## **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
- 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.

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- 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.