

# SECOND CHANCE EMPLOYMENT

Addressing Concerns About  
Negligent Hiring Liability



July 2023

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# Introduction

Some employers offer employment to people with conviction records as part of their commitment to racial and social justice. These employers understand that providing jobs to qualified workers with conviction histories can benefit society by reducing crime, poverty, and historic racial disparities. And they understand that second chance employment (also known as fair chance hiring) greatly expands their talent pool of qualified candidates.

But employers are also concerned that hiring people with records may create liability for negligent hiring. This may make them reluctant to offer jobs to qualified job candidates with histories of involvement in the criminal legal system.

While the widespread success of establishing fair chance hiring policies like “Ban-the-Box” work to reduce rejection of some applicants with arrest and conviction records based on stereotypes, it does not reduce employer reluctance to hire based on fear of liability.

Their concern is legitimate. Some employers have been found liable for negligent hiring after hiring someone with a conviction record. But such cases are far less common than many employers believe.

Employers would benefit from a better understanding of the magnitude of the risk of negligent hiring liability and the circumstances in which employers have been found liable when employing a worker with a conviction history. Studies by the Bureau of Justice Statistics indicate that very few serious crimes are committed in the workplace by any employees.

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**While employers who do not conduct criminal record\* checks sometimes incur liability, employers who conduct record checks and evaluate the results when making hiring decisions are rarely held liable.**

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*\*Note: Throughout this report, the term "criminal record" is used to specify the type of arrest and conviction records employers must be cognizant of, however the authors want to note that people-centered, non-stigmatizing language such as "arrest and conviction records" is preferable and an integral part of equitable criminal justice reform and people's successful reentry. Words have power, and studies have shown that the use of stigmatizing language can reinforce negative stereotypes and biases, so it is important to be mindful of the language used and its impact on people's wellbeing and ability to thrive. For more information on non-stigmatizing language related to the criminal legal system, view LAC's Language Guide [here](#).*

# Methodology

We examined every reported negligent hiring decision disclosed by a computer assisted search since the cause of action was first recognized in 1974 until 2022. We conducted a key word search on Lexis for all appellate cases involving “negligent hiring.”

**We found that the risk of negligent hiring liability, while real, is less than many employers believe.**

Many employers believe that negligent hiring liability is a risk every time they hire someone with a criminal record. All hires pose a level of risk with or without a known conviction history and employers may mitigate risks by conducting thorough background checks and individualized assessments as later discussed in this report.

**We also found that an increased risk of liability may exist only in a relatively small number of specific jobs with clearly defined risks.**

But not all workers will introduce the same amount of risk in certain jobs.

In the negligent hiring cases we reviewed, the jobs that were subject to increased risk for employers and a higher standard of assessment were:

1. Contact with vulnerable populations (such as children, people with disabilities, and the elderly)
2. Operation of a motor vehicle
3. Access to financial assets
4. Access to homes
5. Use of force (police/security guards)
6. Firearms
7. Alcohol

For jobs that do not involve any of these risks, negligent hiring liability is virtually non-existent. This includes the vast majority of office and factory jobs. This report is intended to give employers more information about how to mitigate risk when hiring.

# Key Findings



**1**

Employers who conduct record checks and thorough background screens that also include employment history, skills, and job-relevant competencies when making hiring decisions are rarely held liable.



**2**

Over a 48-year period, only approximately 435 trial court decisions held employers liable for negligent hiring because they employed someone with a conviction record—an average of 47 cases per year.



**3**

Almost all cases in which employers have been found liable for negligent hiring occur in a small number of jobs involving seven specific risks and the employer's vetting process of candidates very often was not comprehensive.



**4**

For the vast majority of jobs, including office and factory jobs, there is very little risk of liability from negligent hiring.



# WHAT IS NEGLIGENT HIRING?

Negligent hiring is a civil (non-criminal) cause of action in which an employer is found liable because they hired someone they knew, or should have known, was likely to harm others in the position for which they were hired.

