

Another Bill in Congress Seeks to Limit Non-Competes – Will This One Go Anywhere?

Article By:

David J. Clark

On February 25, 2021, the Workforce Mobility Act, a bipartisan bill to limit the use of non-compete agreements, [was introduced](#) in the U.S. Senate by Senators Chris Murphy (D-Conn.), Todd Young (R-Ind.), Kevin Cramer (R-N.D.) and Tim Kaine (D-Va.), and in the U.S. House of Representatives by Scott Peters (D-Cal.).

This year's Workforce Mobility Act is the latest of [several attempts](#) in recent years at the federal level to restrict non-compete agreements through legislation. Despite bipartisan support at times, none has passed either the Senate or the House. Will there be a different result this time around?

There may be some reason to think so. The Biden administration appears to be in favor of banning one or more forms of non-competition agreements on a national level. In December 2020, then President-elect Biden released a [Plan for Strengthening Worker Organizing, Collective Bargaining, and Unions](#), which stated "Biden will work with Congress to eliminate all non-compete agreements, except the very few that are absolutely necessary to protect a narrowly defined category of trade secrets, and outright ban all no-poaching agreements."

Enactment of the Workforce Mobility Act in 2021, however, still seems like a long shot. If the bill progresses in Congress, it will be subject to heavy lobbying from both sides of the issue. For employers, the bill's restrictions would have a major impact on businesses that seek to protect confidential information that may not rise to the level of trade secrets, including business strategy and client-related information. If enacted, the bill also threatens to upend decades' worth of legal precedent by introducing a federal statute that will be interpreted primarily in federal courts, in an area that has been governed by practice and precedent premised on a patchwork of state common law and some state statutes. Stay tuned.

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