



Tennessee Legislative Update

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Executive Summary: Governor Haslam recently signed several bills into law that will impact Tennessee employees and employers in both the public and private sectors. Employers may wish to reassess certain policies and practices in light of these changes.

Attorney Fees & Public Employees

The Tennessee General Assembly has amended the Government Tort Liability Act (GTLA) to allow public employees sued in their individual capacities to recover their attorney's fees if they win the case. Often a plaintiff suing under the GTLA will name not only the public entity involved but also an official of the public entity, both in his/her official and individual capacity. If the employee sued in his or her individual capacity winds up as the prevailing party, (i.e., if the employee successfully defends against the claim), a court may now require the plaintiff to pay the individual governmental employee's reasonable attorney's fees. This could cause some plaintiffs to think twice before naming individual officials as defendants.

Garnishments

In a change to become effective September 1, 2016, the state legislature amended Tennessee Code Annotated § 26-2-214 to expand the reach of garnishments. Currently, garnishments may order deductions from the targeted employee's salaries, wages, or other compensation paid by the employer/garnishee. The new amendment expands the scope of garnishments to cover "earnings" due from a garnishee, thus reaching amounts owed to independent contractors, not just traditional employees.

E-Verify Act

In another change, this one to become effective January 1, 2017, the General Assembly amended the Tennessee Lawful Employment Law Act (E-Verify Act) in an effort to minimize the compliance burden on small businesses while also strengthening the authority of the Tennessee Department of Labor (TDOL) to pursue flagrant violators. As amended, the E-Verify Act will require private employers with 50 or more employees to enroll in the E-Verify program. The new E-Verify Act will also require these employers to verify the employment eligibility of new hires through the program. Employers who knowingly fail to enroll in the E-Verify program will be subject to a \$500 penalty. An employer who fails to enroll after having received notice from the TDOL will be subject to an additional \$500 *daily* penalty. In addition, the amended E-Verify Act will allow the TDOL to conduct an investigation to determine an employer's compliance. Employers with six or more (but fewer than 50) employees will remain subject to the current law, which provides the alternative of utilizing E-Verify or requesting and maintaining certain identification documents (i.e., unexpired passports, birth certificates, or state-issued identification).



If you have any questions regarding these amendments or other labor or employment issues impacting Tennessee employers, please feel free to contact the author of this Alert, [LaTanyia S. Walker](mailto:Lswalker@fordharrison.com), [lswalker@fordharrison.com](mailto:Lswalker@fordharrison.com), who is an attorney in our Memphis office. You may also contact the FordHarrison attorney with whom you usually work.