The first requirement is that the employer knew, or should have known, the information about the employee that creates the risk of harm at the time they hired them. When an employer is held liable for negligent hiring, the reason is often because they did not conduct any background screening or review before they hired the employee involved.

The second key requirement is that the harm caused by the employee was foreseeable in light of the nature of the employee's background and the harm they caused after being hired. Courts require that there be a connection (referred to as a nexus) between the nature of the employee's prior behavior and the nature of the subsequent harm. Without such a connection, the employer is usually not liable.



# WHAT IS NEGLIGENT RETENTION?

Negligent hiring is often confused with negligent retention. In fact, they are quite different. In negligent hiring, the employer's mistake is hiring someone whose previous conduct makes them unsuitable for the job. Negligent retention involves continuing to employ someone (with or without a criminal record) when their post-hiring conduct indicates that they are a risk to fellow employees or customers.

A classic case of negligent retention is *Middlebrooks v. Hillcrest Foods, Inc.*[1] The employee was a cook in the employers' restaurant. Despite violent altercations with customers, the restaurant continued to employ him. The court held that it was foreseeable that he would do so again and found the employer liable when he engaged in a racist and threatening outburst against a group of Black customers.

The key to avoiding negligent retention liability is for employers to promptly take appropriate disciplinary action when an employee behaves in a manner that indicates they are a threat. Rejecting applicants because of conduct before they are hired has no impact on negligent retention.

[1] 236 F.3d 1241 (11th Cir. 2001)



# HOW OFTEN ARE EMPLOYERS SUED FOR NEGLIGENT HIRING?

In our survey of legal decisions reported in cases raising “negligent hiring liability,” we found 87 reported judicial decisions in which the employer was held liable for negligent hiring because they employed someone with a criminal record.[2] These decisions represent only the cases in which a trial court decision was appealed to a higher court. Only about 20% of all trial court decisions are appealed.[3] This indicates that there have been approximately 435 trial court decisions holding employers liable for negligent hiring.

The majority of civil cases, approximately 80%, are settled.[4] This indicates that another 1,740 negligent hiring cases have been settled. In total, there are approximately 2,262 cases in which employers have incurred liability from a negligent hiring claim.

These cases occurred over a period of 48 years, indicating that there are on average about 47 cases a year in which employers incurred liability for negligent hiring. This is far less often than other types of civil actions against employers. The Equal Employment Opportunity Commission (EEOC) has received approximately 100,000 complaints against employers for discrimination every year over the same time period of our review of negligent hiring cases although there was a slight decline of complaints in the past couple of years.[5]

Most attorneys we spoke to who defend corporations in employment cases report that they rarely encounter a case of negligent hiring, especially involving someone with a conviction history. Further, our study found that almost all cases in which employers have been found liable for negligent hiring occur in a small number of jobs involving seven specific risks.

[2] Employers have been found liable for negligent hiring for reasons other than prior bad conduct by the employee. The most common of these causes is that the employee was not competent for the position. These cases are not relevant to our analysis.

[3] Eisenberg, Theodore, “Appeal Rates and Outcomes in Tried and Nontried Cases: Further Explanation of Anti-Plaintiff Appellate Outcomes” (2004), Cornell Law Faculty Publications, Paper 359.

<http://scholarship.law.cornell.edu/facpub/359>

[4] Eisenberg, Theodore and Lanvers, Charlotte, “What is the Settlement Rate and Why Should We Care?” (2009) , Cornell Law Faculty Publications, Paper 203

<http://scholarship.law.cornell.edu/facpub/203>

[5] U.S. Equal Employment Opportunity Commission. Enforcement and Litigation Statistics.

<https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0>





# WHEN HAVE EMPLOYERS BEEN FOUND LIABLE FOR NEGLIGENT HIRING?

The most striking finding about negligent hiring liability is that it almost always occurs in a small number of specific jobs with obvious risks. All hiring decisions involve risk and hiring someone with a criminal record does not raise the issue of negligent hiring unless the job involves specific elevated risks. Of the 87 judicial decisions we found in which employers were held liable, 97% concerned jobs involving one of the following:

## **Access to Vulnerable Populations**

The jobs in which employers have most often been found liable for negligent hiring are those involving access to vulnerable populations, particularly children, disabled or hospitalized people, or the elderly.

