



Tennessee Has a Brand-New Framework for Employment Discrimination Enforcement: What Do Employers Need to Know?

Insights

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Tennessee just said goodbye to its longstanding civil rights enforcement agency and created a new enforcement division to handle employment discrimination complaints. What do employers in the state need to know about this transfer of power?

What happened?

In May, Gov. Bill Lee signed a bill ([HB 910/SB 861](#)) into law requiring a transfer of power over civil rights enforcement duties held by the Tennessee Human Rights Commission (THRC), including its responsibilities for handling employment discrimination complaints.

As a result of the new law, the THRC dissolved as a state agency on June 30, and the former state agency's enforcement duties were transferred, effective as follows:

- State-level civil rights enforcement duties were transferred to a newly created [Division of Civil Rights Enforcement](#) (CRED) within the Tennessee Office of the Attorney General and Reporter (AG). CRED is now the primary enforcement arm of the Tennessee Human Rights Act (THRA) and the Tennessee Disability Act (TDA).
- Federal civil rights enforcement duties were transferred to the [Tennessee Department of Human Resources](#) (DOHR), which is now responsible for ensuring that state governmental entities comply with the requirements of Title VI of the Civil Rights Act of 1964.

How does this impact THRC complaints filed before July 1?

- **Pending Complaints.** According to [CRED FAQs](#), employment discrimination complaints pending before the THRC on June 30 will now be handled by the EEOC, and individuals do not need to refile their complaints with CRED.
- **Pre-July 1 Orders.** All lawful orders issued by the THRC prior to July 1 will remain valid (but enforceable by CRED rather than THRC).

How does this impact THRC complaints filed on or after July 1?

- **State-Level Filings.** The general filing deadline for state-level employment discrimination complaints remains the same – individuals must file their complaint within 180 days from the date of the alleged discriminatory employment practice. However, complaints must now be filed with CRED. See below regarding complaints dually filed with the Equal Employment Opportunity Commission (EEOC).
- **Dual Filings With the EEOC.** While the THRC had participated in a worksharing agreement with the EEOC that designated the agency as a Fair Employment Practices Agency (FEPA), whether CRED will do the same is an open question. Worksharing agreements allow for “dual filing,” meaning that charges filed with the qualifying state agency are forwarded to the EEOC (and vice versa if the charge is also covered by state law) rather than separately filed with each agency. In addition, a state’s FEPA status extends the filing deadline for EEOC complaints to 300 days (rather than 180 days) following the alleged discriminatory employment practice. Stay tuned for updates on CRED’s decision to become a FEPA or operate completely separately from the EEOC.

What’s next?

The state’s AG is required to appoint a Director of CRED, who will be required to develop and implement a new process for bringing a complaint under state law. Further, many more changes may be coming. As the new enforcement arm of the THRA and TDA, the AG will have the power to investigate claims, conciliate claims, and decide whether to pursue claims.

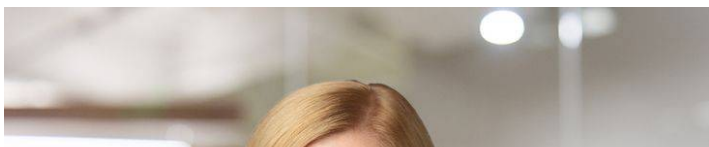
A significant question to be answered is whether the AG will perform its duties under the THRA and TDA in a manner markedly different from the THRC. AG Jonathan Skrmetti, who started his career as a civil rights prosecutor, said in a July 1 news release that CRED “marks a fresh start for antidiscrimination enforcement in Tennessee,” and that his office “takes this new responsibility seriously and aims to enforce our laws with excellence, integrity and efficiency.”

Conclusion

We will continue to monitor the latest developments and provide updates as warranted, so you should ensure you are subscribed to Fisher Phillips’ Insight System to gather the most up-to-date information. Please consult your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Tennessee offices for practical advice and guidance on how to adjust to the state’s new employment discrimination enforcement framework.

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