House Business and Utilities Subcommittee Am. #1

**Amendment No.**_____

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**Signature of Sponsor**

**AMEND Senate Bill No. 2465 House Bill No. 2248***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Fresh Start Act."

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 76, Part 1, is amended by adding the following as a new, appropriately designed section:

(a) As used in this section, "licensing authority" means any state department, board, commission, or agency that issues any license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state, including to those licensing authorities that have statutory authority to deny, suspend, or revoke a license for felonies or misdemeanors of moral turpitude.

(b)

(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.

(2) Prior to denying an application for a license, certificate, or registration on the basis of a criminal conviction, or prior to the refusal to renew a license, certificate, or registration, on the basis of a criminal conviction, the licensing authority shall notify the applicant, licensee, certificate holder, or registrant of the licensing authority's determination in writing via certified mail, facsimile transmission, or email. The written notification shall include the licensing

authority's justification for denial or refusal to renew in accordance to subdivision (b)(4)(A). The determination must state the earliest date upon which the applicant is eligible to reapply for the license, certificate, or registration.

(3) Prior to submitting the application necessary to obtain a license, certificate, or registration, an individual may request written notice from the licensing authority from which they seek to obtain a license, certification, or registration concerning the individual's qualification to obtain the license, certification, or registration based on the individual's criminal history. If the licensing authority determines that an individual is disqualified due to the individual's criminal history, the licensing authority must provide the individual with a written notification that sets forth the reasons for its determination and its justification in accordance with subdivision (b)(4)(A). The written notice as to the individual's qualifications to obtain a license, certification, or registration must be limited to the individual's criminal history and should not be construed as prohibiting the licensing authority from denying an application on other grounds. This determination shall apply exclusively to the individual and shall not be construed as an advisory or formal opinion of the licensing authority.

(4)

(A) In considering whether to deny an application for a license, certificate, or registration to an applicant, or whether to refuse to renew a license, certificate, or registration, on the basis of a criminal conviction, the licensing authority must consider:

(i) The nature and seriousness of the crime for which the individual was convicted;

(ii) The length of time since the commission of the crime;

(iii) The relationship between the nature of the crime and the purposes of regulating the occupation, profession, business, or trade for which the license, certificate, or registration is sought;

(iv) The relationship between the crime and the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation, profession, business, or trade;

(v) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade; and

(vi) Any applicable federal laws regarding an individual's participation in the occupation, profession, business, or trade.

(B) If an applicant, licensee, certificate holder, or registrant's prior conviction was for a Class A felony, Class B felony, or Class C felony not defined under title 39, chapter 17, part 4, or if the felony conviction is for an offense for which the offender is required to register under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1; the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or title 40, chapter 39, part 3, there shall be a rebuttable presumption that the conviction relates to the fitness of the applicant, licensee, certificate holder, or registrant engaged in the applicable occupation, profession, business, or trade.

(c) An individual, applicant, licensee, certificate holder, or registrant who receives written notice pursuant to subdivision (b)(2) or (b)(3) may file a petition within thirty (30) business days of the receipt of the notice in Davidson County chancery court. The licensing authority must demonstrate by a preponderance of the evidence that the

individual, applicant, licensee, certificate holder, or registrant's conviction is related to the applicable occupation, profession, business, or trade.

(d) Nothing in this section shall be construed to prohibit a licensing authority created by this title from issuing a restricted or conditional license, if otherwise authorized to do so under law.

(e) Nothing in this section shall be construed to create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Nothing in this section applies to:

(1) The board of law examiners, created under § 23-1-101;

(2) The board of judicial conduct, created under § 17-5-201;

(3) The licensure of services and facilities operated pursuant to title 33, chapter 2, part 4, for the provision of mental health services, alcohol, and drug abuse prevention or treatment; for the provision of services for intellectual and developmental disabilities; and for personal support services;

(4) The certification of police officers under title 38, chapter 8;

(5) Any licensing authority created under titles 41, 48, 49, 56, and 71;

(6) The department of financial institutions, when acting as a licensing authority pursuant to title 45;

(7) Any license, certificate, or registration issued pursuant to the rules of the supreme court; and

(8) The licensure of pain management clinics licensed pursuant to title 63, chapter 1, part 3.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "licensing authority" means any state department, board, commission, or agency that issues any license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state, including to those licensing authorities that have statutory authority to deny, suspend, or revoke a license for felonies or misdemeanors of moral turpitude.

