SENATE BILL 157

By: Senator Cassilly
Introduced and read first time: January 13, 2020
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Employers of Ex–Offenders – Liability – Immunity

FOR the purpose of establishing that certain employers are not liable, under certain circumstances, for negligently hiring or failing to adequately supervise an employee based on evidence that the employee has received probation before judgment for an offense or has been convicted of an offense; providing that this Act does not limit or abrogate certain other immunities or defenses; providing for the application of this Act; defining certain terms; and generally relating to immunity for employers of ex–offenders.

BY adding to
Article – Courts and Judicial Proceedings
Section 5–427
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–427.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (1) “EMPLOYEE” MEANS AN INDIVIDUAL, OTHER THAN AN INDEPENDENT CONTRACTOR, WHO PERFORMS SERVICES FOR COMPENSATION FOR AN EMPLOYER UNDER AN ORAL CONTRACT FOR HIRE, WHETHER EXPRESS OR IMPLIED, OR A WRITTEN CONTRACT.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(II) "EMPLOYEE" does not include a person who contracts to perform work or provide a service for the benefit of another and who is:

1. Paid by the job, rather than by the hour or some other time-measured basis;

2. Free to hire as many helpers as the person desires and to determine what each helper will be paid; and

3. Free to work for other contractors, or to send helpers to work for other contractors, while under contract to the hiring employer.

(3) (I) "EMPLOYER" means a person engaged in a business, an industry, a profession, a trade, or any other enterprise in the State.

(II) "EMPLOYER" does not include the State, a county, or a municipality in the State.

(B) An employer may not be held liable for negligently hiring or failing to adequately supervise an employee based on evidence that the employee has received probation before judgment for an offense or has been convicted of an offense if:

(1) The employee has:

 (I) Completed the term of imprisonment or probation for the offense; or

 (II) Been released on parole for the offense; and

(2) The employee performs work for the employer:

 (I) In the manufacturing industry;

 (II) In the shipping and receiving industry, excluding work requiring the operation of a motor vehicle on a public highway or street;

 (III) In the warehousing industry;
(IV) ON THE CONSTRUCTION OF NEW STRUCTURES; OR

(V) ON THE REHABILITATION OR DEMOLITION OF UNOCCUPIED STRUCTURES.

(C) THIS SECTION DOES NOT LIMIT OR ABROGATE ANY IMMUNITY FROM CIVIL LIABILITY OR DEFENSE AVAILABLE TO A PERSON UNDER ANY OTHER PROVISION OF THE CODE OR AT COMMON LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.