



Rep. Thomas Morrison

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LRB100 06256 HEP 22076 a

1 AMENDMENT TO HOUSE BILL 665

2 AMENDMENT NO. _____. Amend House Bill 665 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Limitations on Actions for Negligent Hiring and Retention Act.

6 Section 5. Findings. A claim for negligent hiring or
7 retention is founded on the concept that an employer is liable
8 for the harm resulting from its employee's negligent acts and
9 that the employer knew or should have known an employee would
10 be predisposed to committing a wrong in a position where the
11 employee actually does commit that wrong against a third party.

12 Pre-employment background checks, employee drug testing,
13 and physical exams are some of the ways an employer can protect
14 itself from negligent hiring and retention claims. However, to
15 protect an individual's privacy and to encourage the hiring of
16 individuals with past criminal convictions, Illinois laws have

1 restricted an employer's ability to review certain information
2 in deciding to hire someone and to what extent that information
3 may be used in the hiring and retention decision.

4 Minorities who tend to be arrested and convicted at much
5 higher rates can be disproportionately impacted by employers
6 hesitant to hire individuals with a criminal background, due to
7 potential liability.

8 The General Assembly finds that it is in the public
9 interest to do more to give Illinois employers access to the
10 broadest pool of qualified applicants for employment as
11 possible, protect the civil rights of those seeking employment,
12 and ensure that all qualified applicants are properly
13 considered for employment opportunities.

14 Section 10. Definitions. As used in this Act:

15 "Employee" means a person who, for compensation, performs
16 services for an employer under a written or oral contract for
17 hire, whether express or implied.

18 "Employer" means an individual, partnership, association,
19 corporation, limited liability company, business trust,
20 governmental or quasi-governmental body, or person or group of
21 persons acting directly or indirectly in the interest of an
22 employer.

23 Section 15. Limitation on liability.

24 (a) An action may not be brought against an employer solely

1 for negligently hiring or failing to adequately supervise an
2 employee based on evidence that the employee has been convicted
3 of a criminal offense.

4 (b) This Section does not preclude an action for negligent
5 hiring or the failure of an employer to provide adequate
6 supervision of an employee if:

7 (1) the employer knew of the conviction or was grossly
8 negligent in not knowing of the conviction; and

9 (2) the conviction was directly related to the nature
10 of the employee's work and the conduct that gave rise to
11 the alleged injury that is the basis of the suit.

12 (c) The protections provided to an employer under this
13 Section do not apply in an action concerning:

14 (1) the misuse of funds or property of a person other
15 than the employer by an employee, if, on the date the
16 employee was hired, the employee had been convicted of a
17 crime that includes fraud or the misuse of funds or
18 property as an element of the offense, and it was
19 foreseeable that the position for which the employee was
20 hired would involve discharging a fiduciary responsibility
21 in the management of funds or property; or

22 (2) the misappropriation of funds by an employee, if
23 the employee was hired as an attorney and, on the date the
24 employee was hired, the employee had been convicted of a
25 crime that includes fraud or the misuse of funds or
26 property as an element of the offense.

1 (d) This Section does not create a cause of action or
2 expand any existing cause of action.

3 Section 95. Applicability. This Act applies only to a cause
4 of action that accrues on or after the effective date of this
5 Act. A cause of action that accrues before the effective date
6 of this Act is governed by the law in effect immediately before
7 that date, and the former law is continued in effect for that
8 purpose.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".