

Employee Noncompetes
A State-by-State Survey

| State | If Permitted and Statute | Protectable / Legitimate Interests | Standards | Exemptions | Continued Employment is Sufficient Consideration | Reformation Blue Pencil Red Pencil Purple Pencil | Enforceable Against Employees Terminated w/o Cause |
|---------|--|---|--|--|--|---|--|
| Alabama | Yes. Ala. Code § 8-1-190-197 (§ 8-1-1 repealed effective 1/1/2016) | Trade secrets; confidential information; commercial relationships or contacts with specific prospective or existing customers, patients, vendors, or clients; customer, patient, vendor, or client goodwill; specialized and unique training involving substantial business expenditure specifically directed to a particular agent, servant, or employee (if identified in writing as consideration for the restriction). | Must be in writing, signed by all parties, and be supported by adequate consideration. Must preserve a protectable interest. Employee-employer relationship must exist at the time the agreement is executed. A two-year restriction is presumptively reasonable. Employee has burden of proving undue hardship, if raised as a defense. | Professionals (includes physicians, physical therapists, veterinarians, public accountants, certified public accountants, and maybe securities brokers, all based on pre-2016 cases) | Yes (pre-amendment) | Reformation | Yes, likely (pre-amendment) |
| Alaska | Yes | Trade secrets; intellectual property; customer lists; goodwill with customers; knowledge of his or her business practices; methods; profit margins; costs; other confidential information (that is confidential, proprietary, and increases in value from not being known by a competitor; other valuable employer data that the employer has provided to an employee that an employer would reasonably seek to protect or safeguard from a competitor in the interest of fairness. | Factors: limitations in time and space; whether employee was sole contact with customer; employee's possession of trade secrets or confidential information; whether restriction eliminates unfair or ordinary competition; whether the covenant stifles employee's inherent skill and experience; proportionality of benefit to employer and detriment to employee; whether employee's sole means of support is barred; whether employee's talent was developed during employment; whether forbidden employment is incidental to the main employment. | - | Undecided | Reformation | Undecided |

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| Arizona | Yes | Trade Secrets; confidential information; customer relationships. | No broader than necessary to protect the employer's legitimate business interest; not unreasonably restrictive; not contrary to public policy; ancillary to another contract. | Broadcasters; maybe physicians | Yes | Blue Pencil | Undecided |
| Arkansas | Yes. AR Code 4-75-101 | Trade secrets; intellectual property; customer lists; goodwill with customers; knowledge of business practices; methods; profit margins; costs; other confidential information (that is confidential, proprietary, and increases in value from not being known by a competitor); training and education; other valuable employer data (if provided to employee and an employer would reasonably seek to protect or safeguard from a competitor in the interest of fairness). | Limited with respect to time and scope in a manner that is not greater than necessary to defend the protectable business interest of the employer. The lack of a geographic limit does not render the agreement unenforceable, provided that the time and scope limits appropriately limit the restriction. Factors to consider include the nature of the employer's business interest; the geographic scope, including whether a geographic limit is feasible; whether the restriction is limited to specific group of customers or others; and the nature of the employer's business. A two-year restriction is presumptively reasonable unless clearly demonstrated otherwise. | Various professionals (medical, veterinary, social workers, others) | Yes | Reformation (mandatory) | Undecided, but it can be a factor. |
| California | No, except maybe as to trade secrets. Cal. Business & Professions Code §§ 16600-16602.5 | Trade secrets. | Uncertain status as to trade secrets. | - | - | - | - |

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| Colorado | Yes. Colo. Rev. Stat. § 8-2-113 | Trade secrets; recovery of training expenses for short-term employees. | <p>Prior to August 10, 2022, must fall within statutory exception (executive or management employees and professional staff or to protect trade secrets or recover cost of training); be reasonable; and be narrowly-tailored.</p> <p>Agreements on or after <i>August 10, 2022</i>: only if no broader than reasonably necessary to protect the employer's trade secrets. Prospective employees must receive notice of the noncompete and its terms before they accept the offer of employment; existing employees must receive notice of the noncompete and its terms at least fourteen days before the earlier of the effective date of the noncompete or "the effective date of any additional compensation or change in the terms or conditions of employment that provides consideration for the covenant." Notice must be in a separate document (accompanied by the noncompete) and must "in clear and conspicuous terms" identify the noncompete by name, "[d]irect[] the worker to the specific sections or paragraphs of the agreement that contain the covenant not to compete," and "state that the agreement contains a covenant not to compete that could restrict the workers' options for subsequent employment following their separation from the employer." The notice must also be "in the language in which the worker and employer communicate about the worker's performance" and be "signed by the worker." Venue and choice of law are limited.</p> <p>(Note: The new law clarifies the limited application of Colorado's criminal law.)</p> | <p>Physicians (damages not barred).</p> <p>For agreements entered on or after August 10, 2022, noncompetes cannot be used for anyone who is not a "highly compensated employee," <i>i. e.</i>, an employee earning (both at the time of execution and enforcement) at least \$101,250 and \$865.38 weekly (as of 2022). (This amount will increase).</p> | Yes | Reformation | Undecided |

