

**Senator Derrin R. Owens** proposes the following substitute bill:

**LIMITATIONS ON EMPLOYER LIABILITY**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin R. Owens**

House Sponsor: Kay J. Christofferson

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**LONG TITLE**

**General Description:**

This bill addresses liability of an employer.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses liability of an employer for negligently hiring an employee that has been previously convicted of an offense;
- ▶ creates a sunset date; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**63I-1-278**, as last amended by Laws of Utah 2020, Chapter 154

**ENACTS:**

**78B-4-518**, Utah Code Annotated 1953



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **63I-1-278** is amended to read:

**63I-1-278. Repeal dates, Title 78A and Title 78B.**

(1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(2) Section [78B-4-518](#), regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

~~[(2)]~~ (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

~~[(3)]~~ (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

Section 2. Section **78B-4-518** is enacted to read:

**Part 5. Particular Limitations on Liability**

**78B-4-518. Limitation on liability of employer for employee convicted of offense.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "employee" means an individual whom an employer hired for compensation to perform services.

(ii) "Employee" does not include an independent contractor as defined in Subsection [34A-2-103\(2\)\(b\)](#).

(b) "Employer" means a person, including the state and any political subdivision of the state, that employs one or more employees and is engaged in an industry or business related to:

(i) automotive repair and maintenance;

(ii) construction;

(iii) culinary arts;

(iv) manufacturing;

(v) oil, gas, or mining;

(vi) retail sale of goods or services; or

(vii) transportation of freight, merchandise, or other property by a commercial vehicle.

(2) A cause of action may not be brought against an employer for negligently hiring an employee based solely on evidence that the employee has been previously convicted in this

57 state or in another jurisdiction of an offense.

58 (3) Subsection (2) does not preclude a cause of action for negligent hiring of an  
59 employee if the employer knew, or should have known, about the employee's prior conviction  
60 and due to the employee's prior conviction:

61 (a) the employer violated state or federal law by hiring or continuing to employ the  
62 employee; or

63 (b) the employer's hiring of the employee constitutes willful misconduct or gross  
64 negligence.

65 (4) The protections provided to an employer under this section do not apply in a cause  
66 of action concerning the misuse of funds or property of a person other than the employer if:

67 (a) on the date that the employee was hired by the employer, the employee had been  
68 previously convicted of an offense that includes fraud or the misuse of funds as an element of  
69 the offense; and

70 (b) it was foreseeable that the position for which the employee was hired would  
71 involve duties in managing funds or property.

72 (5) Section [63G-7-301](#) does not waive any immunity provided under this section for an  
73 employer that is a governmental entity or an employee of a governmental entity as those terms  
74 are defined in Section [63G-7-102](#).

75 (6) This section does not:

76 (a) create a cause of action; or

77 (b) expand an existing cause of action.