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Dave Ramsey's company finally moves out of downtown Franklin, but he says he's still in the area. How much can employers poach?

Brian Hansen Nashville Tennessean
Published 5:00 a.m. CT Mar. 14, 2022

Dave Ramsey, Entrepreneur

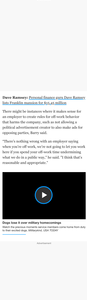
O'Connor Elias is federal lawsuit, the outcome of which may hinge on whether the court determines O'Connor Edie under a federally protected status.

But the case also raises questions about how much any companies can have about their employees' lives outside of work.

"When you talk about policing private lives, that can been so many different things," said Ryan Bates • Vanderbilt University professor in Nashville who is an expert in employment discrimination including ethics, public policy and employee rights.

Lifestyle discrimination

Relationship status or family status isn't federally protected, although individual states can enact laws to make it so. Tennessee has not. Pennsylvania, however, is federal, so doing a company here because she is pregnant is illegal. But firing her from a Tennessee company because she's pregnant is not.



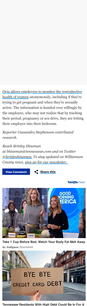
Tennessee is an at-will employment state, which means that with the exception of state or federally protected activities, employers can fire an employee for any reason, or no reason.

A handful of states, but not Tennessee, have created "lifestyle" discrimination laws that protect workers' lawful off-work behavior, like drinking alcohol, smoking tobacco or dating someone who's married.

The American Civil Liberties Union has backed lifestyle discrimination laws, which it says each state is adopt in order to protect people's privacy from their employers when they're not at work.

In most of the country, it's legal for an employer to fire a person because of body type, which isn't federally protected. Michigan is the only state in the country that has a law prohibiting weight discrimination based on a person's weight.

"It's less about whether employers commonly engage in that, and it's almost more about whether employees fear that the employer is going to engage in that," said Bates, who's a professor. "It's easy to think they aren't free to fire their free way that they want to, that's not a good thing.



Dave Ramsey Personal finance guru Dave Ramsey has Franklin company for sale

There might be instances where it makes sense for employers to discriminate, Bates said, for example that bacteria transmitted by a person who's sick or pregnant and affectionate creates to also make sits the operating parties, Bates said.

"There's nothing wrong with an employer saying 'we don't want people who are sick to come to work because we don't want the other people who are working what we do in a public way," he said. "I think that's reasonable and appropriate."

Image Source: Lucas Jackson/Reuters

Image Source: Lucas Jackson/Reuters

Religious views have been used to police employees' personal lives. In 2014, the Supreme Court ruled that Hobby Lobby could refuse to provide birth control coverage to its employees, citing its Christian beliefs.

The Supreme Court ruled in 2019 that Bobby Lobby, a Christian-owned company, could refuse to provide insurance coverage for forms of birth control they believed were abortions. But the company also gave (The gift doesn't end a pregnancy but delays ovulation, which some believe is a form of abortion.)

The landmark case gave the company the green light to compel health insurance coverage for birth control rejected due to their religious beliefs. While it was a win for Hobby Lobby and other companies that have religious objections, Bates, the decision was limited to a closely held company, which is what businesses where five or fewer people own 51% or more of a company are generally considered in the IRS.

The future of employee privacy

Jackie Gibson, a professor at Middle Tennessee State University in Murfreesboro and an author of a book about workplace bullies, said employers have always monitored employees' lives. And the rapid growth of technology will only make it easier to the coming years.

"Employees may not know they're being picked to bright only," she said. "With new technology it will be a lot easier, and it's already easy."

Gibson said some companies, like hospitals and health care organizations, already use radio-frequency identification, or RFID, to track employee movements, locations and activities, like bathroom breaks.

Companies can monitor employee behavior on company-issued equipment, like phones, computers and vehicles, and even off-work behavior on those devices can be watched. Gilbert gave the example of employees who post photos on Facebook of their lives using their company issued car to drive to a vacation, which would likely prove unacceptable.

Employers can also track their employees' health data through company-issued apps like Oscle Health, which works with corporate wellness programs.

Oscle offers employers to monitor the prediabetes health of young employees, including if they're trying to get pregnant and when they're sensitive to stress, which can be a sign of a mental health issue. The employer, who was not realize that by tracking their pregnancy or sex drive, they are letting their employer into their bedroom.

Reporter Cassandra Stephenson contributed research.

Reach Brian Hansen at bhansen@tennessean.com and on Twitter @BrianHansenTN. To stay updated on Williamson County news, sign up for our newsletter.

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