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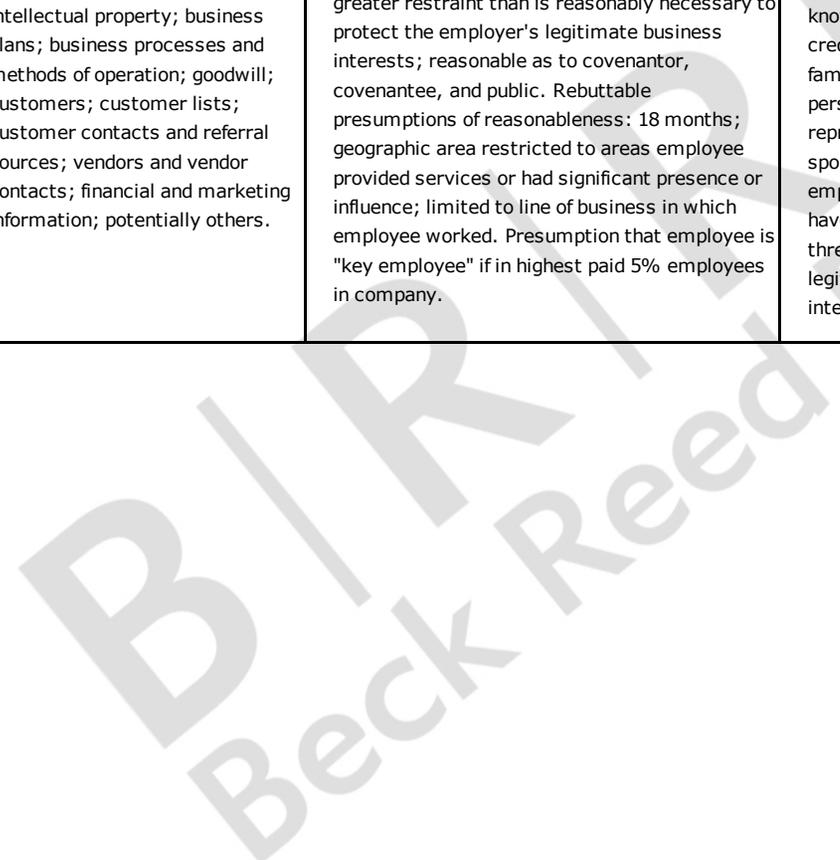
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| Connecticut | Yes | Trade secrets; confidential information; customer relationships. | Factors: time; geographic reach; fairness of protection afforded to employer; extent of restraint on employee; extent of interference with public interest. | Broadcasters; security guards; limited as to physicians | Yes, likely | Blue Pencil | Yes |
| Delaware | Yes | Trade secrets; confidential information; customer relationships. | Reasonable in time and geographic reach; protects legitimate economic interests; survives balance of equities. | Physicians | Yes | Reformation | Yes |
| D.C. | Yes <i>[NEW LEGISLATION IS PENDING AMENDMENT AND FUNDING]</i> | Trade secrets; confidential knowledge; fruits of employment. | Reasonable in time and geographic area; necessary to protect legitimate business interests; promisee's need outweighs promisor's hardship. [Follows Restatement (Second) of Contracts, §§ 186-88.] <i>[NEW LEGISLATION - SUBJECT TO PENDING AMENDMENTS - WILL CHANGE THE RULES ONCE FUNDED; EFFECTIVE DATE TBD. THIS SECTION WILL BE UPDATED WHEN THE LAW CHANGES]</i> | Broadcasters | Yes (if employment continued for sufficient duration) | Reformation | Undecided |
| Florida | Yes. Fla. Stat. Ann. § 542.335 | Trade secrets; confidential business information; substantial customer relationships and goodwill; extraordinary or specialized training. | Legitimate business interest; reasonably necessary to protect legitimate business interest. [Rebuttal presumptions exist.] | Mediators; physician specialists (where they are exclusive in a county) | Yes | Reformation (mandatory) | Undecided |

