

1                   A bill to be entitled  
2           An act relating to employment agreements; creating  
3           part I of ch. 542, F.S., entitled "The Florida  
4           Antitrust Act of 1980"; creating part II of ch. 542,  
5           F.S., entitled "The Florida Trade Secret Protection  
6           Act"; creating s. 542.41, F.S.; providing a short  
7           title; creating s. 542.42, F.S.; providing legislative  
8           findings; creating s. 542.43, F.S.; defining terms;  
9           creating s. 542.44, F.S.; providing applicability;  
10          providing that certain covered garden leave agreements  
11          are not a restraint of trade or an attempt to  
12          monopolize trade or commerce; providing notice  
13          requirements for covered garden leave agreements;  
14          providing that a covered employer may waive any  
15          portion of such notice requirements by providing a  
16          specified amount of advance written notice to the  
17          covered employee; providing that covered garden leave  
18          agreements do not affect other agreements; requiring a  
19          court to enter a preliminary injunction to stop  
20          covered employees, businesses, entities, or  
21          individuals if a breach of a covered garden leave  
22          agreement is alleged; authorizing the court to modify  
23          such an injunction if a covered employee, business,  
24          entity, or individual establishes certain information  
25          by clear and convincing evidence; requiring that

26 | certain information be provided to the court under  
27 | seal; providing that a prevailing covered employer is  
28 | entitled to recover all available monetary damages for  
29 | all available claims; providing that a prevailing  
30 | party is entitled to reasonable attorney fees and  
31 | costs; authorizing a covered employer to reduce the  
32 | salary or benefits of a covered employee if he or she  
33 | engages in gross misconduct; providing that such a  
34 | reduction is not a breach of the covered garden leave  
35 | agreement; creating s. 542.45, F.S.; providing  
36 | applicability; providing that certain covered  
37 | noncompete agreements are not a restraint of trade or  
38 | an attempt to monopolize trade or commerce; providing  
39 | notice requirements for covered noncompete agreements;  
40 | providing that covered noncompete agreements do not  
41 | affect other agreements; requiring a court to enter a  
42 | preliminary injunction to stop covered employees,  
43 | businesses, entities, or individuals if a breach of a  
44 | covered noncompete agreement is alleged; authorizing  
45 | the court to modify such an injunction if a covered  
46 | employee, business, entity, or individual establishes  
47 | certain information by clear and convincing evidence;  
48 | requiring that certain information be provided to the  
49 | court under seal; providing that a prevailing covered  
50 | employer is entitled to recover all available monetary

51 damages for all available claims; providing that a  
52 prevailing party is entitled to reasonable attorney  
53 fees and costs; authorizing a covered employer to  
54 reduce the salary or benefits of a covered employee if  
55 he or she engages in gross misconduct; providing that  
56 such a reduction is not a breach of the covered  
57 noncompete agreement; providing construction regarding  
58 a restrictive covenant that does not meet the  
59 definition of a covered garden leave agreement or a  
60 covered noncompete agreement; providing an effective  
61 date.

62  
63 Be It Enacted by the Legislature of the State of Florida:

64  
65 **Section 1. Part I of chapter 542, Florida Statutes,**  
66 **consisting of ss. 542.15-542.36, Florida Statutes, is created**  
67 **and entitled "The Florida Antitrust Act of 1980."**

68 **Section 2. Part II of chapter 542, Florida Statutes,**  
69 **consisting of ss. 542.41-542.45, Florida Statutes, is created**  
70 **and entitled "The Florida Trade Secret Protection Act."**

71 542.41 Short title.—This part may be cited as "The Florida  
72 Trade Secret Protection Act."

73 542.42 Legislative findings.—The Legislature finds that a  
74 proper and legitimate state interest is served by enforcing  
75 strong legal protections in contracts between employers and

76 contracted personnel which encourage optimal levels of  
77 information sharing and training and development. The  
78 Legislature further finds that alternative means of protecting  
79 confidential information and client relationships, such as  
80 nondisclosure agreements, fixed-duration term contracts, and  
81 nonsolicitation clauses in employment contracts, are inadequate  
82 to protect against the significant global risks faced by  
83 companies in this state. The Legislature further finds that  
84 predictability in the enforcement of contracts described in this  
85 part encourages investment in this state. Therefore, the  
86 Legislature determines and declares that this part fulfills an  
87 important state interest.