A case example is *Spencer v. Health Force, Inc.* [6] The employee was a health care aid for disabled adults. The employee had numerous convictions at the time he was hired for aggravated assault, armed robbery, burglary, credit card fraud, and shoplifting. The court found that it was foreseeable that he would harm patients under his care and found the employer liable when he fatally injured one of them.

## **Access to Customer Homes**

Closely related are cases in which the job involves access to customers' homes. Courts require employers to look carefully at the records of potential employees who will have access to customers' homes. The risk of harm to a homeowner in this isolated situation is obvious.

In *Harrison v. Tallahassee Furniture*, [7] the employee delivered furniture to customers' homes. At the time he was hired, he had two prior convictions for battery, one of which involved a knife. The employer was found liable for negligent hiring when he assaulted a customer with a knife after delivering furniture to her home.

[6] 107 P.3d 504 (New Mexico 2005)

[7] 583 So.2d 744 (Florida 1993)

## Motor Vehicles

Operating a motor vehicle is the most dangerous activity most people engage in. The risk of harm when someone operates a motor vehicle improperly is both obvious and serious. We found seven cases of this type.

In *Morris v. J.T.M. Materials, Inc.*,<sup>[8]</sup> the employer hired an applicant to be a truck driver despite his having a prior driving while intoxicated (DWI) conviction and several other motor vehicle violations. While driving a company vehicle intoxicated, he caused a fatal accident and the employer was found liable.

## Use of Force

The types of cases involving “use of force” usually involve police officers, security guards, and others who are authorized to use force in the course of their employment and are trusted by virtue of their position of providing protection.

A case example is *Elliot v. Williams*.<sup>[9]</sup> The employee was a security guard at a housing complex. He had a conviction record when he was hired, but the employer failed to conduct a background check. The employee went on to sexually assault a resident.

## Access to Valuable Property

Employers may be liable for negligent hiring when an employee has access to cash or valuable property of others and uses that opportunity to steal from customers or other employees.

In *Prymark v. Contemporary Financial Solutions, Inc.*,<sup>[10]</sup> the employer was found liable because a securities trader who worked for the company had been fired by a previous securities company “for cause” and went on to defraud clients at his new firm.

## Alcohol

Because of alcohol’s volatile effect on human behavior, there have been a few cases in which courts have considered bars to be sensitive workplaces that have a high potential for violence and imposed liability for negligent hiring and/or retention.

In *Foster v. The Loft, Inc.*,<sup>[11]</sup> a bartender with a fairly recent conviction involving assault was hired, got into an argument with a customer, and assaulted him. The employer was found liable in this case.

[8] 78 S.W.3d 28 (Texas 2002)

[9] 807 N.E.2d 506 (Illinois 2004)

[10] Civil Action No. 07-cv-00103-EWN-KLM (D. Colo. 11/29/07)

[11] 526 N.E.2d 1309 (Massachusetts 1988)

## Firearms

Because of the obvious danger of firearms, courts have found that virtually any job involving firearms is sensitive.

*Griffin v. Kmart Corp.*[12] illustrates how closely courts scrutinize such cases. In this case, the Kmart employee worked behind the gun counter in the sporting goods department. He fired an air rifle on a customer's chest and the blast of air from the rifle damaged the customer's pacemaker. Kmart was found liable for negligence in hiring, training, and supervision of this employee. It was not noted that this individual had a criminal record, however, the court found the company had a duty "to exercise care in hiring and training an employee who would be working with and handling guns."

All but two of the cases we found where employers were found liable for hiring someone with a criminal record involved jobs that included one of these risks.