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| Georgia | Yes. Ga. Const., Art. III, Sec. VI, Par. V(c), as amended; OCGA §§ 13-8-50-59. [NOTE: Pre-amendment law was more restrictive and applies to pre-amendment agreements] | Trade secrets (per OCGA § 10-1-761); valuable confidential information that does not otherwise qualify as a trade secret; substantial relationships with specific prospective or existing customers, patients, vendors, or clients; customer, patient, or client goodwill associated with: an ongoing business, commercial, or professional practice, a specific geographic location; or a specific marketing or trade area; and extraordinary or specialized training. [Statute anticipates additional legitimate business interests.] | Reasonable in time, space, and scope; justified by a legitimate business interest; applied to employees who regularly solicit customers, engage in sales, perform the duties of a key employee, or have the duty of managing a department and regularly direct the work of employees and have the authority to hire or fire them. [Statute provides presumptions for reasonableness of time and geography.] | - | Yes | Blue Pencil (according to the Northern District). | Yes, but it's a factor to consider. |
| Hawai'i | Yes. Haw. Rev. Stat. § 480-4 | Trade secrets; confidential information (though somewhat in doubt); special training that provides skills beyond those of a general nature (at least when combined with other factors such as protecting trade secrets, confidential information, or special customer relationships). | Must protect a legitimate business interest and be reasonable," <i>i.e.</i> , not "greater than required for the protection of the person for whose benefit it is imposed"; does not "impose undue hardship on the person restricted"; and the "benefit to the covenantee [cannot be] outweighed by injury to the public" | Employees in a technology business [effective as of 1/1/2015] | Yes, likely | Reformation | Undecided |

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| Idaho | Yes. Idaho Code §§ 44-2701-2704 | Trade secrets; technologies; intellectual property; business plans; business processes and methods of operation; goodwill; customers; customer lists; customer contacts and referral sources; vendors and vendor contacts; financial and marketing information; potentially others. | Applicable to "key employee"; reasonable as to duration, geographical area, type of employment or line of business, and does not impose a greater restraint than is reasonably necessary to protect the employer's legitimate business interests; reasonable as to covenantor, covenantee, and public. Rebuttable presumptions of reasonableness: 18 months; geographic area restricted to areas employee provided services or had significant presence or influence; limited to line of business in which employee worked. Presumption that employee is "key employee" if in highest paid 5% employees in company. | Non-"key employees." ("Key employees" are those who have gained a high level of inside knowledge, influence, credibility, notoriety, fame, reputation or public persona as a representative or spokesperson of the employer, and as a result, have the ability to harm or threaten an employer's legitimate business interests.) | Yes (but if no additional consideration, noncompete is limited to 18 months) | Reformation | Yes |



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| Illinois | Yes 820 I.L.C.S. §§ 90/1 et seq. | <p>For agreements pre-January 1, 2022: Legitimate business interests are based on the totality of the facts and circumstances of the case. Trade secrets, confidential information, and near permanent business relationships are factors.</p> <p>For agreements entered on or after January 1, 2022: "the employee's exposure to the employer's customer relationships or other employees, the near-permanence of customer relationships, the employee's acquisition, use, or knowledge of confidential information through the employee's employment, the time restrictions, the place restrictions, and the scope of the activity restrictions." The bill is also express that "[n]o factor carries any more weight than any other" and that the "factors are only non-conclusive aids in determining the employer's legitimate business interest, which in turn is but one component in the 3-prong rule of reason, grounded in the totality of the circumstances."</p> | <p>For agreements pre-January 1, 2022: No greater than required to protect a legitimate business interest; does not impose undue hardship on the employee; not injurious to the public; and reasonable in time, space, and scope. [May require two years of employment before any noncompete can be enforced.]</p> <p>For agreements entered on or after January 1, 2022: Noncompete "is illegal and void unless (1) the employee receives adequate consideration, (2) the covenant is ancillary to a valid employment relationship, (3) the covenant is no greater than is required for the protection of a legitimate business interest of the employer, (4) the covenant does not impose undue hardship on the employee, and (5) the covenant is not injurious to the public," and the employee (a) is advised "in writing to consult with an attorney" and (b) provided with the covenant at least 14 calendar days' notice (though the notice is waivable). Adequate consideration is defined as: "(1) the employee worked for the employer for at least 2 years after the employee signed an agreement containing a covenant not to compete . . . or (2) the employer otherwise provided consideration adequate to support an agreement to not compete . . . , which consideration can consist of the period of employment plus additional professional or financial benefits or merely professional or financial benefits adequate by themselves." [Illinois venue and choice of law. Attorney's fees to prevailing employee.]</p> | <p>Broadcasters; government contractors; physicians; low-wage workers; certain nurses and certified nurse aides.</p> <p>For agreements entered on or after January 1, 2022: The "low-wage" exemption changes to a wage threshold (all earnings from the employer) of \$75,000 (increasing to \$80,000 by 2027, \$85,000 by 2032, and \$90,000 by 2037); individuals covered by collective bargaining agreements under the Illinois Public Labor Relations Act or the Illinois Educational Labor Relations Act or employed in construction (unless they "primarily perform management, engineering or architectural, design, or sales functions for the employer or . . . are shareholders, partners, or owners in any capacity of the employer").</p> | <p>For agreements pre-January 1, 2022: Yes (if employment continued for sufficient duration)</p> <p>For agreements entered on or after January 1, 2022: No.</p> | <p>For agreements pre-January 1, 2022: Reformation</p> <p>For agreements entered on or after January 1, 2022: Reformation (purple pencil)</p> | <p>For agreements pre-January 1, 2022: Yes</p> <p>For agreements entered on or after January 1, 2022: No, if the employer enters a noncompete with an employee who is terminated, furloughed or laid off "as the result of business circumstances or governmental orders related to the COVID-19 pandemic," unless the employee is paid the equivalent of their base salary (less earnings from new employment).</p> |

