

Regular Session, 2014

SENATE BILL NO. 339

BY SENATOR DONAHUE

EMPLOYMENT. Limits the liability of employers and premises owners for the conduct of certain employees who have been convicted of certain crimes. (8/1/14)

1 AN ACT

2 To enact R.S. 9:2800.23 and R.S. 23:291(E), relative to limitation of liability; to provide for
3 limitation of liability relative to employers; to provide for limitation of liability
4 relative to statutory employers; to provide with respect to limitation of liability
5 relative to the owners of certain premises; to provide for limitation of liability
6 relative to subcontractors; to provide for exceptions; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:2800.23 is hereby enacted to read as follows:

10 **§2800.23. Limitation of liability for the actions of employees who are convicted**
11 **of certain crimes**

12 **A. Except as provided for in Subsection C of this Section, when a cause**
13 **of action is based upon the negligent hiring or failing to adequately supervise**
14 **an employee or independent contractor who has been convicted of a**
15 **misdemeanor or felony offense, there shall be immunity from civil liability for**
16 **all of the following:**

17 **(1) The employer, as provided for in R.S. 23:291(C).**

1 **(2) The principal in a statutory employer relationship, as provided for**
2 **in R.S. 23:1061(A).**

3 **(3) The owner of premises, as provided for in R.S. 23:291(D).**

4 **(4) The subcontractor, as provided for in R.S. 23:1063.**

5 **B. In any cause of action brought for the negligent hiring or inadequate**
6 **supervision of an employee or independent contractor, the fact that the**
7 **employee or independent contractor was convicted of a nonviolent, non-sexual**
8 **offense shall not be introduced into evidence.**

9 **C. The immunity from civil liability as provided for in Subsection A of**
10 **this Section shall not apply in any of the following causes of action:**

11 **(1) The misuse of funds or property of a person by an employee or**
12 **independent contractor if on the date the employee or independent contractor**
13 **was hired, the employee or independent contractor had been convicted of a**
14 **crime that includes fraud or the misuse of funds or property as an element of**
15 **the offense and it was foreseeable that the position for which the employee or**
16 **independent contractor was hired would involve discharging a fiduciary**
17 **responsibility in the management of funds or property.**

18 **(2) The misappropriation of funds by an employee or independent**
19 **contractor if the employee or independent contractor was hired as an attorney**
20 **and, on the date the employee or independent contractor was hired, the**
21 **employee or independent contractor had been convicted of a crime that includes**
22 **fraud or the misuse of funds or property as an element of the offense.**

23 **(3) An act of violence or an improper use of excessive force by an**
24 **employee or independent contractor if the employee or independent contractor**
25 **was hired to serve as a law enforcement officer or security guard.**

26 **D. Nothing in this Section shall be interpreted to imply that a cause of**
27 **action exists regarding any matter not covered by this Section.**

28 **E. Immunity from liability shall not extend to the hiring or supervision**
29 **of offenders convicted of violent or sexual offenses, including offenses listed**

1 **pursuant to Part II, Subpart B of Part III, Subparts A, B(2) and (3) of Part V,**
2 **and Subpart A(1) of Part VI of Chapter 1 of Title 14 of the Louisiana Revised**
3 **Statutes of 1950.**

4 Section 2. R.S. 23:291(E) is hereby enacted to read as follows:

5 PART IV. DISCLOSURE OF EMPLOYMENT INFORMATION;

6 **IMMUNITY FROM LIABILITY**

7 §291. Disclosure of employment related information; **immunity from liability for**
8 **certain employees and independent contractors;** presumptions;
9 causes of action; definitions

10 * * *

11 **E. Any employer or premises owner shall be immune from civil liability**
12 **for negligently hiring or failing to adequately supervise an employee or**
13 **independent contractor who has been convicted of a misdemeanor or felony**
14 **offense as provided for in R.S. 9:2800.23.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Donahue (SB 339)

Proposed law provides that, when a lawsuit is based upon the negligent hiring or failing to adequately supervise an employee or independent contractor who has been convicted of a misdemeanor or felony offense, there shall be immunity from civil liability for all of the following:

- (1) The employer.
- (2) The principal in a statutory employer relationship.
- (3) The owner of the premises on which the employee was performing his employment duties.
- (4) The subcontractor.

Proposed law provides that the evidence that an employee or independent contractor was convicted of a nonviolent, non-sexual offense shall not be introduced into evidence in any lawsuit based upon the negligent hiring or inadequate supervision of an employee or independent contractor.

Proposed law provides that immunity from civil liability for the negligent hiring of an employee or independent contractor as provided for in proposed law will not apply in any of the following causes of action:

- (1) The misuse of funds if on the date the employee or independent contractor was hired, the employee or independent contractor had been convicted of a crime that includes fraud or the misuse of funds or property as an element of the offense and it was foreseeable that the position for which the employee or independent contractor was hired would involve discharging a fiduciary responsibility in the management of funds or property.
- (2) The misappropriation of funds by an employee or independent contractor if the employee or independent contractor was hired as an attorney and, on the date the employee or independent contractor was hired, the employee or independent contractor had been convicted of a crime that includes fraud or the misuse of funds or property as an element of the offense.
- (3) An act of violence or an improper use of excessive force by an employee or independent contractor if the employee or independent contractor was hired to serve as a law enforcement officer or security guard.

Proposed law provides that nothing in proposed law shall be interpreted to imply that a cause of action exists regarding any matter not covered by proposed law.

Proposed law provides that immunity from liability shall not extend to the hiring or supervision of offenders convicted of violent or sexual offenses or any of the following:

- (1) Homicide, feticide, assisted suicide, assault, battery, rape, sexual battery, kidnaping, false imprisonment, or defamation.
- (2) Robbery, armed robbery, carjacking or purse snatching.
- (3) Sexual offenses against a minor, prostitution, abortion, or crimes against nature.
- (4) Offenses affecting the health and morals of minors.
- (5) Offenses affecting the health and safety of the infirm.
- (6) Illegal carrying and discharge of weapons.

Effective August 1, 2014.

(Adds R.S. 9:2800.23 and R.S. 23:291(E))