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LEGAL ALERT



## Legal Alert: GINA Includes Amendment to FLSA Penalty Provisions

5/23/2008

A “miscellaneous” provision in the Genetic Information Nondiscrimination Act (GINA) signed by President Bush on May 21, 2008, amends the penalty provisions of the Fair Labor Standards Act (FLSA) as they relate to child labor violations. The most significant revision is the imposition of a civil penalty of up to \$50,000 for each child labor violation that causes the death or serious injury of any employee under 18 years of age. This penalty may be doubled where the violation is a repeated or willful violation.

The law defines “serious injury” as:

- permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);
- permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or
- permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.

The law also increases the civil penalty for other child labor violations from \$10,000 to \$11,000 for each employee who was the subject of such a violation. However, this increase is less significant because the DOL regulations already provide for an \$11,000 per employee penalty for child labor violations that occurred after January 7, 2002.

Additionally, the law increases the penalty for willful violations of the FLSA’s overtime and minimum wage provisions from \$1,000 to \$1,100 “for each such violation.”

The revisions to the FLSA were effective on the date the President signed GINA (May 21, 2008).

If you have any questions regarding this issue or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.