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| Indiana | Yes | Trade secrets; confidential information; goodwill. | Reasonably necessary to protect the employer, not unreasonably restrictive of the employee and not against public policy. Clear and specific (not general) restraint must be reasonable in light of the legitimate interests to be protected; reasonableness is measured by totality of interrelationship of the interest, and the time, space, and scope of the restriction, judged by the needs for the restriction, the effect on the employee, and the public interest. Physician noncompetes entered into on or after July 1, 2020, must contain specific provisions concerning communications with patients, access to patient information, and a "buy-out" option. See Ind. Code § 25-22.5-5.5. | - | Yes | Blue Pencil | Yes |
| Iowa | Yes Iowa Code § 135Q.1-2 (concerns healthcare employment agency workers only, eff. 7/1/2022) | Trade secrets; goodwill; special training or peculiar knowledge that would unjustly enrich an employee at the expense of the former employer. | Whether the restriction is reasonably necessary to protect the employer's business, unreasonably restrictive (time and space), and prejudicial to the public interest. | Franchisees (where franchisor does not renew); healthcare employment agency workers (effective July 1, 2022) | Yes | Reformation | Yes, but it's a factor to consider. |
| Kansas | Yes | Trade secrets; confidential business information; loss of clients; goodwill; customer contacts; referral sources; reputation; special training. | Reasonable under the circumstances: protects a legitimate business interest; no undue burden on the employee; not injurious to public interest or welfare; reasonable in time and space. | Accountants (limited) | Yes | Reformation | Yes |

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| Kentucky | Yes KRS § 216.724 (concerns healthcare services agency direct staff only, eff. 7/1/2022) | Confidential business information; customer lists; competition; investment in training. | Reasonable in scope and purpose; reasonableness determined by the time, space, and "charter" of the restriction; no undue hardship; does not interfere with public interest. | Direct care staff of a healthcare services agency (effective July 14, 2022; a violation is an unfair trade practice) | Yes, if employment is continued for "an appreciable length of time." | Reformation | Yes, but it can be a factor. |
| Louisiana | Yes. La. Rev. Stat. Ann. § 23:921 | Trade secrets; financial information; management techniques; extensive training (if such training is unrecouped through employee's work). | No more than two years; specifies the specific geographic reach (by parishes, municipalities, or their respective parts); defines employer's business; strict compliance with statute, including that employee-employer relationship must exist at the time the agreement is executed. | Automobile salesmen; real estate broker's licensees (procedural requirements) | Yes | Blue Pencil, if allowed by the noncompete | Yes, likely |
| Maine | Yes Me. Rev. Stat. Ti. 26, c. 7, § 599-A | Trade secrets; confidential information; goodwill. | No broader than necessary to protect the employer's legitimate business interest; reasonable as to time, space, and interests to be protected; no undue hardship to employee. In addition, <i>for agreements signed on or after September 18, 2019</i> : employee must receive notice of noncompete prior to an offer of employment and a copy of the agreement 3 business days in advance of the deadline to sign; and the employee (except certain physicians) must be employed at least a year or remain employed for at least six months after signed, whichever is longer. | Broadcast industry (presumption); low-wage workers (earning less than or equal to 400% of the federal individual poverty level - \$54,360 (est.) as of 2022) | Yes | Reformation | Yes, likely |

