

From THE OFFICIAL CODE OF GEORGIA

34-1-3

GENERAL PROVISIONS

34-1-3

34-1-3. Discrimination against employee for attending a judicial proceeding in response to a court order or process; exception to applicability of Code section.

(a) It shall be unlawful for any employer or the agent of such employer to discharge, discipline, or otherwise penalize an employee because the employee is absent from his or her employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee at the judicial proceeding. It shall be unlawful for any employer or the agent of such employer to threaten to take or communicate an intention of taking any action declared to be unlawful by this subsection.

(b) Any employer or agent of such employer who violates subsection (a) of this Code section shall be liable to the injured employee for all actual damages thereby suffered by the employee and for reasonable attorney's fees incurred by the employee in asserting a successful claim under this Code section.

(c) This Code section shall not apply to an employee who is charged with a crime, nor shall it prohibit an employer from requiring an employee to abide by regulations requiring reasonable notification to an employer of the employee's expected absence or delay in reporting to work in order to attend a judicial proceeding. (Code 1981, § 34-1-3, enacted by Ga. L. 1987, p. 1156, § 1; Ga. L. 1990, p. 590, § 2.)

Cross references. — Right to trial by jury, Ga. Const. 1983, Art. I, Sec. I, Para. XI. Exemptions from jury duty, § 15-12-1 et seq. and § 38-2-276. Selection of jurors, § 15-12-40 et seq. Jury leave for teachers, § 20-2-870 et seq.

Law reviews. — For survey article on labor and employment law for the period from June 1, 2002 to May 31, 2003, see 55 Mercer L. Rev. 303 (2003).

JUDICIAL DECISIONS

Juvenile court proceedings. — As it was undisputed that the particular reason the employee was terminated was that the employee was absent from work while attending

juvenile court proceedings, that termination was in violation of O.C.G.A. § 34-1-3. *Glover v. Scott*, 210 Ga. App. 25, 435 S.E.2d 250 (1993).

OPINIONS OF THE ATTORNEY GENERAL

Criminal offense not created. — O.C.G.A. § 34-1-3 does not create a separate criminal offense; however, a violation can be grounds for contempt of court. 1995 Op. Att'y Gen. No. 95-13.

Employee is entitled to pay while serving jury duty. — An employee is entitled to be paid the employee's salary while missing

work to serve on jury duty. 1989 Op. Att'y Gen. No. 89-55.

Judicial proceedings in other states. — "Judicial proceeding" as used in subsection (a) of O.C.G.A. § 34-1-3 includes judicial proceedings in other states; therefore, a person employed in Georgia who has been penalized for being absent from work for the