Where the job does not involve a high-risk activity, courts reject claims of negligent hiring even in the most serious cases. In *Coughlin v. Titus & Bean Graphics*,[13] the employee had prior convictions for violent offenses when he was hired to work in a warehouse. While working, he lured a young woman on the street into the warehouse and murdered her. Despite the nature of the crime and the employee's serious criminal record, the court found the employer was not liable because the job did not involve any contact with the public, and it could not have reasonably foreseen he posed a threat to members of the public.

## Exceptions

There is no legal doctrine which has been followed by the court 100% of the time. Judges are human and sometimes make mistakes. Our study found only two reported decisions in which the employee's job was not arguably sensitive.

In *Harrington v. Louisiana State Board of Education*,[14] the employee was director of a state culinary school. All the students were adults. The teacher frequently socialized with students in the evening by taking them to restaurants. One evening he took a student out to dinner and raped her. Initially, the court ruled in favor of the state. The court's rationale is not clear, but that decision was overturned, and the victim was awarded a sizeable award. Even this case, however, is a misapplication of the "vulnerable population" doctrine that treated adult students as if they were minors.

[12] 776 So.2d 1226 (Louisiana 2000)

[13] 54 Mass. App. Ct. 633 (2002)

[14] 714 So.2d 845 (Louisiana 1998)



# WHAT STEPS SHOULD I TAKE TO PROTECT MY COMPANY?

## **Document and Consider All Job Responsibilities for Every Position in Your Company**

Employers cannot determine whether negligent hiring is a relevant consideration based on job title alone. The critical question is whether the job entails any job duty or activity in one of the risk categories.

In *Cherry v. Kelly Services, Inc.*,<sup>[15]</sup> the employee was a mail clerk who worked for the temporary agency, Kelly Services. Driving was an incidental part of his job. He caused a crash and injuries to the plaintiff. The Georgia Court of Appeals upheld that the employer (the temp agency) was negligent in hiring this individual because it knew the job required driving, so they had a duty to exercise ordinary care by examining the employee's driving record.

In a more extreme case, the court in *Glover v. Augustine*<sup>[16]</sup> found the employer liable for hiring an elevator operator in its department store with a "lengthy criminal record," including a prior conviction for felony sexual abuse that required him to be on the sex offender registry. He assaulted a lone female elevator passenger. The opportunity to be alone with a female customer in this job may be limited but it is not imaginary. In this case, the employer had not made a judgment call to give this employee a second chance. The employer had not conducted any background check and thereby did not consider the unreasonable risk hiring the employee created.

Thus, negligent hiring is not a significant risk for employers in the vast majority of jobs. The few jobs where it is a risk are well defined and the risk is avoidable.

## **Obtain Accurate Records**

Be diligent in ensuring the criminal record information is complete and accurate. It is not wise to rely solely on self-reported information. Many individuals may not have clarity about the dispositions of their cases and also may not fully understand what they are obligated to disclose.

[15] 319 S.E.2d 463 (Georgia 1984)

[16] 38 A.D.3d 364 (New York 2007)

To be sure of having an accurate report, it is better to use a qualified consumer reporting agency (CRA). Not all CRAs are qualified. There are virtually no legally required standards background screeners must comply with as a matter of operating as a business. While some CRAs are highly professional and produce reliable reports, many others have virtually no quality control standards and may violate Fair Credit Reporting Act (FCRA) requirements.

At a minimum, employers should use only background checking companies accredited by the Professional Background Screening Association. This accreditation requires meeting minimal quality standards established by the industry's trade association. Additional steps employers can take to ensure they receive accurate conviction information can be found in Best Practice Standards: The Proper Use of Criminal Records in Hiring.

Even the best CRAs occasionally make mistakes. For this reason, the Fair Credit Reporting Act requires employers to show applicants the CRA report and give them an opportunity to point out anything that may be inaccurate before making the hiring decision.

## **Conduct Individualized Assessments**

Employers should conduct individualized assessments of job candidates to ensure they have a comprehensive view of the talents, backgrounds, experiences, skills, and credentials good candidates may present.

