

1 **DRAFT The Provisional Licenses for Ex-Offenders Act**

2
3 **Summary**

4
5 This bill allows certain ex-offenders to obtain a provisional, or probationary,
6 occupational license if they are otherwise qualified. Research indicates that a person who
7 has been law abiding for at least five years is at a low risk of re-offending. Also,
8 according to the Federal Bureau of Prisons, ex-offenders who are employed are three to
9 five times less likely to re-offend.

10
11 **Model Legislation**

12
13 **Section 1. {Provisional License}**

14
15 (A) Notwithstanding any other law and unless the applicant has been convicted of an
16 offense described by Section 2, a licensing authority shall issue to an otherwise qualified
17 applicant who has been convicted of a nonviolent offense not less than two years ago or a
18 violent offense not less than four years ago:

- 19
20 (1) The license for which the applicant applied; or
21
22 (2) A provisional license.

23
24 (B) The provisional license shall be valid for a term of between 90 and 360 days, as
25 specified by agency rule.

26
27 (C) The licensing authority may revoke a provisional license if the provisional license
28 holder:

- 29
30 (1) Commits a new offense;
31
32 (2) Commits an act or omission that causes the person's community supervision,
33 mandatory supervision, or parole to be revoked, if applicable; or
34
35 (3) Violates the law or rules governing the practice of the occupation for which
36 the provisional license is issued.

37
38 (D) The licensing authority shall issue the license for which the applicant originally
39 applied to a provisional license holder on the expiration of the provisional license term if
40 the provisional license holder does not engage in conduct described by Subsection (C) of
41 this Section.

42
43 (E) If the licensing authority revokes a provisional license under Subsection (C) of this
44 Section, the provisional license holder is not entitled to receive another provisional
45 license or a regular license for which the applicant originally applied, even if otherwise

46 qualified. The ability of such a person to subsequently obtain another such license in the
47 future is within the discretion of the issuing agency.

48
49 (F) An applicant who is on community supervision and who is issued a provisional
50 license under this section shall provide to the licensing authority the name and contact
51 information of the probation or parole department to which the person reports. The
52 licensing authority shall notify the probation or parole department that a provisional
53 license has been issued. The probation or parole department shall notify the licensing
54 authority if the person's community supervision is revoked during the term of the
55 provisional license. The court shall also notify the agency if the person is charged with a
56 new offense.

57
58 (H) If the person was convicted of an offense that involved robbery, residential burglary,
59 or a home invasion of any kind within the last ten years and if the occupation is one in
60 which a licensee regularly enters private residences, the provisional license must include
61 a condition that the person only work under the accompanying supervision of another
62 licensed individual who has no criminal record in all home visits and the supervising
63 individual must sign a verifying affidavit. If the offense occurred more than ten years
64 ago, the condition is discretionary with the agency. The regular license may include this
65 condition as long as the agency determines it is warranted. The agency may conduct
66 reasonable enforcement activities to ensure this supervision condition is complied with
67 over the course of the license term.

68
69 (I) Nothing herein shall be implicitly interpreted to preclude an agency from exercising
70 its existing discretion to issue a license to individuals not covered under this statute,
71 except where precluded by another law.

72
73 **Section 2. {Exemptions}**

74
75 (A) This Act does not apply to a person convicted of homicide, an aggravated violent
76 felony offense, a felony sex offense, or kidnapping.

77
78 (B) This Act does not apply to a person convicted of an offense involving fraud if the
79 licensed occupation is one in which the licensee owes a fiduciary duty to a client.

80
81 (C) This Act does not apply to any occupation where the licensee would be supervising
82 children or individuals who lack mental capacity without another licensee in the same
83 room at all times.

84
85 (D) This Act does not apply to any initial or renewal license application where the
86 applicant was convicted of committing an offense in the course of performing the duties
87 of the occupation or a substantially similar occupation.

88
89 (E) If the licensing agency believes another exemption not provided herein is necessary
90 in a specific case to protect the public from a clear and imminent danger, the agency may

91 seek declaratory relief in district court through a judicial order finding that the applicant
92 should not be issued a regular or provisional license because it would pose such a danger.

93

94 **Section 3. {Severability clause}**

95

96 **Section 4. {Repealer clause}**

97

98 **Section 5. {Effective date}**

99



COMMON CAUSE
Holding Power Accountable