



## 2023 ASSEMBLY BILL 903

January 4, 2024 – Introduced by Representatives J. ANDERSON, C. ANDERSON, BARE, EMERSON, MADISON and SINICKI, cosponsored by Senator L. JOHNSON. Referred to Committee on Labor and Integrated Employment.

1     **AN ACT to renumber and amend** 103.465; **to amend** 103.465 (title); and **to**  
2     **create** 103.465 (2) and (3) of the statutes; **relating to:** prohibitions on  
3     nondisparagement clauses in employment contracts.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a covenant by an employee or agent not to compete with his or her employer or principal during the term of the employment or agency, or after the termination of that employment or agency, within a specified territory and during a specified time (covenant not to compete) is lawful and enforceable if the restrictions imposed are reasonably necessary for the protection of the employer or principal. Currently, any covenant not to compete that imposes an unreasonable restraint on an employee or agent is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint.

This bill provides that a provision in an employment contract that prohibits an employee or agent from disparaging an employer or principal after the termination of the employment or agency is illegal, void, and unenforceable.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4     **SECTION 1.** 103.465 (title) of the statutes is amended to read:

**ASSEMBLY BILL 903****SECTION 1**

1           **103.465** (title) **Restrictive covenants in employment contracts;**  
2 **prohibitions.**

3           **SECTION 2.** 103.465 of the statutes is renumbered 103.465 (1) and amended to  
4 read:

5           103.465 (1) COVENANTS IN EMPLOYMENT CONTRACTS NOT TO COMPETE. A covenant  
6 by an assistant, servant, employee, or agent not to compete with his or her employer  
7 or principal during the term of the employment or agency, or after the termination  
8 of that employment or agency, within a specified territory and during a specified time  
9 is lawful and enforceable only if the restrictions imposed are reasonably necessary  
10 for the protection of the employer or principal. Any covenant, described in this  
11 section, ~~imposing subsection, that imposes~~ an unreasonable restraint on trade is  
12 illegal, void, and unenforceable even as to any part of the covenant or performance  
13 that would be a reasonable restraint on trade.

14           **SECTION 3.** 103.465 (2) and (3) of the statutes are created to read:

15           103.465 (2) NONDISPARAGEMENT PROVISIONS IN EMPLOYMENT CONTRACT AFTER  
16 TERMINATION OF EMPLOYMENT OR AGENCY PROHIBITED. A provision in an employment  
17 contract that requires an assistant, servant, employee, or agent not to disparage his  
18 or her former employer or former principal in writing or in speech after the  
19 termination of the employment or agency imposes an unreasonable restraint on  
20 trade and is illegal, void, and unenforceable.

21           (3) NOTICE POSTED. Each employer and principal shall post, in one or more  
22 conspicuous places where notices to assistants, servants, employees, and agents are  
23 customarily posted, and in a conspicuous place on the employer's or principal's  
24 website if the employer or principal maintains a website, a notice in a form approved  
25 by the department that explains that an employment contract provision that

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1 prohibits a former employee or agent from disparaging the employer or principal  
2 after termination of employment or agency is an unreasonable restraint on trade and  
3 is illegal, void, and unenforceable.

4 **SECTION 4. Initial applicability.**

5 (1) NONDISPARAGEMENT PROVISION IN EMPLOYMENT CONTRACTS. This act first  
6 applies to a nondisparagement provision in an employment contract that is entered  
7 into, extended, modified, or renewed on the effective date of this subsection.

8 (END)