Federal law prohibits employers from having a blanket policy of denying employment to individuals with arrest and conviction histories. The EEOC has taken legal action against employers who refuse to consider an applicant with a criminal record including BMW and Dollar General. Both companies were required to spend over \$1 million dollars to settle the cases.[17]

Guidance from the Equal Employment Opportunity Commission requires employers to make individualized assessments about the appropriateness of hiring a particular applicant.[18] Employers must consider the following factors:

- The nature and gravity of the offense(s);
- The time that has passed since the conviction and/or completion of the sentence;
- The nature of the job held or sought; and
- Evidence of rehabilitation.

[17] EEOC.gov 9/08/15 and EEOC.gov 11/18/2019

[18] Title VII, 29 CFR Part 1601, 29 CFR Part 1606, 29 CFR Part 1607: <https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions>

Conducting individualized assessments is not just a legal requirement; it's good business practice. Because of changes in police practices, a third of American adults now have a criminal record.[19] Most people have done something in their lives for which they could have been arrested. Refusing to consider hiring anyone with a criminal record causes an employer to lose access to many people who would become productive employees. Individualized assessments allow employers to make informed decisions about whether a particular applicant would be a good hire.

We have described these factors below:

- **Nature of Job/Nature of Conviction**

The most important factor is whether there is a connection between the nature of the job and nature of the prior conviction history (called a nexus). There is always some risk that an employee will commit an act that will harm a fellow employee or customer, with or without an arrest or conviction history. Many jobs present some opportunity to commit a crime of some kind. However, the critical question is whether the job in question presents more opportunity for someone to repeat prior bad conduct than other jobs.

A classic situation of this type was presented by *Lingar v. Live-In Companions, Inc.*[20] The employee had multiple convictions, including shoplifting and receiving stolen property, prior to being hired to provide live-in care for a disabled veteran. This presented the employee with an ideal opportunity to steal from a vulnerable client and he did. The court held that the employer did not do enough to confirm the employee's background and experience prior to hiring him.

For jobs involving access to vulnerable populations or home access, any prior conviction for a violent offense or theft is generally considered to have a nexus with the duties of the job and require an employer to "exercise reasonable care in view of all the circumstances in hiring individuals who, because of the employment, may pose a threat of injury to members of the public." [21] In *Ponticas v. KMS Investments*, [22] the employee was a resident manager of an apartment complex with passkeys to every apartment. The employer only asked about the employee's arrest and conviction history on the job application and had not verified the information he disclosed. He actually had prior convictions for armed robbery and burglary and other negative history. Within a few months of being hired he raped a resident of the apartment complex he worked in and the employer was found liable.

In the case of drug-related offenses, whether these types of histories create a nexus to other types of offenses appears to depend upon the nature of the offense. We found no cases in which a conviction for simple possession led to negligent hiring liability.

[19] Brennan Center for Justice, "As Many Americans Now Have Criminal Records as College Degrees," 2015

[20] 692 A.2d 61 (New Jersey 1997)

[21] 331 N.W.2d 907, 911 (Minnesota 1983)

[22] *Id.*



- **Classification or Seriousness of Conviction History**

The seriousness of a conviction record is another factor that should be weighed. Not all crimes are equally serious. Felonies are more serious than misdemeanors, which are more serious than summary offenses. Crimes of violence are generally more serious than property crimes. A conviction for assault could mean anything from stabbing a person to shoving someone during an argument.

Employers should learn as much as possible about the conduct that led to the offense and consider the harm caused by a prior offense in assessing the risk of hiring someone with a record.

- **Time Elapsed Since the Last Conviction**

The longer a person who has committed a criminal offense goes without committing a new offense, the less risk there is that they may commit another one. Eventually, a person who has committed an offense is no more likely to commit an offense than anyone else. The length of time this takes depends upon many factors, especially the nature of the offense and the age of the person when they committed it.

