

SB3982



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3982

Introduced 11/1/2024, by Sen. Paul Faraci

SYNOPSIS AS INTRODUCED:

820 ILCS 90/10

Amends the Illinois Freedom to Work Act. Provides that the definition of "first responders" means any persons who are currently or formerly employed as: (i) emergency medical services personnel, (ii) firefighters, and (iii) law enforcement officers. Effective January 1, 2025.

LRB103 42675 SPS 75909 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Freedom to Work Act is amended by
5 changing Section 10 as follows:

6 (820 ILCS 90/10)

7 (Text of Section before amendment by P.A. 103-915 and
8 103-921)

9 Sec. 10. Prohibiting covenants not to compete and
10 covenants not to solicit.

11 (a) No employer shall enter into a covenant not to compete
12 with any employee unless the employee's actual or expected
13 annualized rate of earnings exceeds \$75,000 per year. This
14 amount shall increase to \$80,000 per year beginning on January
15 1, 2027, \$85,000 per year beginning on January 1, 2032, and
16 \$90,000 per year beginning on January 1, 2037. A covenant not
17 to compete entered into in violation of this subsection is
18 void and unenforceable.

19 (b) No employer shall enter into a covenant not to solicit
20 with any employee unless the employee's actual or expected
21 annualized rate of earnings exceeds \$45,000 per year. This
22 amount shall increase to \$47,500 per year beginning on January
23 1, 2027, \$50,000 per year beginning on January 1, 2032, and

1 \$52,500 per year beginning on January 1, 2037. A covenant not
2 to solicit entered into in violation of this subsection is
3 void and unenforceable.

4 (c) No employer shall enter into a covenant not to compete
5 or a covenant not to solicit with any employee who an employer
6 terminates or furloughs or lays off as the result of business
7 circumstances or governmental orders related to the COVID-19
8 pandemic or under circumstances that are similar to the
9 COVID-19 pandemic, unless enforcement of the covenant not to
10 compete includes compensation equivalent to the employee's
11 base salary at the time of termination for the period of
12 enforcement minus compensation earned through subsequent
13 employment during the period of enforcement. A covenant not to
14 compete or a covenant not to solicit entered into in violation
15 of this subsection is void and unenforceable.

16 (d) A covenant not to compete is void and illegal with
17 respect to individuals covered by a collective bargaining
18 agreement under the Illinois Public Labor Relations Act or the
19 Illinois Educational Labor Relations Act and individuals
20 employed in construction. This subsection (d) does not apply
21 to construction employees who primarily perform management,
22 engineering or architectural, design, or sales functions for
23 the employer or who are shareholders, partners, or owners in
24 any capacity of the employer.

25 (Source: P.A. 102-358, eff. 1-1-22.)

1 (Text of Section after amendment by P.A. 103-915 and
2 103-921)

3 Sec. 10. Prohibiting covenants not to compete and
4 covenants not to solicit.

5 (a) No employer shall enter into a covenant not to compete
6 with any employee unless the employee's actual or expected
7 annualized rate of earnings exceeds \$75,000 per year. This
8 amount shall increase to \$80,000 per year beginning on January
9 1, 2027, \$85,000 per year beginning on January 1, 2032, and
10 \$90,000 per year beginning on January 1, 2037. A covenant not
11 to compete entered into in violation of this subsection is
12 void and unenforceable.

13 (b) No employer shall enter into a covenant not to solicit
14 with any employee unless the employee's actual or expected
15 annualized rate of earnings exceeds \$45,000 per year. This
16 amount shall increase to \$47,500 per year beginning on January
17 1, 2027, \$50,000 per year beginning on January 1, 2032, and
18 \$52,500 per year beginning on January 1, 2037. A covenant not
19 to solicit entered into in violation of this subsection is
20 void and unenforceable.

21 (c) No employer shall enter into a covenant not to compete
22 or a covenant not to solicit with any employee who an employer
23 terminates or furloughs or lays off as the result of business
24 circumstances or governmental orders related to the COVID-19
25 pandemic or under circumstances that are similar to the
26 COVID-19 pandemic, unless enforcement of the covenant not to

1 compete includes compensation equivalent to the employee's
2 base salary at the time of termination for the period of
3 enforcement minus compensation earned through subsequent
4 employment during the period of enforcement. A covenant not to
5 compete or a covenant not to solicit entered into in violation
6 of this subsection is void and unenforceable.

7 (d) A covenant not to compete is void and illegal with
8 respect to individuals covered by a collective bargaining
9 agreement under the Illinois Public Labor Relations Act or the
10 Illinois Educational Labor Relations Act.

11 (e) A covenant not to compete or a covenant not to solicit
12 is void and illegal with respect to individuals employed in
13 construction, regardless of whether an individual is covered
14 by a collective bargaining agreement. This subsection (e) does
15 not apply to construction employees who primarily perform
16 management, engineering or architectural, design, or sales
17 functions for the employer or who are shareholders, partners,
18 or owners in any capacity of the employer.

19 (f) ~~(e)~~ Any covenant not to compete or covenant not to
20 solicit entered into after January 1, 2025 (the effective date
21 of Public Act 103-915) ~~this amendatory Act of the 103rd~~
22 ~~General Assembly~~ shall not be enforceable with respect to the
23 provision of mental health services to veterans and first
24 responders by any licensed mental health professional in this
25 State if the enforcement of the covenant not to compete or
26 covenant not to solicit is likely to result in an increase in

1 cost or difficulty for any veteran or first responder seeking
2 mental health services.

3 For the purpose of this subsection:

4 "First responders" means any persons who are currently or
5 formerly employed as: (i) emergency medical services
6 personnel, as defined in the Emergency Medical Services (EMS)
7 Systems Act, (ii) firefighters, and (iii) law enforcement
8 officers.

9 "Licensed mental health professional" means a person
10 licensed under the Clinical Psychologist Licensing Act, the
11 Clinical Social Work and Social Work Practice Act, the
12 Marriage and Family Therapy Licensing Act, the Nurse Practice
13 Act, or the Professional Counselor and Clinical Professional
14 Counselor Licensing and Practice Act.

15 (Source: P.A. 102-358, eff. 1-1-22; 103-915, eff. 1-1-25;
16 103-921, eff. 1-1-25; revised 10-10-24.)

17 Section 95. No acceleration or delay. Where this Act makes
18 changes in a statute that is represented in this Act by text
19 that is not yet or no longer in effect (for example, a Section
20 represented by multiple versions), the use of that text does
21 not accelerate or delay the taking effect of (i) the changes
22 made by this Act or (ii) provisions derived from any other
23 Public Act.

24 Section 99. Effective date. This Act takes effect January
25 1, 2025.