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EMPLOYMENT: NORTH AMERICA

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Employment: North America

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STATE SNAPSHOT

Key considerations

Which issues would you most highlight to someone new to your state?

Unless otherwise indicated, the summaries below cover private (and not public) employers in Florida.

Florida is an employment at-will state, meaning that employers may terminate an employee at any time without advance warning for no reason as long as no statutory provision is violated by the termination. Further, in several employment law-related areas, such as overtime exemptions, leaves, and accommodations, Florida generally follows federal law, which makes it easy for employers to adapt their practices for Florida employment law compliance. There are, however, some state-specific nuances. They are in the areas of, among others, mandatory E-Verify, anti-discrimination laws, restrictive covenants, concealed carry rules and bans against employer-imposed covid-19 vaccination, testing, and masking mandates.

Law stated - 2 December 2024

Key considerations

What do you consider unique to those doing business in your state?

Florida is generally considered a business-friendly state. In addition to its favorable weather, Florida has fairly non-burdensome employment laws making the state an attractive place to conduct business. One of the more unique considerations for Florida employers is to ensure compliance with mandatory E-Verify and supporting documentation retention.

Further, effective June 1, 2023, businesses and government entities are prohibited from mandating their employees receive a covid-19 vaccine (or, through June 1, 2025, any mRNA vaccine), to take a covid-19 test, or to wear facial coverings while on their property. Furthermore, businesses are not allowed to discriminate in any way against a person based on knowledge or belief of a person's vaccination status, covid-19 post infection recovery, or failure to take a covid-19 test. Fla. Stat. § 381.00316. (Healthcare providers and practitioners, as well as other businesses where facial coverings are safety requirements, are exempt from the prohibition on facial covering mandates. Fla. Stat. § 381.00316.) The Florida Department of Legal Affairs is entitled to levy fines of \$5,000 for each individual and separate violation of this section. Fla. Stat. § 381.00316(6)(a).

Law stated - 2 December 2024

Key considerations

Is there any general advice you would give in the labor/employment area?

As Florida generally follows federal law in several employment law-related areas, such as leaves, accommodations, overtime exemptions, employers entering the Florida market do not face major hurdles to adjust their practices for Florida law compliance. That

said, there are a few areas in which the Florida employment law landscape is unique, necessitating new employers in Florida to tailor their employment practices and policies accordingly. These areas include mandatory E-Verify, anti-discrimination laws, restrictive covenants, concealed carry rules, and bans against employer-imposed vaccination, testing, and masking requirements.

Law stated - 2 December 2024

Emerging issues

What are the emerging trends in employment law in your state, including the interplay with other areas of law, such as firearms legislation, legalization of marijuana and privacy?

With the passage of the Florida's Individual Freedom Act (Stop Woke Act) in 2022 (which was blocked by a federal judge and currently is currently not enforceable), an emerging trend has been to limit the topics an employer can cover when conducting diversity or sensitivity training. The Stop Woke Act allowed employees to sue their employers under the Florida Civil Rights Act if the employer discusses banned topics during diversity, sensitivity or similar employment related training.

Other emerging trends are in the areas of, among others, employment of minors, anti-covid-19 vaccination, testing and masking legislation and mandatory E-Verify.

Medical marijuana has been legal in Florida since 2017. In 2024, Sunshine State voters had an opportunity to legalise recreational marijuana but voted not to do so.

As to guns, employees who are licensed concealed firearm holders must be permitted to keep their legally owned firearms and ammunition in their cars in their employer parking lots.

Law stated - 2 December 2024

Proposals for reform

Are there any noteworthy proposals for reform in your state?

There have been proposed bills to prohibit non-competes for certain doctors and other healthcare providers. These bills died in committees.

There also has been a proposed bill that would have defined "sex" for purposes of the Florida Civil Rights Act to mean "the classification of a human person as either male or female based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth". There were also pending bills that would have prohibited certain employers and/or nonprofit organizations from asking for/requiring preferred personal titles or pronouns, or mandating training on sexual orientation, gender identity, or gender expression. These bills have also died in committees and subcommittees.