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| Maryland | Yes Md. Code, Lab. & Empl. § 3-716 | Trade secrets; routes; client lists; established customer relationships; goodwill; unique services. | Duration and space no wider than reasonably necessary to protect legitimate interests; no undue hardship to employee; not contrary to public policy; ancillary to the employment. | <i>Effective 10/1/2020:</i> Low-wage employees, i.e., employees earning less than \$15 per hour or \$31,200 annually | Yes | Blue Pencil | No, likely |
| Massachusetts | Yes. Mass. Gen. Laws c. 149, § 24L (applies only to agreements signed on or after October 1, 2018) | Trade secrets; confidential information; goodwill. | Narrowly tailored to protect legitimate business interest; limited in time, space, and scope; consonant with public policy. Additional requirements added by 2018 statute: must be signed by both parties; provided to employee 10 business days in advance (or prior to a formal offer, if earlier); state that the employee has the right to consult counsel; and satisfy consideration requirements. Presumptions of necessity of the agreement and reasonableness as to place and scope apply. Venue and choice of law are limited. | Broadcasters; physicians; nurses; social workers; psychologists. Additional exemptions added by 2018 statute: FLSA nonexempt employees; student interns/short-term student employees; employees who have been terminated without cause or laid off; and employees that re 18 years old or younger | No (per new statute; yes before) | Reformation | No (per new statute; yes before) |
| Michigan | Yes. Mich. Comp. Laws § 445.774a | Trade secrets; confidential business information; goodwill. | Must have an honest and just purpose and to protect legitimate business interests; reasonable in time (no more than one year), space, and scope or line of business; not injurious to the public. | - | Yes | Reformation | Yes |
| Minnesota | Yes | Trade secrets; confidential business information; goodwill; prevention of unfair competition. | No broader than necessary to protect the employer's legitimate business interest; does not impose unnecessary hardship on employee. | - | No | Reformation (though called "blue pencil") | Yes |

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| Mississippi | Yes | Trade secrets; confidential business information; goodwill; ability to succeed in a competitive market. | Reasonableness and specificity of restriction, primarily, in time and space; hardship to employer and employee; public interest. | - | Yes (though questioned if employee terminated shortly after) | Reformation | Yes, absent bad faith or arbitrary basis for termination |
| Missouri | Yes. 28 Mo. Stat. Ann. § 431.202 (related) | Trade secrets; confidential business information; customer or supplier relationships, goodwill, or loyalty; customer lists; protection from unfair competition; stability in the workforce. | Reasonably necessary to protect legitimate interests; reasonable in time and space; not an unreasonable restraint on employee; purpose served; situation of the parties; limits of the restraint; specialization of the business. [Absence of legitimate business interest impacts duration, which can be no more than one year.] | Secretaries (limited); clerks (limited) | No | Reformation | Yes |
| Montana | Yes. Mont. Code Ann. §§ 28-2-703-05 | Trade secrets; proprietary information that would provide an employee with an unfair advantage; goodwill; customer relationships. | Partial or restricted in its operation by being limited in operation either as to time or place; supported by "some good consideration"; protects a legitimate business interest; reasonable, affording only a fair protection to the interests of the party in whose favor it is made, and not so large in its operation as to interfere with (or impose an unreasonable burden upon) the employer, the employee, or the interests of the public. | - | No | Blue Pencil, likely | No |

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| Nebraska | Yes | Trade secrets; confidential information; goodwill. | Reasonably necessary to protect legitimate interests; not unduly harsh or oppressive to employee; not injurious to the public. Considerations include: inequality in bargaining power; risk of loss of customers; extent of participation in securing and retaining customers; good faith of employer; employee's job, training, health, education, and family needs; current employment conditions; need for employee to change his calling or residence; relation of restriction to legitimate interest being protected. True noncompetes are rare. | - | Yes, likely | Red Pencil | Undecided |
| Nevada | Yes. Nev. Rev. Stat. § 613.195-200 [effective June 3, 2017] | Trade secrets; goodwill. | Void unless: (a) supported by valuable consideration; (b) not greater than required to protect employer; (c) no undue hardship on employee; and (d) appropriate in relation to the consideration. Cannot restrict employee from providing service to customer/client if (a) customer/client was not solicited; (b) customer/client voluntarily chose to leave or seek services from employee; and (c) employee otherwise complies with time, geographical area, and scope of noncompete. [Effective 10/1/2021: Attorney's fees for the employee if the employer ignored the exemption or used the noncompete to prevent solicitation of customers in violation of the statute.] | Pre-10/1/2021: none Effective 10/1/2021: employees "paid solely on an hourly wage basis, exclusive of any tips or gratuities" | Yes (pre-amendment) | Pre-10/1/2021: Reformation (mandatory) Effective 10/1/2021: Reformation (mandatory), and revised noncompete must "not impose undue hardship on the employee" | Undecided, except in connection with reduction in force, "reorganization or similar restructuring of the employer," in which case employee must be paid "salary, benefits or equivalent compensation," including severance. |

