

By: Solomons

H.B. No. 1201

A BILL TO BE ENTITLED

AN ACT

relating to liability of an in-home service company or residential delivery company for negligent hiring.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 145.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 145.002. CRIMINAL HISTORY BACKGROUND CHECK. Before associating with or hiring an officer, employee, or prospective employee in a position whose duties include entry into another person's residence, an [An] in-home service company or residential delivery company shall:

(1) obtain from the Department of Public Safety or a private vendor approved by the department and offering services comparable to the services offered by the department all criminal history record information relating to the [an] officer, employee, or prospective employee; or

(2) ascertain that the person holds in good standing an occupational license issued by a licensing authority in this state that has, before issuing or renewing the license, performed a criminal history background check [of the company whose job duties require or will require entry into another person's residence].

SECTION 2. Sections 145.003(a) and (b), Civil Practice and Remedies Code, are amended to read as follows:

(a) This section applies only to an action against an

1 in-home service company or residential delivery company that:

2 (1) arises out of a criminal act or omission by an  
3 officer or employee of the company as to whom the company has  
4 obtained [~~is required to obtain~~] criminal history record  
5 information under Section 145.002(1) [~~145.002~~];

6 (2) is brought by or on behalf of a person whose home  
7 the officer or employee entered while in the performance of the  
8 employee's job duties, without regard to where the criminal act or  
9 omission occurred; and

10 (3) seeks damages from the company for the negligent  
11 hiring of the officer or employee.

12 (b) In an action to which this section applies, an in-home  
13 service company or residential delivery company is rebuttably  
14 presumed to have not acted negligently if:

15 (1) at the time a person was hired, the company  
16 obtained criminal history record information regarding the officer  
17 or employee under Section 145.002(1); and

18 (2) the criminal history record information shows  
19 that, in the 20 years preceding the date the information was  
20 obtained for a felony or in the 10 years preceding the date the  
21 information was obtained for a Class A or Class B misdemeanor, the  
22 officer or employee had not been convicted of, or placed on deferred  
23 adjudication for:

24 (A) an offense in this state classified as:

25 (i) an offense against the person or the  
26 family;

27 (ii) an offense against property; or

1                   (iii) public indecency; or  
2                   (B) an offense in another jurisdiction that would  
3 be classified in a category described by Paragraph (A) if the  
4 offense had occurred in this state.

5           SECTION 3. The change in law made by this Act applies only  
6 to an action that accrues on or after the effective date of this  
7 Act. An action that accrues before the effective date of this Act  
8 is governed by the law in effect immediately before the effective  
9 date of this Act, and that law is continued in effect for that  
10 purpose.

11          SECTION 4. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2009.