Law stated - 2 December 2024

EMPLOYMENT RELATIONSHIP

State-specific laws

What state-specific laws govern the employment relationship?

The Florida Statutes, regulations, and common law govern the employment relationship. Most statutory employment-related laws are covered in Title 31 of the Florida Statutes. Additionally, Title 33 contains the statutes covering restrictive covenants, which include non-competition, non-solicitation and confidentiality agreements. The trade secret misappropriation law is contained in Title 39. And the Florida Civil Rights Act that prohibits discrimination and harassment in the workplace is codified in Section 760 of the Florida Statutes. Florida's common law also has some critical judicial decisions that govern the employment relationship.

Law stated - 2 December 2024

State-specific laws

Who do these cover, including categories of workers?

Generally, Florida's employment law related statutes and common law cover the myriad issues governing today's workplace. They include all aspects of the employment relationship from hiring to firing and everything in between, workers' compensation and unemployment insurance requirements, new hire reporting, mandatory employment posters, non-discrimination, anti-harassment and accommodation issues, mandatory E-Verify, compensation requirements, restrictive covenants, leaves of absence, concealed carry rules and bans against employer-imposed vaccination requirements. The laws cover full-time, part-time, contingent, temporary and other categories of employees. Some statutes apply to independent contractors (eg, new hire reporting requirements cover independent contractors).

Law stated - 2 December 2024

Misclassification

Are there state-specific rules regarding employee/contractor misclassification?

With respect to wage and hour issues, Florida generally follows the federal Fair Labor Standards Act (FLSA) with respect to worker classification issues. For other laws, such as discrimination, harassment, whistleblowing, etc., Florida case law contains factors that courts analyse when determining whether an individual has been misclassified.

For purposes of Florida unemployment insurance (which is called "reemployment assistance" in Florida), the Florida Department of Revenue provides guidance cautioning employers to make the correct determination as to whether an individual is an employee or an independent contractor. See [Florida Dept. of Revenue - Reemployment Tax Employees vs. Independent Contractors](#) (last accessed 1 December 2024). Employees must be included on their Employer's Quarterly Report (Form RT-6). Misclassification of individuals affects their claims

for unemployment assistance benefits. If a person files a claim for benefits and the employer has not been including the person on the quarterly report, this can cause a delay in benefit payments. The intentional misclassification of an individual is a felony. FLA. STAT. § 443.071.

Pursuant to the Florida Reemployment Assistance Program Law (Chapter 443, Florida Statutes), "employment" includes service performed by individuals under the usual common law rules applicable to determine an employer-employee relationship. The common law rules look primarily at the following 10 factors, set in the case of *Cantor v. Cochran*, 184 So. 2d 173 (Fla. 1966), to determine if the individual is an employee or an independent contractor:

- The extent of control that (by agreement between the company and the individual) the business may exercise over the details of the work/services. (This factor is the most important of the 10 determining factors.)
- Whether an individual is engaged in a distinct occupation or business.
- Whether the work done/service performed in a certain locality is usually done under the company's direction or by a specialist without supervision.
- The skill required in the particular occupation.
- Whether the company or the individual supplies the instrumentalities (for example: equipment, vehicle, materials), tools and the place from which work/services are performed.
- The length of time the individual is engaged.
- The method of payment, whether by the time or by the job.
- Whether the work/service is a part of the regular business of the company.
- Whether the parties believe they are creating the relationship of employer and employee.
- Whether the hiring party is or is not a business.

See *Cantor v. Cochran*, 184 So. 2d 173 (Fla. 1966); [Florida Dept. of Revenue - Reemployment Tax Employees vs. Independent Contractors](#) (last accessed December 1, 2024).