88 542.43 Definitions.—For the purposes of this part, the  
89 term:

90 (1) "Annual mean wage of employees in Florida" or "annual  
91 mean wage" means the most recent annual mean wage as calculated  
92 by the United States Department of Labor Bureau of Labor  
93 Statistics, or its successor calculation, for all occupations in  
94 this state.

95 (2) "Benefit" means access to health insurance, life  
96 insurance, or disability insurance that is the same as or  
97 similar to the insurance that a covered employee had access to  
98 and at the same cost to that employee during the month before  
99 the commencement of his or her notice period.

100 (3) "Covered employee" means an employee or individual

101 contractor who earns or is reasonably expected to earn a salary  
102 greater than twice the annual mean wage, or who has access to  
103 his or her employer's or client's confidential information or  
104 customer relationships. A court must presume that an employee or  
105 individual contractor has access to confidential information or  
106 customer relationships if the employee or individual contractor  
107 acknowledges the access or receipt of such access in writing.  
108 The term does not include a person classified as a medical  
109 professional as defined in s. 1006.0626.

110 (4) "Covered employer" means an entity or individual who  
111 employs or engages a covered employee.

112 (5) "Covered garden leave agreement" means a written  
113 agreement, or part of a written agreement, between a covered  
114 employee and covered employer in which:

115 (a) The covered employee and covered employer agree to up  
116 to, but no more than, 4 years of advance, express notice before  
117 terminating the employment or contractor relationship;

118 (b) The covered employee agrees not to resign before the  
119 end of such notice period; and

120 (c) The covered employer agrees to retain the covered  
121 employee for the duration of such notice period and to continue  
122 paying the covered employee the same salary and providing the  
123 same benefits that the covered employee received from the  
124 covered employer in the last month before the commencement of  
125 the notice period. The covered employer is not obligated to

126 provide discretionary incentive compensation or benefits or have  
127 the covered employee continue performing any work during the  
128 notice period.

129 (6) "Covered noncompete agreement" means a written  
130 agreement, or a portion of a written agreement, between a  
131 covered employee and a covered employer in which, for a period  
132 not to exceed 4 years and within a specified geographic area,  
133 which may be global in scope, the covered employee agrees not to  
134 assume a role with or for another business, entity, or  
135 individual:

136 (a) In which the covered employee would provide services  
137 similar to the services provided to the covered employer during  
138 the 3 years preceding the noncompete period; or

139 (b) In which it is reasonably likely the covered employee  
140 would use the confidential information or customer relationships  
141 of the covered employer.

142 (7) "Noncompete period" means the time from the covered  
143 employee's termination of employment through the end of the  
144 agreed-upon postemployment period of noncompetition as set forth  
145 in the covered noncompete agreement.

146 (8) "Notice period" means the date from the covered  
147 employee's or covered employer's written notice of intent to  
148 terminate the covered employee's employment through the date of  
149 termination as set forth in a covered garden leave agreement.

150 (9) "Primary place of work" means the location where the

151 covered employee spends more work time than any other single  
152 workplace.

153 (10) "Salary" means the base compensation, calculated on  
154 an annualized basis, which a covered employer pays a covered  
155 employee, including a base wage, a salary, a professional fee,  
156 or other compensation for personal services, and the fair market  
157 value of any benefit other than cash. Salary does not include  
158 health care benefits, severance pay, retirement benefits,  
159 expense reimbursement, distribution of earnings and profits not  
160 included as compensation for personal services, discretionary  
161 incentives or awards, or anticipated but indeterminable  
162 compensation, including tips, bonuses, or commissions.

163 542.44 Covered garden leave agreement.—

164 (1) APPLICABILITY.—This section applies to:

165 (a) A covered garden leave agreement with a covered  
166 employee who maintains a primary place of work in this state,  
167 regardless of any applicable choice of law provisions; or

168 (b) A covered employee who is subject to a covered garden  
169 leave agreement with a covered employer with a significant nexus  
170 to this state.

171  
172 If any provision of this section is in conflict with any other  
173 law, the provisions of this section shall govern.

