

1 **SENATE FLOOR VERSION**

2 March 31, 2015

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2169

6 By: McCullough of the House

7 and

8 Newberry of the Senate

9 **[labor - Civil Liability for Employers Hiring Ex-**
10 **Offenders Act - codification - effective date]**

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

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

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

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

21 C. In a negligent hiring action against an employer, general
22 contractor, premises owner, or other third party for the acts of an
23 employee or independent contractor that is based on a theory of
24 liability other than that described by subsection B of this section,

1 the fact that the employee or independent contractor was convicted
2 of a nonviolent, nonsexual offense before the employee or
3 independent contractor's employment or contractual obligation with
4 the employer, general contractor, premises owner, or other third
5 party, as applicable, may not be introduced into evidence.

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

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

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

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

20 1. The misuse of funds or property of a person other than the
21 employer, general contractor, premises owner, or third party, by an
22 employee or independent contractor, if, on the date the employee or
23 independent contractor was hired, the employee or independent
24 contractor had been convicted of a crime that includes fraud or the

1 misuse of funds or property as an element of the offense, and it was
2 foreseeable that the position for which the employee or independent
3 contractor was hired would involve discharging a fiduciary
4 responsibility in the management of funds or property;

5 2. The misappropriation of funds by an employee or independent
6 contractor, if the employee or independent contractor was hired as
7 an attorney and, on the date the employee or independent contractor
8 was hired, the employee or independent contractor had been convicted
9 of a crime that includes fraud or the misuse of funds or property as
10 an element of the offense; or

11 3. A violent offense or an improper use of excessive force by
12 an employee or independent contractor, if the employee or
13 independent contractor was hired to serve as a law enforcement
14 officer or security guard.

15 F. This act shall not be interpreted as implying a cause of
16 action exists for negligent hiring of an ex-offender in factual
17 situations not covered by this act. In deciding whether liability
18 exists in such cases, courts shall not presume that, because they
19 are not covered in the protection herein, there is a legislative
20 intent expressed through the passage of this act to extend liability
21 in such cases where it is not already established.

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

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
24 March 31, 2015 - DO PASS AS AMENDED