ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2169

By: McCullough of the House

and

Newberry of the Senate

An Act relating to labor; enacting the Civil Liability for Employers Hiring Ex-Offenders Act; prohibiting cause of action against employer for hiring convicted nonviolent, nonsexual offender; barring evidence of prior conviction in negligent hiring action; providing exception for liability limitation; allowing evidence of prior conviction if employer meets specified criteria; excluding applicability if certain conditions occur; construing act; excluding presumption; providing for codification; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title to read:

"[labor - Civil Liability for Employers Hiring Ex-Offenders Act - codification - effective date]"

Passed the Senate the 20th day of April, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House
of Representatives

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 100 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Civil Liability for Employers Hiring Ex-Offenders Act".

B. A cause of action shall not be brought against an employer, general contractor, premises owner, or other third party solely for hiring an employee or independent contractor who has been convicted of a nonviolent, nonsexual offense.

C. In a negligent hiring action against an employer, general contractor, premises owner, or other third party for the acts of an employee or independent contractor that is based on a theory of liability other than that described by subsection B of this section, the fact that the employee or independent contractor was convicted of a nonviolent, nonsexual offense before the employee or independent contractor's employment or contractual obligation with the employer, general contractor, premises owner, or other third party, as applicable, may not be introduced into evidence.

D. This act shall not preclude any existing cause of action for failure of an employer or other person to provide adequate supervision of an employee or independent contractor, except that the fact that the employee or independent contractor has been convicted of a nonviolent, nonsexual criminal offense may be introduced into evidence in the suit only if the employer:

1. Knew of the conviction or was grossly negligent in not knowing of the conviction; and

2. The conviction was directly related to the nature of the employee's or independent contractor's work and the conduct that gave rise to the alleged injury that is the basis of the suit.

E. The protections provided to an employer, general contractor, premises owner, or third party under this act shall not apply in a suit concerning:

1. The misuse of funds or property of a person other than the employer, general contractor, premises owner, or third party, by an employee or independent contractor, 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; or

3. A violent offense 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.

F. This act shall not be interpreted as implying a cause of action exists for negligent hiring of an ex-offender in factual situations not covered by this act. In deciding whether liability exists in such cases, courts shall not presume that, because they are not covered in the protection herein, there is a legislative

intent expressed through the passage of this act to extend liability in such cases where it is not already established.

SECTION 2. This act shall become effective November 1, 2015.

Passed the House of Representatives the 9th day of March, 2015.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2015.

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Presiding Officer of the Senate