

Regular Session, 2014

HOUSE BILL NO. 505

BY REPRESENTATIVE DIXON

EMPLOYMENT: Provides limitation of liability for employers of convicted offenders

1 AN ACT

2 To enact R.S. 23:291(E) and (F), relative to the disclosure of employment related
3 information; to provide with respect to liability; to provide with respect to
4 employers; to provide protections; to provide exceptions; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:291(E) and (F) are hereby enacted to read as follows:

8 §291. Disclosure of employment related information; liability for hiring certain
9 employees; presumptions; causes of action; definitions

10 * * *

11 E.(1) Any employer, general contractor, premises owner, or other third party
12 shall be immune from civil liability solely for negligently hiring or failing to
13 adequately supervise an employee or independent contractor who has been convicted
14 of an offense. This immunity shall not extend to the hiring or supervision of
15 offenders convicted of violent or sexual offenses, including offenses provided for in
16 Part II, Subpart B of Part III, Subparts A, B(2), and (3) of Part V, and Subpart A(1)
17 of Part VI of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

18 (2) In any cause of action brought for negligent hiring or inadequate
19 supervision, the fact that the employee or independent contractor was convicted of
20 a nonviolent, nonsexual offense shall not be introduced into evidence.

1 (3) The protections provided to an employer, general contractor, premises
2 owner, or third party pursuant to this Section do not apply in lawsuits concerning any
3 of the following:

4 (a) The misuse of funds or property of a person other than the employer,
5 general contractor, premises owner, or third party, by an employee or independent
6 contractor, if, on the date the employee or independent contractor was hired, the
7 employee or independent contractor had been convicted of a crime that includes
8 fraud or the misuse of funds or property as an element of the offense and it was
9 foreseeable that the position for which the employee or independent contractor was
10 hired would involve discharging a fiduciary responsibility in the management of
11 funds or property.

12 (b) The misappropriation of funds by an employee or independent contractor,
13 if the employee or independent contractor was hired as an attorney and, on the date
14 the employee or independent contractor was hired, the employee or independent
15 contractor had been convicted of a crime that includes fraud or the misuse of funds
16 or property as an element of the offense.

17 (c) An act of violence or an improper use of excessive force by an employee
18 or independent contractor, if the employee or independent contractor was hired to
19 serve as a law enforcement officer or security guard.

20 F. Nothing in this Section shall be construed to imply that a cause of action
21 exists for negligent hiring or inadequate supervision in situations not covered by this
22 Section. Liability shall not be presumed unless expressly established by statute.

23 Section 2. If any provision of this Act or the application thereof is held invalid, such
24 invalidity shall not affect other provisions or applications of this Act which can be given
25 effect without the invalid provisions or applications, and to this end the provisions of this
26 Act are hereby declared severable.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Dixon

HB No. 505

Abstract: Provides civil immunity for an employer who hires an employee who has been convicted of certain offenses.

Present law provides immunity from civil liability for any employer who discloses information to a prospective or current employer of a former employee's job performance if the information provided is not provided in bad faith.

Present law provides immunity from civil liability for negligent hiring, negligent retention, and other hiring-related causes of action for any employer who relies on information disclosed by a former employer, unless further information, such as a criminal background check, is required by law.

Present law provides definitions for "background check", "employer", "employee", "owner", "prospective employer", "prospective employee", and "job performance".

Present law provides immunity from civil liability from suits for failure to hire, wrongful termination, invasion of privacy, negligent hiring, or negligent retention for an employer who conducts a background check of an employee or prospective employee after having obtained written permission to do so by the employee or at the request of the owner or operator of a facility at which the employee is employed.

Proposed law retains present law.

Proposed law provides immunity from civil liability for negligent hiring or failing to adequately supervise for any employer, general contractor, premises owner, or other third party who hires an employee or independent contractor who has been convicted of an offense except offenses against the person, misappropriation with violence to the person, offenses affecting sexual immorality, offenses affecting the health and morals of minors, offenses affecting the health and safety of the infirm, and illegal carrying and discharge of weapons.

Proposed law provides that if a suit is brought for negligent hiring or inadequate supervision, the fact that the employee or independent contractor has been convicted of a nonviolent, nonsexual offense shall not be introduced into evidence.

Proposed law provides exceptions to civil liability. Protections provided under proposed law do not apply to:

- (1) The misuse of funds if the employee or general 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 he was hired would involve the management of funds.
- (2) The misuse of funds if the employee or general contractor had been hired as an attorney and 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 use of excessive force by the employee or independent contractor if he was hired as a law enforcement officer or a security guard.

Proposed law provides that proposed law shall not be interpreted as implying that a cause of action exists for situations not covered by proposed law. Proposed law further provides that liability shall not be presumed unless expressly established by statute.

(Adds R.S. 23:291(E) and (F))