HOUSE FILE 650
BY COMMITTEE ON LABOR

(SUCCESSOR TO HF 471)

(As Amended and Passed by the House March 14, 2019)
[= New Language by the House

A BILL FOR

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

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

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

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

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

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

Sec. 2. NEW SECTION. **671A.2 Liability protection not applicable.**

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

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

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

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

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

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

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

contractor when the public offense was committed.

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

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

[(3) The offense of dependent adult abuse as provided for under section 235B.20.]

(4) The offense of murder in the first degree under section 707.2.

(5) The offense of murder in the second degree under section 707.3.

[(6) The offense of assault as defined in section 708.1 that is a felony under section 708.2.

(7) The offense of domestic abuse assault as defined in section 708.2A.]

(8) The offense of kidnapping in the first degree under section 710.2.

(9) The offense of robbery in the first degree under section 711.2.

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

(11) A felony offense where the employee, agent, or independent contractor used or exhibited a dangerous weapon as defined in section 702.7 during the commission of or during immediate flight from the scene of the felony offense, or where the employee, agent, or independent contractor used or exhibited the dangerous weapon or was a party to the felony offense and knew that a dangerous weapon would be used or exhibited.

2. The protections provided to a private employer, general contractor, or premises owner under this chapter do not apply in a suit concerning the misuse of funds or property of a person other than the employer, general contractor, or premises owner, by an employee, agent, or independent contractor if, on the date the employee, agent, or independent contractor was

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