The Florida common law factors are separate from those laid out under the Florida Worker's Compensation Statute, which provides that to meet the definition of independent contractor, at least four of the following criteria must be met:

- the independent contractor maintains a separate business with their own work facility, truck, equipment, materials, or similar accommodations;
- the independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations;
- the independent contractor receives compensation for services rendered or work performed and such compensation is paid to a business rather than to an individual;
- the independent contractor holds one or more bank accounts in the name of the business entity for purposes of paying business expenses or other expenses related to services rendered or work performed for compensation;
-

the independent contractor performs work or is able to perform work for any entity in addition to or besides the employer at their own election without the necessity of completing an employment application or process; or

- the independent contractor receives compensation for work or services rendered on a competitive-bid basis or completion of a task or a set of tasks as defined by a contractual agreement, unless such contractual agreement expressly states that an employment relationship exists.

FLA. STAT. § 440.02.

Additionally, Florida has a statute addressing classification of drivers for a Transportation Network Company (TNC) (a ride-sharing company like Uber or Lyft that uses a digital network to connect customers with drivers who provide prearranged rides). FLA. STAT. § 627.748(9). According to the statute, a driver will be considered an independent contractor and not an employee as long as:

- the TNC does not unilaterally prescribe specific hours during which the driver must be logged on to the TNC's digital network;
- the TNC does not prohibit the driver from working with other TNCs;
- the TNC does not restrict the driver from engaging in any other occupation or business; and
- the TNC and the driver agree in writing that the driver is an independent contractor with respect to the TNC.

FLA. STAT. § 627.748(9).

Law stated - 2 December 2024

Contracts

Must an employment contract be in writing?

No. Because employment is at-will, employment contracts (which generally establish a specific employment duration) are rarely used. A more common practice for Florida employers is to provide to a prospective employee a written offer letter memorializing their terms of employment.

Law stated - 2 December 2024

Contracts

Are any terms implied into employment contracts?

Yes, a covenant of good faith and fair dealing may be implied into an employment contract.

Law stated - 2 December 2024

Contracts

Are mandatory arbitration agreements enforceable?

Yes. Mandatory arbitration agreements are enforceable in Florida. However, they are—just like any other agreements—subject to enforceability challenges by employees, such as unconscionability, coercion, or inability by an employee to have sufficient time to review and negotiate the terms of the agreement.

Law stated - 2 December 2024

Contracts

How can employers make changes to existing employment agreements?

For written agreements, it depends on what the agreement provides with respect to amendments and modifications. An amendment in exchange for a new consideration is a commonly used option.

Law stated - 2 December 2024

HIRING

Advertising

What are the requirements relating to advertising open positions?

Florida does not require employers to include anything specific when advertising an open position. However, it is illegal for employers to discriminate in the hiring process based on certain protected categories. Employers should, therefore, carefully draft their job postings to avoid statements that could be construed as discriminatory.

Law stated - 2 December 2024

Background checks

(a) Criminal records and arrests

The Florida courts have held that an employer has a duty to investigate an employment candidate's background to determine whether the candidate is fit for the job and to refrain from hiring someone who the employer knows or should know is unfit for the job so as to create a danger of harm to others. See *Tallahassee Furniture Co., Inc. v. Harrison*, 583 So. 2d 744, 750-55 (Fla. 1st DCA 1991) (containing a detailed discussion of the negligent hiring cause of action and holding that the question of employer's negligence in hiring employee who subsequently physically attacked a customer was properly given to jury).

Under Florida law, an employer is presumed to not have been negligent in hiring an employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee, and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be

performed or for the employment in general. Fla. Stat. § 768.096. To be entitled to the presumption, the background investigation must include:

- obtaining a criminal background investigation on the prospective employee;
- making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;
- requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime, the date of conviction and the penalty imposed, and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;
- obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; or
- interviewing the prospective employee.

The statute further provides that the election by an employer not to conduct the background investigation does not raise any presumption that the employer failed to use reasonable care in hiring an employee. Fla. Stat. § 768.096(3).

