



POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

**SENATE BILL 157 -- EMPLOYERS OF EX-OFFENDERS - LIABILITY FOR NEGLIGENT
HIRING OR INADEQUATE SUPERVISION - IMMUNITY**

January 28, 2020

**DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE**

Position: Support with Amendments

Senate Bill 219 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: (1) the employee has completed the term of imprisonment or probation for the offense or has been released on parole for the offense; and (2) the employee performs work for the employer in the manufacturing industry, in the shipping and receiving industry, in the warehousing industry, on the construction of new structures, or on the rehabilitation or demolition of unoccupied structures. The bill defines “employer” as a person engaged in a business, industry, profession, trade, or other enterprise in the State and excludes the state, a county and municipalities.

The GBC supports Senate Bill 157 with amendments to: (1) expand protections to include additional industries that may provide opportunities for returning citizens; and (2) provide for certain exclusions based on the category of the offense and/or the category of offense relative to the responsibilities of the position. Several states, including: Arizona, Colorado, Connecticut, Minnesota, New York, and Texas, have enacted laws that limit employer liability for negligent hiring of formerly incarcerated or justice-involved individuals. The majority of these states exclude certain offenses (such as sexual offenses or certain violent offenses) and/or require employers to evaluate the nature of the offense relative to the nature of the duties associated with the position as opposed to restricting immunity to specific industries.

Senate Bill 157 is a positive step toward removing barriers for employers to engage in second chance hiring, but the opportunity for impact is lessened by the narrow scope of industries named in the legislation. Expanding the scope of industries would have a more meaningful impact and increase opportunities for returning citizens to enter or re-enter the workforce. Requiring exclusions based on offense and/or offense relative to the duties of the position aligns with best practices of laws enacted in other states and allows for necessary exceptions to the immunity provision to protect business interests and public safety.

According to a study by the Society of Human Resource Management (SHRM), 52 percent of employers conduct background checks because they are concerned about the risk of negligent-hiring liability. While the actual risk of liability for negligent hiring of individuals with criminal records is low, the SHRM findings indicate that employers perceive higher risks of liability. The GBC supports efforts to mitigate actual and perceived liabilities through enhanced employer protections which may encourage more employers to hire returning citizens.

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This bill is consistent with findings of the GBC-led report, *Opening Doors to a Second Chance: Removing Barriers and Cultivating Job Opportunities for Returning Citizens and Job Seekers with a Criminal Background*. This December 2016 report outlines specific initiatives that employers and elected leaders can take to remove barriers to employment and expand job opportunities for men and women returning to society after incarceration. Advocates who formed the coalition believed that lawmakers should encourage more businesses to hire returning citizens through policy change. Senate Bill 157, amended to include other industries and to impose restrictions on certain offenses or offenses relative to job duties, could encourage more employers to consider hiring returning citizens.

Additionally, the GBC's 2020 Legislative Priorities specifically encourage policymakers to "expand provisions to limit liability and provide incentives for employers who hire justice-involved individuals." Removing barriers for employers to hire returning citizens can reduce recidivism rates, strengthen our workforce, and provide measurable benefits to society.

For the reasons stated above, the Greater Baltimore Committee urges a favorable report as amended for Senate Bill 157.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 64-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

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