

## **BILL ANALYSIS**

H.B. 1188  
By: Thompson, Senfronia  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

It has been reported that persons with a criminal record seeking employment receive less than half as many job offers as job seekers without criminal records. Many employers view an applicant for employment who has a felony on the applicant's record as a source of potential liability in negligent hiring actions and, as a result, may quickly disregard persons with felony convictions as potential employees. In response to this issue, interested parties note that employment protection policies may enhance public safety, raise employment levels, decrease recidivism, and allow job seekers with criminal records to become self-sufficient, law-abiding members of communities. In addition, employers could benefit from having more options regarding hiring, thus increasing the employer's efficiency and profitability, which contributes to the overall economic success of Texas. H.B. 1188 seeks to remedy this situation by prohibiting the bringing of a cause of action against certain employers and persons solely for negligently hiring or failing to supervise an employee, based on the employee's conviction of an offense.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1188 amends the Civil Practice and Remedies Code to prohibit a cause of action from being brought against an employer, general contractor, premises owner, or other third party solely for negligently hiring or failing to adequately supervise an employee, based on evidence that the employee has been convicted of an offense. The bill's provisions do not preclude a cause of action for negligent hiring or the failure of an employer, general contractor, premises owner, or other third party to provide adequate supervision of an employee, if the employer, general contractor, premises owner, or other third party knew or should have known of the conviction and if the employee was convicted of an offense to which judge-ordered community supervision does not apply; a sexually violent offense; or an offense that was committed while performing duties substantially similar to those reasonably expected to be performed in the employment, or under conditions substantially similar to those reasonably expected to be encountered in the employment, taking into consideration certain specified factors.

H.B. 1188 establishes that the protections provided to an employer, general contractor, premises owner, or third party under the bill's provisions do not apply in a suit concerning the misuse of funds or property of a person other than the employer, general contractor, premises owner, or third party by an employee if, on the date the employee was hired, the employee had been convicted of a crime that includes fraud or the misuse of funds or property as an element of the offense, and it was foreseeable that the position for which the employee was hired would involve discharging a fiduciary responsibility in the management of funds or property. The bill's provisions do not create a cause of action or expand an existing cause of action.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.