



Maryland Association for Justice, Inc.

2020 Position Paper

SB 157 and HB 1030

Employers of Ex-Offenders – Liability– Immunity

Unfavorable Report

Senate Bill 157 exposes Maryland citizens to an increased risk of injury and death and deprives injured Marylanders and their families of their rights to hold employers accountable in court for their negligent conduct. We urge an **UNFAVORABLE** report.

Senate Bill 157 declares that employers in certain industries in Maryland “may not be held liable for negligent hiring or failing to adequately supervise an employee” based on evidence that the employee received probation before judgment or was convicted for an offense where the employee completed a prison term or probation, or has been released on parole.

Senate Bill 157 represents a dangerous change to existing Maryland law.

With respect to the tort of “negligent hiring,” Maryland law explicitly allows employers to assume that every prospective employee is competent to perform simple work that does not involve a danger to others. When a job involves contact with the public, the law requires that an employer should make some reasonable inquiry, before hiring or retaining the employee, to ascertain his or her fitness for the job or some other basis for believing the employee is reliable. In other words, Maryland employers who undertake a reasonable inquiry to determine the fitness of an employee for a particular job cannot be held liable for negligent hiring, because they would not have acted negligently in hiring such an employee.

Moreover, Senate Bill 157 absolves employers of any duty to adequately supervise those employees who fall within the scope of the bill, even after they have been hired. Neither the Bill nor the Fiscal Note explains the rationale for allowing employers to forego adequate supervision of their employees.

Senate Bill 157 obliterates longstanding rules of law, which were put in place by the courts for the protection and safety of the public. Employers under the Bill would enjoy a free pass to hire employees unfit for their jobs, and to allow them to work without adequate supervision. This is not sound public policy.

The Maryland Association for Justice respectfully urges an UNFAVORABLE report on Senate Bill 157.