



Florida's Whistleblower Laws Are an Exception to At-Will Employment



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Florida follows the common law at-will employment policy. At the core of the at-will employment doctrine is the ability of an employer to dismiss an employee at any time for any non-discriminatory reason or no reason at all, and without any warning. One significant exception to this doctrine is when an at-will employee's dismissal violates an existing statute, for example, Florida's whistleblower laws.

Florida's Public & Private Whistleblower Laws

Florida has two whistleblower laws. One governs private-sector employees, while the other protects public-sector employees.

- The **private-sector employee** Whistleblower's Act, Fla. Stat. § 448.102, protects employees who report, threaten to report, or object to an activity, policy, or practice that is in violation of a law, rule, or regulation. The improper practice need not be related to the employee/employer relationship. In some cases, the employee is required to provide written notice and an opportunity for the employer to correct the activity, policy, or practice.
- Florida's Whistle-blower's Act, Fla. Stat. § 112.3187, is more specific. It protects **public-sector employees** who disclose information regarding suspected violations that create and present "a substantial and specific danger to the public's health, safety, or welfare." The statute also protects public-sector employees who disclose information about "[a]ny act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty."

When an employee follows their legal obligations under the relevant whistleblower law to report or object to wrongdoing, that employee has protection against employer retaliation. Examples of retaliation include discharge, suspension, probation, demotion, a reduction in salary or diminished benefits, and related disciplinary actions.

Remedies Available to Employees in Retaliation Claims

If an employee believes their employer has retaliated against them for exercising their rights, they are entitled to substantive remedies. Such remedies include:

- Reinstatement to same or equivalent position
- Full reinstatement of seniority rights and fringe benefits
- Compensation for lost wages and benefits
- Compensation for job search, healthcare and related costs that resulted from the termination
- Reimbursement of reasonable attorneys' and court fees

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Private-sector employees may also seek compensatory damages for emotional distress.

Additional Exceptions to the Employment-at-Will Doctrine

There are two additional exceptions to the employment-at-will doctrine worth noting:

- **Workers' compensation:** If an employee suffers a work injury or develops a work-related illness, they have the right under Florida law to file a workers' compensation claim. The employer has no right to terminate employment or retaliate against the employee in any other way should the employee choose to pursue such a claim.
- **Employment contract:** If the employer and employee signed an employment contract, the contract may govern the circumstances under which the employer may terminate employment.

The workers' compensation and whistleblower acts provide remedies to all employees, both those at-will and those under contract. Thus, the remedies stated above are available to employees in addition to the rights and remedies stated within that employee's employment contract.

Contact a Knowledgeable Lawyer With Any Questions

Florida's whistleblower and retaliation laws require all parties to follow specific steps to protect their rights. If you have questions about how to move forward in a whistleblower lawsuit, seek the advice and counsel of an experienced attorney.

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