



Minn. Stat. 181.986 **“Safe Hiring”**

Minnesota is one of 36 states that will hold employers liable for the negligent hiring of individuals with violent backgrounds. Many employers assume this liability exposure is greater than it actually is and therefore do not hire individuals who, in fact, could be hired safely.

On August 1, 2009, Minn. Stat. 181.986 will begin to clarify the liability of employers for hiring someone with a criminal record and limit liability regarding certain records. This legislation was developed by the Council on Crime and Justice in cooperation with the Minnesota Chamber of Commerce, supported by a group of organizations through the Second Chance Coalition, and authored by Senator Mee Moua and Representative Bobby Champion.

[181.986] EMPLOYMENT OF INDIVIDUAL WITH CRIMINAL HISTORY; LIMITATION ON ADMISSIBILITY OF EVIDENCE.

Subdivision 1. **Limitation on admissibility of criminal history.** Information regarding a criminal history record of an employee or former employee may not be introduced as evidence in a civil action against a private employer or its employees or agents that is based on the conduct of the employee or former employee, if:

- (1) the duties of the position of employment did not expose others to a greater degree of risk than that created by the employee or former employee interacting with the public outside of the duties of the position or that might be created by being employed in general;
- (2) before the occurrence of the act giving rise to the civil action, a court order sealed any record of the criminal case or the employee or former employee received a pardon; or
- (3) the record is of an arrest or charge that did not result in a criminal conviction.

Subd. 2. **Relation to other law.** This section does not supersede a statutory requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to actions commenced on or after that date.

Key Points

1. Many types of jobs are protected from hiring liability under paragraph (1).
2. If a position does create a risk, an employer can still be protected if the conviction does not relate to the position or other factors, such as evidence of rehabilitation, mitigate the risk.
3. Expungements and pardons protect the employer from liability.
4. Employers can not be found liable for hiring someone with a record that did not lead to conviction (arrests, dismissed charges, stays of adjudication, juvenile adjudications).

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