174 (2) RESTRAINT OF TRADE.—A covered garden leave agreement  
175 does not violate public policy as a restraint of trade, as

176 described in s. 542.18, or an attempt to monopolize trade or  
177 commerce in this state, as described in s. 542.19, and is fully  
178 enforceable according to its terms, provided that:

179 (a) A covered employee is provided proper notice of the  
180 covered garden leave agreement before its execution, as  
181 described in subsection (3); and

182 (b) The covered garden leave agreement provides that:

183 1. After the first 90 days of the notice period, the  
184 covered employee does not have to provide services to the  
185 covered employer;

186 2. The covered employee may engage in nonwork activities  
187 at any time, including during normal business hours, during the  
188 remainder of the notice period; and

189 3. The covered employee may, with the permission of the  
190 covered employer, work for another employer while still employed  
191 by the covered employer during the remainder of the notice  
192 period.

193 (3) NOTICE; WAIVER OF NOTICE.—Proper notice of a covered  
194 garden leave agreement requires:

195 (a) For a prospective covered employee, at least 7 days  
196 before a prospective covered employee's offer of employment  
197 expires.

198 (b) For a current covered employee, at least 7 days before  
199 an offer to enter into a covered garden leave agreement expires.  
200



201 In either case, a prospective or current covered employee must  
 202 acknowledge in writing that he or she was expressly advised of  
 203 the right to seek legal counsel before the execution of the  
 204 covered garden leave agreement.

205 (c) The covered employer may, without breach of the  
 206 covered garden leave agreement, waive any portion of this  
 207 subsection by providing at least 30 days' advance notice in  
 208 writing to the covered employee.

209 (4) OTHER AGREEMENTS.—This section does not affect or  
 210 limit the enforceability of any other employment agreement or  
 211 any other agreement.

212 (5) BREACH OF A COVERED GARDEN LEAVE AGREEMENT; REMEDIES.—

213 (a) Upon application by a covered employer, a court must  
 214 preliminarily enjoin a covered employee from providing services  
 215 to any business, entity, or individual other than the covered  
 216 employer during the notice period. The court may modify or  
 217 dissolve the injunction only if the covered employee establishes  
 218 by clear and convincing evidence that:

219 1. The covered employee will not perform, during the  
 220 notice period, any work similar to the services provided to the  
 221 covered employer during the 3-year period preceding the  
 222 commencement of the notice period, or use confidential  
 223 information or customer relationships of the covered employer;

224 or

225 2. The covered employer has failed to pay or provide the

226 salary and benefits provided for in the covered garden leave  
227 agreement during the notice period and has had a reasonable  
228 opportunity to cure the failure.

229 (b) Upon application by a covered employer, a court must  
230 preliminarily enjoin a business, an entity, or an individual  
231 from engaging a covered employee during the covered employee's  
232 notice period. The court may modify or dissolve the injunction  
233 only if the business, entity, or individual establishes by clear  
234 and convincing evidence, based on public or other  
235 nonconfidential information, that:

236 1. The covered employee will not provide any services  
237 similar to the services provided to the covered employer during  
238 the 3-year period preceding the commencement of the notice  
239 period, or use confidential information or customer  
240 relationships of the covered employer; or

241 2. The business or individual seeking to employ or engage  
242 the covered employee is not engaged in, and is not planning or  
243 preparing to engage in, any business activity similar to those  
244 engaged in by the covered employer during the notice period.

245  
246 Any information filed with the court which the covered employer  
247 deems to be confidential must be filed under seal to protect  
248 trade secrets or avoid substantial injury.

249 (c) The injunctive relief provided under this section is  
250 not an exclusive remedy, and a prevailing covered employer is

251 entitled to recover all available monetary damages for all  
252 available claims.

253 (d) In any action to enforce this section, the prevailing  
254 party is entitled to reasonable attorney fees and costs.

255 (e) If the covered employee engages in gross misconduct  
256 against the covered employer, the covered employer may reduce  
257 the salary or benefits of the covered employee or take other  
258 appropriate action during the notice period, which reduction or  
259 other action may not be considered a breach of the covered  
260 garden leave agreement.

261 542.45 Covered noncompete agreements.—

262 (1) APPLICABILITY.—This section applies to:

263 (a) A covered noncompete agreement with a covered employee  
264 who maintains a primary place of work in this state, regardless  
265 of any applicable choice of law provisions; or

266 (b) A covered employee who is subject to a covered  
267 noncompete agreement with a covered employer with a significant  
268 nexus to this state.

