

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

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3                   **Summary**

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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.

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11                  **Model Legislation**

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

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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:

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

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

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

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30                    (1) Commits a new offense;  
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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  
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35                    (3) Violates the law or rules governing the practice of the occupation for which  
36                    the provisional license is issued.

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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.

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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.

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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.

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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.

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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.

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73 **Section 2. {Exemptions}**

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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.

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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.

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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.

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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.

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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.

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

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

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

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