There have been several empirical “desistance from crime” studies that have been done to determine critical factors surrounding the process by which individuals cease engagement in unlawful activities. The most publicized and recognized research found that risk of someone reoffending diminishes much more rapidly than many employers realize.[23] The study found that in many cases the risk is eliminated in five years, and it is eliminated in virtually all cases after ten years. More detailed information is also available through the National Institute of Justice[24] and the National Workrights Institute.

- **Evidence of Rehabilitation**

The life someone has lived since their offense says a great deal about the risk they present as a potential employee. A person who increased their skills and education, has been steadily employed, is in recovery from substance use, supports their family, and is involved with their community is less likely to commit a new offense.

There is no specific formula for applying these factors. Not every factor needs to be positive before the EEOC takes the position that the person should be hired. Not every factor needs to be negative before the employer is justified in turning the applicant down. Each case is unique, and employers need to make reasonable judgment calls.

[23] Blumstein, A., & Nakamura, K. (2009). "Redemption in the presence of widespread criminal background checks." *Criminology: An Interdisciplinary Journal*, 47(2), 327–359. <https://doi.org/10.1111/j.1745-9125.2009.00155.x>

[24] National Institute of Justice, "Desistance from Crime: Implications for Research, Policy, and Practice," Nov. 1, 2021, <https://nij.ojp.gov/topics/articles/desistance-crime-implications-research-policy-and-practice>

## **Don't Fail to Investigate**

The most common way employers become liable for negligent hiring is by not conducting a background check. Where jobs with heightened risk are concerned, courts expect employers to evaluate applicants' backgrounds before hiring them.

In many of the cases in which employers were held liable, their mistake was their failure to conduct a background check, not the decision they ultimately made. While some of the judicial decisions do not contain a great deal of detail about the depth of employers' investigations, our study did not find any cases in which an employer that conducted a professional background investigation, performed an individualized assessment, and made a judgment call to hire someone with a conviction record, was found liable for negligent hiring.

Moreover, failing to investigate pertinent details included in a criminal record report could expose an employer to other state or local law violations.

## **Get Help**

The more employers know about the risks involved in employing people with records, the more they will be able to hire people who will be assets without serious risk of liability. Many of the factors, such as how long it takes before someone with a specific conviction record is no longer a risk, are difficult for employers to assess and interpret.

One of the most challenging situations for employers is evaluating whether someone with a serious conviction record is rehabilitated. Many communities have workforce intermediary organizations that help formerly incarcerated people prepare for and secure appropriate employment and be successful on the job. They may offer life skills and case management services and be willing to support employers that hire these workers. Through years of hands-on experience these organizations have developed an unequalled ability to determine whether these individuals are ready to become valuable employees and offer referrals and support employers in maintaining an efficient workforce at no cost.

Some of these workforce intermediary organizations may be identified in the Legal Action Center National H.I.R.E. Network's national clearinghouse.

Additional help on the challenging process of evaluating candidates with criminal records is available in the [Best Practices Report](#).



# 5 Steps to Protect Your Company from Negligent Hiring

## 1 Document & Consider All Job Responsibilities for Every Position in Your Company

Employers who conduct record checks and thorough background screens that also include employment history, skills, and job-relevant competencies when making hiring decisions are rarely held liable.



## 2 Obtain Accurate Records

Be diligent in ensuring the criminal record information is complete and accurate. It is not wise to rely solely on self-reported information. But, allow candidates to review negative information and dispute inaccuracies.

## 3 Conduct Individualized Assessments

Employers should conduct individualized assessments of job candidates to ensure they have a comprehensive view of talents, backgrounds, experiences, skills, and credentials good candidates may present.



## 4 Don't Fail to Investigate

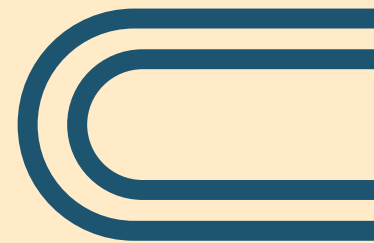
The most common way employers become liable for negligent hiring is by not conducting a background check. Where jobs with heightened risk are concerned, courts expect employers to evaluate applicants' backgrounds before hiring.

