

SENATE BILL 219

D3, K3
SB 55/17 – JPR

9lr1821

By: **Senator Cassilly**

Introduced and read first time: January 24, 2019

Assigned to: Judicial Proceedings

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, under certain
5 circumstances, for negligently hiring or failing to adequately supervise an employee
6 based on evidence that the employee has received probation before judgment for an
7 offense or has been convicted of an offense; 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 2018 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.**

22 **(2) (I) “EMPLOYEE” MEANS AN INDIVIDUAL OTHER THAN AN**
23 **INDEPENDENT CONTRACTOR WHO PERFORMS SERVICES FOR COMPENSATION FOR**
24 **AN EMPLOYER UNDER AN ORAL CONTRACT FOR HIRE, WHETHER EXPRESS OR**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 IMPLIED, OR A WRITTEN CONTRACT.

2 (II) "EMPLOYEE" DOES NOT INCLUDE A PERSON WHO
3 CONTRACTS TO PERFORM WORK OR PROVIDE A SERVICE FOR THE BENEFIT OF
4 ANOTHER AND WHO IS:

5 1. PAID BY THE JOB, RATHER THAN BY THE HOUR OR
6 SOME OTHER TIME-MEASURED BASIS;

7 2. FREE TO HIRE AS MANY HELPERS AS THE PERSON
8 DESIRES AND TO DETERMINE WHAT EACH HELPER WILL BE PAID; AND

9 3. FREE TO WORK FOR OTHER CONTRACTORS, OR TO
10 SEND HELPERS TO WORK FOR OTHER CONTRACTORS, WHILE UNDER CONTRACT TO
11 THE HIRING EMPLOYER.

12 (3) (I) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS,
13 AN INDUSTRY, A PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE.

14 (II) "EMPLOYER" DOES NOT INCLUDE THE STATE, A COUNTY,
15 OR A MUNICIPALITY IN THE STATE.

16 (B) AN EMPLOYER MAY NOT BE HELD LIABLE FOR NEGLIGENTLY HIRING OR
17 FAILING TO ADEQUATELY SUPERVISE AN EMPLOYEE BASED ON EVIDENCE THAT THE
18 EMPLOYEE HAS RECEIVED PROBATION BEFORE JUDGMENT FOR AN OFFENSE OR
19 HAS BEEN CONVICTED OF AN OFFENSE IF:

20 (1) THE EMPLOYEE HAS:

21 (I) COMPLETED THE TERM OF IMPRISONMENT OR PROBATION
22 FOR THE OFFENSE; OR

23 (II) BEEN RELEASED ON PAROLE FOR THE OFFENSE; AND

24 (2) THE EMPLOYEE PERFORMS WORK FOR THE EMPLOYER:

25 (I) IN THE MANUFACTURING INDUSTRY;

26 (II) IN THE SHIPPING AND RECEIVING INDUSTRY, EXCLUDING
27 WORK REQUIRING THE OPERATION OF A MOTOR VEHICLE ON A PUBLIC HIGHWAY OR
28 STREET;

29 (III) IN THE WAREHOUSING INDUSTRY;

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

2 **(V) ON THE REHABILITATION OR DEMOLITION OF UNOCCUPIED**
3 **STRUCTURES.**

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

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2019.