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| New Hampshire | Yes. RSA 275:70, 275:70-a | Trade secrets; confidential business information; goodwill; employee's special influence over the employer's customers; contacts developed during employment.. | Not greater than necessary to protect the employer's legitimate business interests; no undue or disproportionate hardship to employee; not injurious to public interest; new employees must be given a copy of the noncompete prior to acceptance of offer for employment. | Physicians (RSA 329:31-a (effective 8/5/2016)); low-wage employees, <i>i. e.</i> , those earning less than or equal to 2x federal minimum wage (<i>i. e.</i> , \$14.50/hour) or tipped minimum wage, whichever applies (effective 9/8/2019). | Yes | Reformation | Undecided |
| New Jersey | Yes | Trade secrets; confidential business information; goodwill in existing customers; preventing employee from working with customer at lower cost than working through employer. | Protects a legitimate business interest; not undue burden on employee; not injurious to the public; not overbroad in time, space, and scope. | In-house counsel; psychologists | Yes | Reformation | Yes, but it's a factor to consider. |

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| New Mexico | Yes. N.M.S.A. 1978, §§ 24-1I-1-5 (creates healthcare practitioner exemption only) | Maintaining workforce; limitation of competition (but not to stifle competition); customer relationships. | Reasonable as applied to the employer, employee, and public; not great hardship to employee in exchange for small benefits to employer. | Healthcare practitioners (dentists, osteopathic physicians, physicians, podiatrists, certified registered nurse anesthetists) to the extent they are providing clinical health care services. [Exemption has limits (including that it does not apply to a covered medical professional if they are a shareholder, owner, partner, or director of a health care practice) and is effective only to agreements from 7/1/2015 and after.] | Yes, likely | Undecided | Undecided |
| New York | Yes | Trade secrets; confidential information; goodwill; on-air persona of broadcasters; employee's unique or extraordinary services. | Reasonable in time and space, and no greater than is required for the protection of the legitimate interest of the employer; does not impose undue hardship on the employee; not injurious to the public. | Broadcast industry employees (except "management employees") | Yes | Reformation | Cases are split |
| North Carolina | Yes. N.C. Gen. Stat. § 75-4 | Trade secrets; confidential business information; goodwill. | In writing; part of an employment contract; reasonably necessary to protect legitimate business interest; reasonable in time and space; not against public policy. | Physicians, possibly (in underserved areas) | No | Blue Pencil | Yes, likely |
| North Dakota | No. N.D. Cent. Code § 9-08-06 | - | - | - | - | - | - |

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| Ohio | Yes | Trade secrets; confidential information; customer relationships; prevention of the use of proprietary customer information to solicit customers. | Not greater than necessary to protect the employer's legitimate business interests; no undue hardship to employee; not injurious to public interest. Considerations: absence or presence of limitations as to time and space; whether employee is sole contact with customer; employee's possession of trade secrets or confidential information; purpose of restriction (elimination of unfair competition vs. ordinary competition and whether seeks to stifle employee's inherent skill and experience); proportionality of benefit to employer as compared to the detriment to the employee; other means of support for employee; when employee's talent was developed; whether forbidden employment is merely incidental to the main employment. | - | Yes | Reformation | Yes |
| Oklahoma | No. OK Stat. § 15-219A | - | - | - | - | - | - |

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| Oregon | Yes. Or. Rev. Stat. § 653.295 | Trade secrets; confidential business or professional information; investment in certain on-air broadcasters; customer contacts and goodwill. | Noncompete must be provided at least two weeks before employment or with a bona fide advancement; employee is in an executive, administrative, or professional role and meets minimum compensation threshold; restricted in time or space; application of restriction should afford only a fair protection of the employer's interests; must not interfere with public interest. <i>As of January 1, 2016, noncompetes are limited to 18 months. [Qualifying garden leave clauses are enforceable.] Effective January 1, 2020, a signed, written copy of the employee's noncompete must be sent within 30 days following termination of employment. Noncompetes entered on or after January 1, 2022, cannot be longer than 12 months, and employees subject to them must have "annual gross salary and commissions" exceeding \$100,533 (adjusted annually for inflation); failure to satisfy the statutory requirements renders the noncompete void.</i> | Home healthcare workers. <i>Though not listed as exemptions, a salary threshold applies. For agreements entered into before January 1, 2022: an "employee's annual gross salary and commissions" must "exceed[] the median family income for a four-person family" applies; for agreements entered on or after January 1, 2022, the "employee's annual gross salary and commissions" must "exceed[] \$100,533, adjusted annual for inflation"</i> | No | Reformation | Undecided |
| Pennsylvania | Yes | Trade secrets; confidential information; goodwill; investment in specialized training; unique or extraordinary skills; patient referral base. | Reasonably necessary to protect the employer's legitimate interests; reasonable in time and space. | - | No | Reformation | Yes, but it's a factor to consider. |