Florida requirements are generally the same as those under federal law. The Federal Fair Credit Reporting Act (FCRA) applies to background checks run by a consumer reporting agency. The Equal Employment Opportunity Commission (EEOC) guidance on consideration of criminal histories in employment decisions also applies to Florida employers. The City of Gainesville has a fair chance ordinance that details the process employers must follow when conducting criminal background checks.

Law stated - 2 December 2024

Background checks

(b) Medical history

Florida requirements are generally the same as those under federal law. Employers may conduct pre-employment inquiries about medical history only to the extent that is permitted by the Americans with Disabilities Act.

Law stated - 2 December 2024

Background checks

(c) Drug screening

Florida law neither prohibits nor requires pre-employment drug screenings. If an employer wants to obtain workers' compensation premium discounts, the employer must follow

certain rules regarding drug testing and implement a drug-free workplace program in compliance with the Florida Drug Free Workplace statute.

Law stated - 2 December 2024

Background checks

(d) Credit checks

Florida does not have a state-specific law pertaining to credit checks, therefore Florida adheres to the federal FCRA and the guidance from the EEOC.

Law stated - 2 December 2024

Background checks

(e) Immigration status

Under Florida law, it is illegal to employ an alien who is not authorized to work in the United States. Florida law requires private employers with 25 or more employees to use E-Verify for new hires – a measure aimed at combating illegal immigration into the state. (Public employers, contractors, and subcontractors are also required to participate in E-Verify.) See [Florida Poised to Mandate Use of E-Verify for Private Employers | Law and the Workplace](#).

Law stated - 2 December 2024

Background checks

(f) Social media

Florida does not have a state-specific law pertaining to the use of social media in background checks.

Law stated - 2 December 2024

Background checks

(g) Other

Not applicable.

Law stated - 2 December 2024

WAGE AND HOUR

Pay

What are the main sources of wage and hour laws in your state?

The federal Fair Labor Standards Act and the Florida Minimum Wage Law are the main sources of wage and hour laws.

Law stated - 2 December 2024

Pay

What is the minimum hourly wage?

The Florida Minimum Wage Act covers all employees in Florida that are covered by the federal minimum wage. The Florida Department of Commerce is required to perform an annual calculation to establish a new minimum wage each year. The Constitution also requires the adjusted minimum wage to be published.

Florida's minimum wage increased to \$13.00 per hour on September 30, 2024. It will increase by \$1 per year until it reaches \$15.00 per hour on September 30, 2026. Beginning September 30, 2027, minimum wage increases will revert to annual adjustments based on inflation using the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the South Region (CPI-W South), or a successor index.

Employees who are not paid the minimum wage may bring a civil action in a court of competent jurisdiction against the employer or any person violating Florida's Minimum Wage Act. However, prior to bringing any claim for unpaid minimum wages, the person aggrieved has to notify the employer, in writing, of their intent to initiate such an action. The employer then has 15 calendar days after receipt of the notice to pay the total amount of unpaid wages or otherwise resolve the claim to the satisfaction of the person aggrieved. If the aggrieved person prevails in a court action, they are entitled to recover the full amount of any unpaid back wages plus the same amount as liquidated damages and reasonable attorney's fees and costs.

Law stated - 2 December 2024

Pay

What are the rules applicable to final pay and deductions from wages?

Florida does not have specific laws covering private employers concerning final pay and, therefore, employers should provide the final paycheck on the next scheduled payday. Florida also does not have any specific laws concerning deductions from wages, which are therefore governed by the federal Fair Labor Standards Act.

Law stated - 2 December 2024

Hours and overtime

What are the requirements for meal and rest breaks?

Neither meal nor rest periods are required in Florida, unless the employee is a minor child (defined as any person who is 17 years old or younger).

Law stated - 2 December 2024

Hours and overtime

What are the maximum hour rules?

With the exception of minors, which are subject to specific Florida rules, the same as those under federal law.

Law stated - 2 December 2024

Hours and overtime

How should overtime be calculated?

