

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2169

By: McCullough of the House

and

Newberry of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

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

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

23 SECTION 1. NEW LAW A new section of law to be codified  
24 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".

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

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

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

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

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

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

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

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

19 3. A violent offense or an improper use of excessive force by  
20 an employee or independent contractor, if the employee or  
21 independent contractor was hired to serve as a law enforcement  
22 officer or security guard.

23 F. This act shall not be interpreted as implying a cause of  
24 action exists for negligent hiring of an ex-offender in factual

1 situations not covered by this act. In deciding whether liability  
2 exists in such cases, courts shall not presume that, because they  
3 are not covered in the protection herein, there is a legislative  
4 intent expressed through the passage of this act to extend liability  
5 in such cases where it is not already established.

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

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