



MOUNTAIN STATES LEGAL
FOUNDATION
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2596 South Lewis Way | Lakewood, CO 80227 | Tel: 303.292.2021

Tennessee Supreme Court Justices:

I write today on behalf of myself and the Goldwater Institute to express my support for amending Section 5.01(c)(1) of Tennessee Supreme Court Rule 7 to let part-time attorneys and legal professors be considered “actively practicing” lawyers for purposes of comity.

The practice of law is demanding, regardless of how many hours per week one works, and a part-time attorney is no less competent or hardworking than one who works full-time. In fact, attorneys who work part-time often do so because they have other responsibilities, such as raising children or taking care of a sick or elderly relative. These individuals should not be penalized for choosing to work part time to meet their familial obligations. But that is just what Section 5.01(c)(1) does.

As it’s currently written, Rule 7 severely disadvantages lawyers who want to relocate to the state if they have worked part-time for more than two of the seven years prior to filing a comity application. Rule 7 forces them to wait up to five years to waive into Tennessee, despite actively practicing law part-time, or take the Tennessee bar exam (costing hundreds or thousands of dollars and months of studying), even though they have already passed a bar exam.

This falls especially hard on women. Studies show that, on the whole, women value flexibility in work more than men do. In the past several decades, the number of women-owned businesses has increased by 3,000 percent. And women are increasingly choosing to take on work as independent contractors, or to work part-time jobs, so that they can better control their schedules. One of the primary reasons is that flexible work has allowed them to balance a fulfilling career with childcare. In fact, 70 percent of female freelancers are the primary caregivers in their homes.

Tennessee’s full-time work requirement isn’t just harmful—it also violates the principles enshrined in the state Constitution and the recently adopted Right to Earn a Living Act. This Court has long recognized that the Tennessee Constitution protects the right to earn a living free from unreasonable or arbitrary restrictions. *See, e.g., Campbell v. McIntyre*, 52 S.W.2d 162, 164 (Tenn. 1932); *Wright v. Wiles*, 117 S.W.2d 736, 738–39 (Tenn. 1938); *Livesay v. Tenn. Bd. Of Exam’rs in Watchmaking*, 322 S.W.2d 209, 213 (Tenn. 1959). In 2016, the Tennessee legislature reaffirmed that the right to earn a living is a *fundamental* right that should be impaired only if necessary to protect the health, safety, and welfare of Tennesseans. But prohibiting part-time attorneys from practicing in Tennessee is arbitrary and does not protect the public. Attorneys who work part-time have met all the qualifications required to practice law. This Court should amend Section 5.01(c)(1) with this principle in mind and afford attorneys who work part-time the same benefit of motion without examination.



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Lawyers should have the flexibility to work part-time if the necessities of life dictate. Rule 7 prevents this kind of flexibility and drives these qualified lawyers to other states with less stringent requirements. For these reasons, the Court should amend this rule to allow part-time attorneys and law professors to be actively practicing lawyers for purposes of comity.

Sincerely,

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