

FIRST REGULAR SESSION

# HOUSE BILL NO. 1087

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GALLICK.

2466H.011

JOSEPH ENGLER, Chief Clerk

### AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to the liability of employers for negligent hiring.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.580, to read as follows:

**537.580. 1. This section shall be known and may be cited as the "Civil Liability for Employers Hiring Ex-Offenders Act".**

**2. A cause of action shall not be brought against an employer, general contractor, premises owner, or other third party for hiring an employee or independent contractor who has been convicted of an offense unless such employee or independent contractor has been convicted of an offense contained in section 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, or 579.068  
18 when punished as a class A or B felony.

19       3. In an action for negligent hiring against an employer, general contractor,  
20 premises owner, or other third party for acts of an employee or independent contractor  
21 that is based on a theory of liability other than that described in subsection 2 of this  
22 section, the fact that the employee or independent contractor was convicted of a  
23 nonviolent, nonsexual offense before the employee or independent contractor's  
24 employment or contractual obligation with the employer, general contractor, premises  
25 owner, or other third party shall be inadmissible as evidence.

26       4. The provisions of this section shall not preclude any existing cause of action  
27 for failure of an employer to provide adequate supervision of an employee or  
28 independent contractor, except that the fact the employee or independent contractor has  
29 been convicted of a nonviolent, nonsexual offense shall be admissible as evidence in such  
30 action only if the employer:

31       (1) Knew of the conviction or was grossly negligent in the failure to know of the  
32 conviction; and

33       (2) The conviction was directly related to the nature of the employee's or  
34 independent contractor's work and the conduct that gave rise to the alleged injury that  
35 is the basis of the action.

36       5. The protections in this section provided to an employer, general contractor,  
37 premises owner, or third party do not apply in an action concerning:

38       (1) The misuse of funds or property of a person other than the employer, general  
39 contractor, premises owner, or third party by an employee or independent contractor if,  
40 on the date the employee or independent contractor was hired, the employee or  
41 independent contractor had been convicted of an offense that includes fraud or the  
42 misuse of funds or property as an element of the offense and it was foreseeable that the  
43 position for which the employee or independent contractor was hired would involve  
44 discharging a fiduciary responsibility in the management of the funds or property;

45       (2) The misappropriation of funds by an employee or independent contractor if  
46 the employee or independent contractor was hired as an attorney and, on the date the  
47 employee or independent contractor was hired, the employee or independent contractor  
48 had been convicted of an offense that includes fraud or the misuse of funds or property  
49 as an element of the offense; or

50       (3) A violent offense or an improper use of excessive force by an employee or  
51 independent contractor if the employee or independent contractor was hired to serve as  
52 a law enforcement officer or security guard.

53           **6. The provisions of this section shall not be interpreted as implying a cause of**  
54 **action exists for negligent hiring of an individual convicted of an offense in situations not**  
55 **covered by this section.**

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