One Florida wage payment law regulates overtime by requiring that extra pay be given for employees rendering manual labor more than ten hours per day unless a written contract has been signed by the person so employed and the employer, requiring a less or greater number of hours of labor to be performed daily. Fla. Stat. § 448.01. While Fla. Stat. § 448.01 was found to be impermissibly vague in *Posely v. Eckerd Corp.*, 433 F. Supp. 2d 1287, 1310-13 (S.D. Fla. 2006), the law has never been struck down, nor has the Florida Supreme Court weighed in on this issue.

For other nonexempt employees, Florida defers to the federal Fair Labor Standards Act's (FLSA) overtime requirements. Because Florida follows the FLSA, the overtime rate in Florida is 1.5 times the employee's regular hourly rate for each hour worked over 40 in a workweek.

Law stated - 2 December 2024

Hours and overtime

What exemptions are there from overtime?

The same as under federal law.

Law stated - 2 December 2024

Record keeping

What payroll and payment records must be maintained?

The same as under federal law. In addition, Florida specifically requires employers to maintain for five years: payroll records, hours worked, wages paid, date of payment, dates hired, rehired or returned to work, special payments, address where records are maintained, garnishment orders, tax levies, name, address, Social Security number, place of employment, beginning/end dates of each pay period and dates on which work was performed.

Law stated - 2 December 2024

DISCRIMINATION, HARASSMENT AND FAMILY LEAVE

Protected categories

(a) Age?

The Florida Civil Rights Act of 1992 (FCRA) covers all employers in Florida employing 15 or more employees for each working day for 20 or more calendar weeks in the current or preceding calendar year are covered, even if only one employee is located in Florida. FLA. STAT. §§ 760.01-760.11.

The FCRA grants powers to the Florida Commission on Human Relations (FCHR), including the power to issue subpoenas and require the production of documents pertaining to an investigation. FLA. STAT. § 760.06. Any person aggrieved by a violation of the FCRA may file a complaint with the commission within 365 days of the alleged violation. FLA. STAT. § 760.11(1).

Furthermore, the Attorney General may commence a civil action for damages, injunctive relief, civil penalties not to exceed \$10,000 per violation, and such other relief as may be appropriate under the laws of the state of Florida if the Attorney General has reasonable cause to believe that any person or group: (1) has engaged in a pattern or practice of discrimination as defined by the laws of this state; or (2) has been discriminated against as defined by the laws of the state of Florida and such discrimination raises an issue of great public interest. FLA. STAT. § 760.021.

Unlike the federal Age Discrimination in Employment Act, which prohibits age discrimination against individuals above the age of 40, the Florida Commission on Human Relations has held that Florida law prohibits discrimination in employment on the basis of any age, birth to death.

Law stated - 2 December 2024

Protected categories

(b) Race?

The FCRA prohibits discrimination on the basis of race and color.

Law stated - 2 December 2024

Protected categories

(c) Disability?

Yes, under the FCRA.

Law stated - 2 December 2024

Protected categories

(d) Gender?

Yes, under the FCRA.

Law stated - 2 December 2024

Protected categories **(e) Sexual orientation?**

Not prohibited under state law but prohibited under federal law and a number of local county and city ordinances in Florida (e.g., Palm Beach, Broward, Miami-Dade, Monroe, Orange, Osceola, Palm Beach, Pinellas and Volusia counties, etc.)

Law stated - 2 December 2024

Protected categories **(f) Religion?**

Yes, under the FCRA.

Law stated - 2 December 2024

Protected categories **(g) Medical?**

No unless the condition falls under “disability” or “handicap.”

Law stated - 2 December 2024

Protected categories **(h) Other?**

Florida prohibits discrimination based on marital status. Discrimination on the basis of marital status means discrimination because an employee is married, single, divorced, widowed, or separated; it does not include the specific identity or actions of the employee’s spouse.

Law stated - 2 December 2024

Harassment **What is the state law in relation to harassment?**

Harassment in Florida is covered under the Florida Civil Rights Act and is generally interpreted in the same way as under Title VII.