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| Rhode Island | Yes R.I. Gen. Laws §§ 28-59-1-3 | Trade secrets; confidential information; customer lists; goodwill; training in unique or special services. | Narrowly tailored to protect a legitimate business interest; reasonably limited in activity, geography, and time; does not impose undue burden on employee in light of the need to protect the employer's legitimate business interests; not likely to harm the public interest. | Physicians. <i>Effective 1/15/2020 (with retroactive effect):</i> employees who are 18 years old or younger; student interns/short-term student employees; FLSA nonexempt employees and other low-wage employees, <i>i.e.</i> , employees earning no more than 2.5x the federal poverty level (\$33,975 (est.) as of 2022 – based on the employee's "regular" hours, <i>i.e.</i> , non-overtime, non-weekend, non-holiday hours). | Undecided, but likely | Reformation | Undecided |
| South Carolina | Yes | Business and customer contacts; existing employees; existing payroll deduction accounts. | Necessary to protect legitimate business interest; reasonably limited in time and space; not unduly harsh and oppressive to employee's efforts to earn a living; reasonable from standpoint of public policy. | - | No | Blue pencil, likely. (SC S.Ct rejected blue pencil doctrine by name, but case involved reformation; SC Ct. App. has since permitted step-down provisions.) | Undecided |

Employee Noncompetes
A State-by-State Survey

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| South Dakota | Yes. S.D. Codified Laws §§ 53-9-8, <i>et seq.</i> | Trade secrets; protection from unfair competition; existing customers. | Restriction in the same business or profession as that carried on by employer and does not exceed two years and in a specified geographic area; reasonableness in time, space, and scope is a factor in certain circumstances. | - | Yes | Reformation, likely | Yes, but it's a factor to consider. |
| Tennessee | Yes | Trade secrets; confidential information; retention of existing customers; specialized training. | Reasonable in time and space and necessary to protect legitimate interest; public interest not adversely affected; no undue hardship to the employee. | Physicians (in certain circumstances). | Yes (if employment continued for appreciably long period) | Reformation | Yes, but it's a factor to consider. |
| Texas | Yes. Tex. Bus. & Com. Code §§ 15.50-.52 | Trade secrets; confidential or proprietary information; goodwill; specialized training. | Reasonable in time, space, and scope; does not impose a greater restraint than necessary to protect legitimate business interest. <i>*In December 2011, the Texas Supreme Court withdrew its June 2011 landmark decision, but still eliminated the requirement that the consideration given by the employer in exchange for the noncompete must give rise to the interest protected by the noncompete, and held that the consideration for the noncompete agreement must be reasonably related to the company's interest sought to be protected.</i> | Physicians (in certain circumstances) | No | Reformation (mandatory) | Yes |
| Utah | Yes. Utah Code Ann. §§ 34-51-101-301 [Certain changes apply to agreements starting May 10, 2016 and others May 14, 2019] | Trade secrets; goodwill; extraordinary investment in training or education. | Carefully drawn to protect only the legitimate interests of the employer, reasonable based on geography, duration, and nature of the employee's duties in light of the legitimate business interests to be protected. One year limit for agreements entered on or after May 10, 2016. | Broadcasters (under certain circumstances) | Yes | Undecided | Yes |

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| Vermont | Yes | Trade secrets; confidential information; goodwill; relationships with customers. | Necessary to protect legitimate business interest; not unnecessarily restrictive to employee; limited in time, space, and/or industry; not contrary to public policy. | Beauticians and cosmetologists (by their school) | Yes | No, but possibly if contract provides. | Undecided |
| Virginia | Yes Virginia code § 40.1-28.7:8 | Trade secrets; confidential information; knowledge of methods of operation; protection from detrimental competition; customer contacts. | Narrowly drawn (no greater than necessary) to protect the employer's legitimate business interest; reasonable in time, space, and scope; not unduly harsh or oppressive (or burdensome on the employee) in curtailing the employee's ability to earn a livelihood; not against, and reasonable in light of, sound public policy. <i>Effective 7/1/2020: a notice must be posted.</i> | <i>Effective 7/1/2020: "Low-wage" employees, i.e., employees earning less than approximately \$52,000 annually; likely not applicable to salespersons. (As for 2022, the amount is approximately \$58,039 annually.)</i> | Yes | Red Pencil, but severable portions can be enforced if remaining restrictions are otherwise enforceable. | Yes |

