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Senate Bill 157 - Employers of Ex-Offenders - Liability - Immunity

SUPPORT

Senate Judicial Proceedings Committee

January 28, 2020

Dear Chairman Smith and Committee Members:

It comes with great respect that I write this letter of support for Senate Bill 157. As President of the Regional Manufacturing Institute of Maryland (RMI), our Association and its members are seeking means on bridging the connections of qualified workers with manufacturing employers throughout the state.

It is well known that Maryland's manufacturing industry has a severe shortage of qualified workers. Last year, there were over 5,000 job openings in manufacturing listed on the Maryland Workforce Exchange in one month. Senate Bill 157, empowers Maryland's employers to break down the barriers to employment for "second-chance" jobseekers and supplies they need for the industry's workforce.

This bill establishes that 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 the employee meets specified criteria and performs specified types of work for the employer.

Providing civil immunity for businesses hiring ex-offenders offers substantial impacts for employers against potential lawsuits and/or civil judgments. Employers take on a significant amount of risk when they hire any employee, which is the reason they are so diligent in their application and screening processes. A criminal record is often enough of a liability for an employer to reject an application. Employers must feel confident that they will not be held liable on the unfortunate chance the employee repeats an offense.

The Governor's Office of Criminal Control and Prevention (GOCOP) Workgroup on Collateral Consequences of Convictions issued their final report in December 2016, which included several recommendations to increase employment opportunities for ex-offenders. Specifically, Recommendation #9, entitled *Provide Guidance to Private Employers in Hiring Individuals with Criminal Backgrounds*, suggests the creation of a statewide "toolkit" to assist employers in navigating the potential legal risks associated with hiring an individual with a criminal background.

An informational resource guide to assist employers to learn the risks is a laudable concept. However, eliminating any civil liability, through statutory immunity, reduces employers' risks and fears, altogether. In turn, this legal protection for employers offers a higher potential for ex-offenders to become employed. Thereby accomplishing the recommendations set forth not only in the Workgroup's report but contained within the *Federal Workforce Innovation Opportunity Act* (WIOA) and *Maryland's Revised Workforce Plan* (adopted in July 2019).

Currently, the *Maryland Justice Reinvestment Act* addresses the Negligent Hiring Doctrine wherein employers will be presumed innocent if they hire an individual with a *Certificate of Rehabilitation*. However, the certificate can be revoked if an individual has contact with the criminal justice system after the certificate issued.

This bill eliminates the Negligent Hiring Doctrine for certain employers while eliminating the barrier for individuals to receive certification under the Justice Reinvestment Act. Moreover, it relieves the barriers against an ex-offender seeking employment, should their certificate become revoked. For the employer, it insulates them against potential civil liability resulting from actions by the ex-offender under their employment.

It for these reasons that I write in support of this Senate Bill 157 that benefits manufacturers across the state and respectfully request this committee to issue a ***favorable*** report.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Mike Galiazzo". The signature is fluid and cursive, with the first name "Mike" and last name "Galiazzo" clearly distinguishable.

Mike Galiazzo, President
Regional Manufacturing Institute of Maryland (RMI)