

## Michigan Protects Employers from Negligent Hiring and Retention Claims

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On January 1, a new Michigan law took effect to protect companies that hire ex-offenders who go on to cause damage or injury during the course of their employment. [Louisiana](#), [Georgia](#), [Tennessee](#), and [Texas](#) recently passed similar laws.



The Michigan law specifically provides that, in an action seeking damages for personal injury, property damage, or wrongful death, a “certificate of employability” may be introduced as evidence of an employer’s due care in hiring or retaining an ex-offender (so long as the employer knew of the certificate at the time of the decision). And, where the claim requires proof that the employer was negligent in hiring by disregarding a prior criminal conviction, a certificate of employability conclusively establishes that the employer was not negligent (so long as the employer knew of the certificate at the time of hire).

Note that, if an employer hires an ex-offender with a certificate of employability and that employee subsequently demonstrates he or she is (i) a danger to individuals or property or (ii) convicted of or pleads guilty to a felony, the employer is not liable in a civil action for retaining the employee, unless a “preponderance of the evidence” establishes that the employer had actual knowledge of the danger or conviction/plea, and was “willful” in retaining the employee.

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