269  
270 In either case, if any provision of this section is in conflict  
271 with any other law, the provisions of this section govern.

272 (2) RESTRAINT OF TRADE.—A covered noncompete agreement  
273 does not violate public policy as a restraint of trade, as  
274 described in s. 542.18, or an attempt to monopolize trade or  
275 commerce in this state, as described in s. 542.19, and is fully

276 enforceable according to its terms, provided that:

277 (a) A covered employee is provided proper notice of the  
278 covered noncompete agreement before its execution, as described  
279 in subsection (3); and

280 (b) A covered noncompete agreement provides that the  
281 noncompete period is reduced day-for-day by any nonworking  
282 portion of the notice period, pursuant to a covered garden leave  
283 agreement between the covered employee and the covered employer,  
284 if applicable.

285 (3) NOTICE; WAIVER OF NOTICE.—Proper notice of a covered  
286 noncompete agreement requires:

287 (a) For a prospective covered employee, at least 7 days  
288 before a prospective covered employee's offer of employment  
289 expires.

290 (b) For a current covered employee, at least 7 days before  
291 an offer to enter into a covered noncompete agreement expires.

292  
293 In either case, a prospective or current covered employee must  
294 acknowledge in writing that he or she was expressly advised of  
295 the right to seek legal counsel before the execution of the  
296 covered noncompete agreement.

297 (4) OTHER AGREEMENTS.—This section does not affect or  
298 limit the enforceability of any other employment agreement or  
299 any other agreement.

300 (5) BREACH OF COVERED NONCOMPETE AGREEMENT; REMEDIES.—

301 (a) Upon application by a covered employer, a court must  
302 preliminarily enjoin a covered employee from providing services  
303 to any business, entity, or individual other than the covered  
304 employer during the noncompete period. The court may modify or  
305 dissolve the injunction only if the covered employee establishes  
306 by clear and convincing evidence that:

307 1. The covered employee will not perform, during the  
308 noncompete period, any work similar to the services provided to  
309 the covered employer during the 3-year period preceding the  
310 commencement of the noncompete period, or use confidential  
311 information or customer relationships of the covered employer;  
312 or

313 2. The covered employer has failed to pay or provide the  
314 salary and benefits provided for in the covered noncompete  
315 agreement during the noncompete period and has had a reasonable  
316 opportunity to cure the failure.

317 (b) Upon application by a covered employer, a court must  
318 preliminarily enjoin a business, an entity, or an individual  
319 from engaging a covered employee during the covered employee's  
320 noncompete period. The court may modify or dissolve the  
321 injunction only if the business, entity, or individual  
322 establishes by clear and convincing evidence, based on public or  
323 other nonconfidential information, that:

324 1. The covered employee will not provide any services  
325 similar to the services provided to the covered employer during

326 the 3-year period preceding the commencement of the noncompete  
327 period, or use confidential information or customer  
328 relationships of the covered employer; or

329 2. The business or individual seeking to employ or engage  
330 the covered employee is not engaged in, and is not planning or  
331 preparing to engage in, any business activity similar to those  
332 engaged in by the covered employer during the noncompete period.

333  
334 Any information filed with the court which the covered employer  
335 deems to be confidential must be filed under seal to protect  
336 trade secrets or avoid substantial injury.

337 (c) The injunctive relief provided in this section is not  
338 an exclusive remedy, and a prevailing covered employer is  
339 entitled to recover all available monetary damages for all  
340 available claims.

341 (d) In any action to enforce this section, the prevailing  
342 party is entitled to reasonable attorney fees and costs.

343 (e) If the covered employee engages in gross misconduct  
344 against the covered employer, the covered employer may reduce  
345 the salary or benefits of the covered employee or take other  
346 appropriate action during the noncompete period, which reduction  
347 or other action may not be considered a breach of the covered  
348 noncompete agreement.

349  
350 Any action regarding a restrictive covenant that does not meet

351 the definition set forth in this section of a covered garden  
352 leave agreement or a covered noncompete agreement is governed by  
353 s. 542.335.

354 **Section 3.** This act shall take effect July 1, 2025.