

Act No. 360
Public Acts of 2014
Approved by the Governor
December 16, 2014
Filed with the Secretary of State
December 16, 2014
EFFECTIVE DATE: January 1, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Reps. Walsh, Shirkey, Haveman and Robinson

ENROLLED HOUSE BILL No. 5217

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding section 2956a.

The People of the State of Michigan enact:

Sec. 2956a. (1) In an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, a certificate of employability issued to an individual under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d, may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the certificate of employability was issued, if the person knew of the certificate at the time of hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual.

(2) Except as otherwise provided in this subsection, in an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, if a claim against an employer requires proof that the employer was negligent in hiring an individual by disregarding a prior criminal conviction, a certificate of employability issued to an individual under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d, conclusively establishes that the employer did not act negligently in hiring the individual, if the employer knew of the certificate at the time of hire.

(3) If an individual who has been issued a certificate of employability under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d, is hired and subsequently demonstrates that he or she is a danger to individuals or property or is convicted of or pleads guilty to a felony, an employer who retains the individual as an employee is not liable in a civil action that requires proof that the employer was negligent in retaining the individual as an employee unless a preponderance of the evidence establishes that the person having hiring and firing responsibility for the employer had actual knowledge that the individual was dangerous or that the individual had been convicted of or pleaded guilty to the subsequent felony, and the person was willful in retaining the individual as an employee.

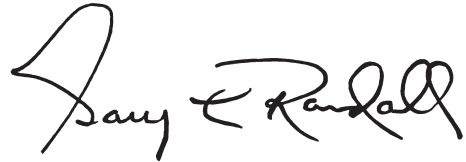
(4) This section does not relieve an employer from a duty or requirement established in another law concerning a background check or verification that an individual is qualified for a position, and does not relieve the employer of liability arising from failure to comply with any such law.

(5) This section does not create any affirmative duty or otherwise alter an employer's obligation to or regarding an employee with a certificate of employability issued under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d.

Enacting section 1. This amendatory act takes effect January 1, 2015.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5216 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor