

HOUSE BILL No. 5217

January 9, 2014, Introduced by Reps. Walsh, Shirkey, Haveman and Robinson and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding section 2956a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2956A. (1) IN AN ACTION BASED ON TORT OR ANOTHER LEGAL
2 THEORY SEEKING DAMAGES FOR PERSONAL INJURY, PROPERTY DAMAGE, OR
3 WRONGFUL DEATH, A CERTIFICATE OF EMPLOYABILITY ISSUED TO AN
4 INDIVIDUAL UNDER SECTION 234D OF THE CORRECTIONS CODE OF 1953, 1953
5 PA 232, MCL 791.234D, MAY BE INTRODUCED AS EVIDENCE OF A PERSON'S
6 DUE CARE IN HIRING, RETAINING, LICENSING, LEASING TO, ADMITTING TO
7 A SCHOOL OR PROGRAM, OR OTHERWISE TRANSACTING BUSINESS OR ENGAGING
8 IN ACTIVITY WITH THE INDIVIDUAL TO WHOM THE CERTIFICATE OF
9 EMPLOYABILITY WAS ISSUED, IF THE PERSON KNEW OF THE CERTIFICATE AT
10 THE TIME OF THE ALLEGED NEGLIGENCE OR OTHER FAULT.

1 (2) IN AN ACTION BASED ON TORT OR ANOTHER LEGAL THEORY SEEKING
2 DAMAGES FOR PERSONAL INJURY, PROPERTY DAMAGE, OR WRONGFUL DEATH, IF
3 A CLAIM AGAINST AN EMPLOYER REQUIRES PROOF THAT THE EMPLOYER WAS
4 NEGLIGENT IN HIRING AN INDIVIDUAL, A CERTIFICATE OF EMPLOYABILITY
5 ISSUED TO AN INDIVIDUAL UNDER SECTION 234D OF THE CORRECTIONS CODE
6 OF 1953, 1953 PA 232, MCL 791.234D, PROVIDES IMMUNITY FOR THE
7 EMPLOYER AS TO THE CLAIM, IF THE EMPLOYER KNEW OF THE CERTIFICATE
8 AT THE TIME OF THE ALLEGED NEGLIGENCE.

9 (3) IF AN INDIVIDUAL WHO HAS BEEN ISSUED A CERTIFICATE OF
10 EMPLOYABILITY UNDER SECTION 234D OF THE CORRECTIONS CODE OF 1953,
11 1953 PA 232, MCL 791.234D, IS HIRED AND SUBSEQUENTLY DEMONSTRATES
12 THAT HE OR SHE IS A DANGER TO INDIVIDUALS OR PROPERTY OR IS
13 CONVICTED OF OR PLEADS GUILTY TO A FELONY, AN EMPLOYER WHO RETAINS
14 THE INDIVIDUAL AS AN EMPLOYEE IS NOT LIABLE IN A CIVIL ACTION THAT
15 REQUIRES PROOF THAT THE EMPLOYER WAS NEGLIGENT IN RETAINING THE
16 INDIVIDUAL AS AN EMPLOYEE UNLESS A PREPONDERANCE OF THE EVIDENCE
17 ESTABLISHES THAT THE PERSON HAVING HIRING AND FIRING RESPONSIBILITY
18 FOR THE EMPLOYER HAD ACTUAL KNOWLEDGE THAT THE INDIVIDUAL WAS
19 DANGEROUS OR HAD BEEN CONVICTED OF OR PLEADED GUILTY TO THE
20 SUBSEQUENT FELONY, AND THE PERSON WAS WILLFUL IN RETAINING THE
21 INDIVIDUAL AS AN EMPLOYEE.

22 Enacting section 1. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 5216 (request no.
24 03559'13) of the 97th Legislature is enacted into law.