Law stated - 2 December 2024

Family and medical leave

What is the state law in relation to family and medical leave?

Florida does not have a “little FMLA” applicable to private employers. However, some counties and cities have their own laws governing employee family and medical leaves. For example, Miami-Dade County has a Family Leave Ordinance (FLO), which is patterned after the Family and Medical Leave Act (FMLA). The FLO is consistent with the FMLA, except that in addition to leaves provided for under the FMLA, it allows an employee to take leave to care for a grandparent with a serious health condition on the same terms and conditions as leave permitted under the FMLA to care for a parent with a serious health condition.

Florida has a domestic violence victim leave law. All Florida employers that employ 50 or more employees must allow eligible employees who have been victims, or have family members who have been victims of sexual assault or domestic violence, to take up to three days off in a 12-month period to get medical care or counseling, seek an injunction, relocate or make a home more secure, or seek legal assistance. Fla. Stat. § 741.313.

Individuals who have been employed by a covered employer for at least three months are eligible for this leave. This leave may be with or without pay, at the discretion of the employer.

An employee who seeks leave from work due to domestic or sexual violence must give their employer appropriate notice, as well as sufficient documentation of the act(s) of domestic or sexual violence as required by the employer. An employee need not request leave in advance in cases of imminent danger to the health or safety of the employee or a family or household member. This law provides for a private right of action. Fla. Stat. § 741.313.

Law stated - 2 December 2024

PRIVACY IN THE WORKPLACE

Privacy and monitoring

What are employees’ rights with regard to privacy and monitoring?

According to the Florida Security of Communications Act, it is unlawful to use an electronic or mechanical devise to intercept any “wire, oral, or electronic communication”. Further, the term “oral communication” is broadly defined and focuses on whether the person uttering the communication has a reasonable expectation that the communication will not be subject to interception. FLA. STAT. § 934.02. In Florida, an employer can monitor its employees’ wire, oral or electronic communications, if the monitoring falls within one of the three statutory exceptions: the consent exception (Florida Statute requires dual consent, i.e., all parties to the communication must consent), the business extension exception, or the service provider exception.

Further, common law claims for invasion of privacy and related torts may arise in some circumstances. In Florida, an employer may be liable for invasion of privacy if it publicly discloses a private fact that would be offensive and objectionable to a reasonable person and is not of legitimate public concern. See *State Farm Fire & Casualty Co. v. Compupay, Inc.*, 654 So. 2d 944, 948-49 (Fla. 3d DCA 1995) (recognizing the tort of invasion of privacy in Florida as “the unwarranted appropriation or exploitation of one’s personality, the publicizing of one’s

private affairs with which the public has no legitimate concern, or the wrongful intrusion into one's private activities, in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities").

To state a cause of action for invasion of privacy, however, an employee must demonstrate that (1) they had an actual subjective expectation of privacy under a given set of circumstances, and (2) that expectation is one that the society would recognize as reasonable. *Jatar v. Lamaletto*, 758 So. 2d 1167, 1169 (Fla. 3d DCA 2000). In Florida, an employee has no reasonable expectation of privacy in the statements accessible by the third parties. *Dep't of Agric. & Consumer Servs. v. Edwards*, 654 So. 2d 628, 632 (Fla. 1st DCA 1995) (holding that there could exist no reasonable expectation of privacy when the allegedly private statements were made during a meeting in the presence of the number of people).

Law stated - 2 December 2024

Privacy and monitoring

Are there state rules protecting social media passwords in the employment context and/or on employer monitoring of employee social media accounts?

No.

Law stated - 2 December 2024

Bring your own device

What is the latest position in relation to bring your own device?

There is no Florida statute on this subject.

Law stated - 2 December 2024

Off-duty

To what extent can employers regulate off-duty conduct?

There is no Florida statute on this subject.

Law stated - 2 December 2024

Gun rights

Are there state rules protecting gun rights in the employment context?

