use the article for commercial purposes and you may not alter or transform this article in any way.

FindLaw[®]
A Thomson Reuters Business