

CHAPTER 42

COURTS

HOUSE BILL 10-1023

BY REPRESENTATIVE(S) Waller, Gagliardi, Kagan, Kefalas, Summers, Baumgardner, Casso, Court, Fischer, Gardner B., Gerou, King S., Labuda, Merrifield, Murray, Nikkel, Pace, Pommer, Priola, Ryden, Schafer S., Solano, Stephens, Todd, Tyler, Vigil, Carroll T.;
also SENATOR(S) Hudak, Boyd, Sandoval, Scheffel, White, Gibbs, Heath, Newell, Whitehead.

AN ACT**CONCERNING CLARIFYING CIVIL LIABILITY REGARDING NEGLIGENT HIRING PRACTICES FOR AN EMPLOYER THAT HIRES A PERSON WITH A CRIMINAL RECORD.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The General Assembly hereby finds that:

(a) Employers may be reluctant, in part, to hire employees with a criminal record due to a lack of clarity regarding the employer's risk of liability for such hire;

(b) Since there is a direct correlation between employment and reduced recidivism, it is in the public interest to clarify employer liability for employers who hire persons with a criminal conviction.

(2) Therefore, it is necessary and appropriate for the General Assembly to reduce unnecessary barriers to employment for persons with a criminal conviction and thereby promote economic opportunity, poverty reduction, and public safety in the state of Colorado.

SECTION 2. 8-2-201, Colorado Revised Statutes, is amended to read:

8-2-201. Damages - fellow servant rule and abolition thereof - limitation on admission of criminal history. (1) Every corporation or individual who employs agents, servants, or employees, such agents, servants, or employees being in the exercise of due care, shall be liable to respond in damages for injuries or death sustained by any such agent, servant, or employee resulting from the carelessness,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

omission of duty, or negligence of such employer, or which may have resulted from the carelessness, omission of duty, or negligence of any other agent, servant, or employee of the employer, in the same manner and to the same extent as if the carelessness, omission of duty, or negligence causing the injury or death was that of the employer.

(2) (a) INFORMATION REGARDING THE CRIMINAL HISTORY OF AN EMPLOYEE OR FORMER EMPLOYEE MAY NOT BE INTRODUCED AS EVIDENCE IN A CIVIL ACTION AGAINST AN EMPLOYER OR ITS EMPLOYEES OR AGENTS THAT IS BASED ON THE CONDUCT OF THE EMPLOYEE OR FORMER EMPLOYEE IF:

(I) THE NATURE OF THE CRIMINAL HISTORY DOES NOT BEAR A DIRECT RELATIONSHIP TO THE FACTS UNDERLYING THE CAUSE OF ACTION; OR

(II) BEFORE THE OCCURRENCE OF THE ACT GIVING RISE TO THE CIVIL ACTION, A COURT ORDER SEALED ANY RECORD OF THE CRIMINAL CASE OR THE EMPLOYEE OR FORMER EMPLOYEE RECEIVED A PARDON; OR

(III) THE RECORD IS OF AN ARREST OR CHARGE THAT DID NOT RESULT IN A CRIMINAL CONVICTION; OR

(IV) THE EMPLOYEE OR FORMER EMPLOYEE RECEIVED A DEFERRED JUDGMENT AT SENTENCE AND THE DEFERRED JUDGMENT WAS NOT REVOKED.

(b) THIS SUBSECTION (2) DOES NOT SUPERSEDE ANY STATUTORY REQUIREMENT TO CONDUCT A CRIMINAL HISTORY BACKGROUND INVESTIGATION OR CONSIDER CRIMINAL HISTORY RECORDS IN HIRING FOR PARTICULAR TYPES OF EMPLOYMENT.

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 29, 2010