

Senate File 580 - Introduced

SENATE FILE 580
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1220)

(COMPANION TO HF 650 BY
COMMITTEE ON LABOR)

A BILL FOR

1 An Act relating to the liability of private employers, general
2 contractors, and premises owners for negligently hiring
3 employees, agents, or independent contractors convicted of
4 a public offense.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 671A.1 Limitation on liability for
2 negligently hiring an employee, agent, or independent contractor
3 convicted of a public offense.

4 1. A cause of action shall not be brought against a private
5 employer, general contractor, or premises owner for negligently
6 hiring an employee, agent, or independent contractor, based
7 solely on evidence that the employee, agent, or independent
8 contractor has been convicted of a public offense as defined
9 in section 701.2.

10 2. This chapter does not create a cause of action or expand
11 an existing cause of action.

12 3. This chapter does not apply to employment of prisoners
13 at prisons.

14 Sec. 2. NEW SECTION. 671A.2 Liability protection not
15 applicable.

16 1. This chapter does not preclude a cause of action for
17 negligent hiring based on evidence that the employee, agent, or
18 independent contractor has been convicted of a public offense
19 as defined in section 701.2, if all of the following criteria
20 are met:

21 a. The private employer, general contractor, or premises
22 owner knew or should have known of the conviction.

23 b. The employee, agent, or independent contractor was
24 convicted of any of the following:

25 (1) A public offense that was committed while performing
26 duties substantially similar to those reasonably expected to
27 be performed in the employment or under the relationship or
28 contract, or under conditions substantially similar to those
29 reasonably expected to be encountered in the employment or
30 under the relationship or contract, taking into consideration
31 all of the following factors:

32 (a) The nature and seriousness of the public offense.

33 (b) The extent and nature of the employee, agent, or
34 independent contractor's past criminal activity.

35 (c) The age of the employee, agent, or independent

1 contractor when the public offense was committed.

2 (d) The amount of time that has elapsed since the employee,
3 agent, or independent contractor's last criminal activity.

4 (2) A sexually violent offense as defined in section 229A.2.

5 (3) The offense of murder in the first degree under section
6 707.2.

7 (4) The offense of murder in the second degree under section
8 707.3.

9 (5) The offense of kidnapping in the first degree under
10 section 710.2.

11 (6) The offense of robbery in the first degree under section
12 711.2.

13 (7) An offense committed on certain real property for which
14 an enhanced penalty was received under section 124.401A or
15 124.401B.

16 (8) A felony offense where the employee, agent, or
17 independent contractor used or exhibited a dangerous weapon as
18 defined in section 702.7 during the commission of or during
19 immediate flight from the scene of the felony offense, or
20 where the employee, agent, or independent contractor used or
21 exhibited the dangerous weapon or was a party to the felony
22 offense and knew that a dangerous weapon would be used or
23 exhibited.

24 2. The protections provided to a private employer, general
25 contractor, or premises owner under this chapter do not apply
26 in a suit concerning the misuse of funds or property of a
27 person other than the employer, general contractor, or premises
28 owner, by an employee, agent, or independent contractor if, on
29 the date the employee, agent, or independent contractor was
30 hired, the employee, agent, or independent contractor had been
31 convicted of a public offense that included fraud or the misuse
32 of funds or property as an element of the public offense, and
33 it was foreseeable that the position for which the employee,
34 agent, or independent contractor was hired would involve
35 discharging a fiduciary responsibility in the management of

1 funds or property.

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EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to the cause of action of negligent hiring.
6 The bill does not expand or create any other causes of action.
7 Under current law, the tort of negligent hiring allow a
8 person injured by an employee to sue the employee's employer
9 even though the act was committed outside the scope of the
10 employment due to some fault resting with the employer for
11 hiring the employee.

12 The bill provides that the cause of action of negligent
13 hiring shall not be brought against a private employer, general
14 contractor, or premises owner based solely on evidence that the
15 employee, agent, or independent contractor has been convicted
16 of a public offense. However, the bill does not preclude
17 causes of action for negligent hiring of an employee, agent,
18 or independent contractor, if two criteria are met. First,
19 the private employer, general contractor, or premises owner
20 knew or should have known of the conviction; and second, the
21 employee, agent, or independent contractor was convicted of a
22 public offense enumerated in the bill or a public offense that
23 was committed while performing duties substantially similar to
24 those reasonably expected to be performed in the employment,
25 or under the relationship or contract, or under conditions
26 substantially similar to those reasonably expected to be
27 encountered in the employment or the relationship or contract,
28 taking into consideration enumerated factors set forth in the
29 bill.

30 The bill provides that the protections provided to a private
31 employer, general contractor, or premises owner do not apply
32 in a suit concerning the misuse of funds or property of a
33 person other than the employer, general contractor, or premises
34 owner, by an employee, agent, or independent contractor if, on
35 the date the employee, agent, or independent contractor was

1 hired, the employee, agent, or independent contractor had been
2 convicted of a public offense that included fraud or the misuse
3 of funds or property as an element of the public offense, and
4 it was foreseeable that the position for which the employee,
5 agent, or independent contractor was hired would involve
6 discharging a fiduciary responsibility in the management of
7 funds or property.

8 The bill does not apply to the employment of prisoners at
9 prisons.