## 5 Get Help

The more employers know about evaluating occupational risks concerning all job duties in their company, the more they will be able to hire people that may have a record but will be assets without serious risk of liability.



# Conclusion



We know that employers want to hire the most qualified candidates, keep their employees and customers safe, prevent unlawful behavior in their business, and preserve the company's reputation and brand image. Although negligent hiring is a genuine concern, employers can offer fair chance employment opportunities without serious or increased risk of liability.

The number of negligent hiring cases is much smaller than is commonly believed. The majority of employers have never been sued for negligent hiring. The vast majority (over 90%) of cases where employers have been found liable occur in a small number of specific jobs with obvious risks. In all other jobs, there is no significant risk of negligent hiring liability from hiring someone with a record.

In the few jobs where negligent hiring is a risk, employers can generally give applicants with records a fair chance by conducting an individualized assessment that considers whether the prior offense is related to the job in question, how much time has passed since the offense, and evidence of rehabilitation.

Hiring someone with a conviction record for one of these sensitive jobs does not necessarily mean that the employer will be held liable if the person later harms someone. It means that there is some potential risk of liability.

For an employer to be held liable, there must also be connection between the nature of the prior conduct and the nature of the job (called a "nexus"). The job must present an opportunity to repeat the type of behavior involved in the conviction that is greater than other jobs. While a DWI conviction has a nexus with a job operating a motor vehicle, a prior conviction for theft would not. A conviction for a crime of violence has a nexus with jobs involving access to a vulnerable population; a theft conviction generally would not.

State legislatures have enacted laws to attempt to protect employers from negligent hiring liability where they have made a good faith decision to give someone with a criminal record a second chance. They have done so through legislation that provides evidentiary limitations, restoration of rights processes, and/or presumption against liability. While the additional protection provided by the statutes is modest, they show that the law in this area is moving in the direction of protecting responsible employers. (See Appendix A.)

# Appendix A

State	Year Enacted	Citations
Arizona	2018/2021	Ariz. Rev. Stat. §§§ 13-905, 12-558.03(A), 12-558.03(B)
California	2017	Cal. Penal § 4852.13
Colorado	2018	Colo. Rev. Stat. § 8-2-201
Connecticut	2020	Conn. Gen. Stat. §§ 54-130e(b), 52-180b
Washington, DC	2013	D.C. Code § 24-1351
Florida	2012	Fla. Stat. § 768.096
Georgia	2014	Ga. Code Ann. § 51-1-54(b)
Illinois	2009	730 Ill. Comp. Stat. § 5/5-5.5-25(c)
Indiana	2017	Ind. Code §§ 22-2-17-4, 35-38-9-10
Iowa	2019	Ia. Code § 671A.1
Kansas	1996	Kans. Stat. § 22-4710(f)
Louisiana	2016	La. Rev. Stat. §§ 23:291(D)(1), 37:2950(A)(1)
Massachusetts	2018	Mass. Gen. L. ch. 127, § 152; ch. 6, § 172(e), ch. 276, § 100A
Michigan	2015	Mich. Comp. Laws § 600.2956a
Minnesota	2013	Minn. Stat. § 181.981
New Mexico	2021	NMSA 1978 §§ 31-29-1 through 31-29-16
New York	2017	N.Y. Corr. Law §§ 701, 703-a; N.Y. Exec. Law § 296(15)
North Carolina	2018	G.S. 15A-173.5
Ohio	2012	Ohio Rev. Code Ann. §§ 2953.25(G), 2961.22-.23
Tennessee	2014	Tenn. Code Ann. §§ 40-29-107(n), 40-29-108
Texas	2013	Tex. Civ. Prac. & Rem. Code §142.002
Utah	2022	Utah Code § 78B-4-518(2)
Vermont	2022	13 V.S.A. § 7602
Washington	2016	Rev. Code Wash. §9.97.020(3)