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| Washington | Yes RCW §§ 49.62.005-900 | Customer information and contacts; goodwill. | Restriction is necessary to protect employer's business or goodwill; restriction is no greater than reasonably necessary to secure employer's business or goodwill; reasonable in time and space; injury to public does not outweigh benefit to employer. <i>Effective 1/1/2020</i> : notice must be provided before acceptance of offer or before agreement becomes effective (whichever applies); independent consideration for mid-employment agreements; and presumption (rebuttable by clear and convincing evidence to the contrary) that noncompetes with a duration longer than 18 months are unreasonable and unenforceable; must not avoid Washington law; must not require adjudication outside of Washington; attorney's fees to employee if noncompete violates the statute. | Broadcasters (under certain circumstances). <i>Effective 1/1/2020</i> : Employees earning less than or equal to \$100,000 for employees and independent contractors earning less than or equal to \$250,000 (both adjusted for inflation; as of 2022, the amounts are \$107,301.04 and \$268,252.59); employees who are laid off (unless paid base salary, less new earnings). <i>Also effective 1/1/2020</i> : cannot prohibit moonlighting for low-wage workers, <i>i.e.</i> , those earning less than 2x minimum hourly rate. | No | Reformation | Yes, likely |
| West Virginia | Yes | Trade secrets; confidential or unique information; customer lists; direct investment in employee's skills; goodwill. | Ancillary to a lawful contract; not greater than reasonably necessary to protect legitimate business interest; reasonable in time and space; no undue hardship on employee; not injurious to public. | - | No | Reformation | Undecided |

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| Wisconsin | Yes. Wis. Stat. Ann. § 103.465 | Trade secrets; confidential business information; customer relationships. | Necessary to protect legitimate business interest; reasonable in time and space; not harsh or oppressive to the employee; not contrary to public policy. | - | Yes, if continued employment is conditioned on signing the agreement. | Red pencil, but, courts (and legislature) may be moving toward a more tolerant approach. | Undecided |
| Wyoming | Yes | Trade secrets; confidential information; special influence of employee over customers to the extent gained during employment. | Restraint must be "(1) in writing; (2) part of a contract of employment; (3) based on reasonable consideration; (4) reasonable in duration and geographical limitations; . . . (5) not against public policy" and no greater than "necessary to protect the employer's legitimate business interests." | - | No | Red Pencil (reflecting a change by the Supreme Court of Wyoming on February 25, 2022) | Yes, likely. |
| | <p><i>Chart covers employee noncompetes only. It does not cover noncompetes arising from the sale of a business or in other contexts.</i></p> | <p><i>The interests identified above are those expressly identified by statute or case law. Other protectable interests may exist.</i></p> <p><i>Trade secrets are subsumed within confidential information if not specified.</i></p> <p><i>Customer lists are frequently included within the category of trade secrets or confidential information, assuming the particular customer list satisfies the requirements to be protectable as such. Some states, however, separately identify them as protectable interests.</i></p> | <p><i>Consideration for a noncompete is always required, as is the requirement that a noncompete be ancillary to an otherwise lawful agreement. These requirements are typically satisfied when the agreement is entered into at the inception of an employment relationship.</i></p> | <p><i>Attorneys (outside counsel and in-house counsel) and certain persons in the financial services industry are subject to industry regulations not addressed in this chart. However, while outside counsel are exempt in all states; in-house counsel rules vary by state.</i></p> | <p><i>The continued employment issue addresses only at-will employment relationships.</i></p> | <p><i>Reformation is sometimes called "Judicial Modification," the "Rule of Reasonableness," the "Reasonable Alteration Approach," or the "Partial-Enforcement" rule. Red Pencil is sometimes called the "All or Nothing" rule. "Purple pencil" is a made-up term for the reformation approach with an express good faith (of the drafter) requirement grafted on.</i></p> | <p><i>Addresses only not-for-cause terminations and assumes no breach or bad faith by the employer.</i></p> |

Originally drafted in 2010, this chart is updated periodically and is current as of the date indicated.
Please contact Russell Beck (rbeck@beckreed.com) if you would like to receive updates.