

HOUSE BILL 440

D3, K3

7lr0765
CF SB 55

By: **Delegates Cassilly, Anderson, Arentz, Beitzel, Carozza, Fisher, Ghrist, Hayes, Hornberger, Lierman, Lisanti, Malone, McComas, McCray, McKay, Miele, W. Miller, Morgan, Patterson, Platt, Queen, Reznik, Rosenberg, Saab, Vogt, West, and Wivell**

Introduced and read first time: January 26, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Employers of Ex–Offenders – Liability for Negligent Hiring or Inadequate**
3 **Supervision – Immunity**

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

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 5–427
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2016 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 **5–427.**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(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, INDUSTRY, PROFESSION, TRADE, OR 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;

1 **(II) IN THE SHIPPING AND RECEIVING INDUSTRY, EXCLUDING**
2 **WORK REQUIRING THE OPERATION OF A MOTOR VEHICLE ON A PUBLIC HIGHWAY OR**
3 **STREET;**

4 **(III) IN THE WAREHOUSING INDUSTRY;**

5 **(IV) ON THE CONSTRUCTION OF NEW STRUCTURES; OR**

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

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

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

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2017.