Florida employers may not terminate or otherwise discriminate against an employee, customer or invitee for "exercising his constitutional right to keep and bear arms" as long as the firearm is "never exhibited on company property for any reason other than lawful defensive purposes". FLA. STAT. § 790.251(4)(e). Furthermore, no public or private employer

can forbid customers, employees, or invitees from possessing any legally owned firearm in a motor vehicle in a parking lot, unless the vehicle is owned or leased by the employer. The prohibition also forbids employers from conditioning employment upon the fact that the employee or prospective employee is authorized to carry a concealed weapon or concealed firearm under FLA. STAT. § 790.01(1). A public or private employer is not liable in a civil action based on actions or inactions taken in compliance with the individual freedoms of the right to bear arms.

Law stated - 2 December 2024

TRADE SECRETS AND RESTRICTIVE COVENANTS

Intellectual property

Who owns IP rights created by employees during the course of their employment?

If an employee is hired for the express purpose of inventing or creating other intellectual property, an employee is not entitled to rights surrounding their own invention if the work was done during the hours of employment and within the scope of the employment. In other instances, to mitigate against an employee's claim that the invention or intellectual property belongs to them, employers may legally contract with their employees to have them assign the rights of the invention to the employer. Florida law does not restrict an employer's ability to require assignment of employee inventions and does not impose any specific notice or other requirements for such invention assignment contracts.

Law stated - 2 December 2024

Restrictive covenants

What types of restrictive covenants are recognized and enforceable?

In Florida, written contracts that restrict or prohibit competition are enforceable so long as they are reasonable in time, area, and line of business. Fla. Stat. § 542.335. An employer seeking the enforcement of a non-competition or non-solicitation agreement has to prove the existence of a legitimate business interest. By statute, the term legitimate business interest includes, but is not limited to, trade secrets, valuable confidential business information, substantial relationships with prospective or existing customers, patients or clients, customer, patient or client goodwill, and extraordinary or specialized training. Any restrictive covenant not supported by a legitimate business interest is unlawful and is therefore void and unenforceable. Fla. Stat. § 542.335.

Law stated - 2 December 2024

Non-compete

Are there any special rules on non-competes for particular classes of employee?

Yes. According to the Florida legislature, restrictive covenants with certain physicians who practice a medical specialty in a county wherein one entity employs or contracts with, either directly or through related or affiliated entities, all physicians who practice such specialty in that county are void and unenforceable under current law. Fla. Stat. § 542.336. Practicing attorneys also may not be restricted of their right to practice law by a non-compete clause.

Law stated - 2 December 2024

LABOR RELATIONS

Right to work

Is the state a “right to work” state?

Yes. An employee’s “right to work” is guaranteed by Florida’s Constitution Article 1, § 6 and Fla. Stat. § 447.17. Together, these provisions are known as the Florida Right-to-Work Law.

Law stated - 2 December 2024

Unions and layoffs

Is the state (or a particular area) known to be heavily unionized?

No.

Law stated - 2 December 2024

Unions and layoffs

What rules apply to layoffs? Are there particular rules for plant closures/mass layoffs?

Florida follows the federal Worker Adjustment and Retraining Notification (WARN) Act. Florida does not have a “little WARN Act”.

Law stated - 2 December 2024

DISCIPLINE AND TERMINATION

State procedures

Are there state-specific laws on the procedures employers must follow with regard to discipline and grievance procedures?

There are no statutory rules for private employers. However, employers must follow the rules set forth in the employee handbooks, personnel policies and other documents governing an employment relationship.

Law stated - 2 December 2024

At-will or notice**At-will status and/or notice period?**

There is no statutory notice period that private employers must give when terminating employees unless such notice is promised in an offer letter, employment agreement, employee handbook or another document governing the employment relationship.

Law stated - 2 December 2024

At-will or notice**What restrictions apply to the above?**

Answer pending.

Law stated - 2 December 2024

Final paychecks**Are there state-specific rules on when final paychecks are due after termination?**

No.

Law stated - 2 December 2024