(b)

(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.

(2) Prior to denying an application for a license, certificate, or registration on the basis of a criminal conviction, or prior to the refusal to renew a license, certificate, or registration on the basis of a criminal conviction, the licensing authority shall notify the applicant, licensee, certificate holder, or registrant of the licensing authority's determination in writing via certified mail, facsimile transmission, or email. The written notification shall include the licensing authority's justification for denial or refusal to renew in accordance to subdivision (b)(4)(A). The determination must state the earliest date upon which the applicant is eligible to reapply for the license, certificate, or registration.

(3) Prior to submitting the application necessary to obtain a license, certification, or registration an individual may request written notice from the licensing authority from which they seek to obtain a license, certification, or registration concerning the individual's qualification to obtain the license, certificate, or registration, based on the individual's criminal history. If the licensing authority determines that an individual is disqualified due to the individual's criminal history, the licensing authority must provide the individual

with a written notification that sets forth the reasons for its determination and its justification in accordance with subdivision (b)(4)(A). The written notice as to the individual's qualifications to obtain a license, certificate, or registration must be limited to the individual's criminal history and should not be construed as prohibiting the licensing authority from denying an application on other grounds. This determination shall apply exclusively to the individual and shall not be construed as an advisory or formal opinion of the licensing authority.

(4)

(A) In considering whether to deny an application for a license, certificate, or registration to an applicant, or whether to refuse to renew a license, certificate, or registration, on the basis of a criminal conviction, the licensing authority must consider:

(i) The nature and seriousness of the crime for which the individual was convicted;

(ii) The length of time since the commission of the crime;

(iii) The relationship between the nature of the crime and the purposes of regulating the occupation, profession, business, or trade for which the license, certificate, or registration is sought;

(iv) The relationship between the crime and the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation, profession, business, or trade;

(v) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade; and

(vi) Any applicable federal laws regarding an individual's participation in the occupation, profession, business, or trade.

(B) If an applicant, licensee, certificate holder, or registrant's prior conviction was for a Class A felony, Class B felony, or Class C felony not defined under title 39, chapter 17, part 4, or if the felony conviction is for an offense for which the offender is required to register under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1; the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or title 40, chapter 39, part 3, there shall be a rebuttable presumption that the conviction relates to the fitness of the applicant, licensee, certificate holder, or registrant engaged in the applicable occupation, profession, business, or trade.

(c) An individual, applicant, licensee, certificate holder, or registrant who receives written notice pursuant to subdivision (b)(2) or (b)(3) may file a petition within thirty (30) business days of the receipt of the notice in Davidson County chancery court. The licensing authority must demonstrate by a preponderance of the evidence that the individual, applicant, licensee, certificate holder, or registrant's conviction is related to the applicable occupation, profession, business, or trade.

(d) Nothing in this section shall be construed to prohibit a licensing authority created by this title from issuing a restricted or conditional license, if otherwise authorized to do so under law.

(e) Nothing in this section shall be construed to create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

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(3) The licensure of services and facilities operated pursuant to title 33, chapter 2, part 4, for the provision of mental health services, alcohol, and drug abuse prevention or treatment; for the provision of services for intellectual and developmental disabilities; and for personal support services;

(4) The certification of police officers under title 38, chapter 8;

(5) Any licensing authority created under titles 41, 48, 49, 56, and 71;

(6) The department of financial institutions, when acting as a licensing authority pursuant to title 45;

(7) Any license, certificate, or registration issued pursuant to the rules of the supreme court; and

(8) The licensure of pain management clinics licensed pursuant to title 63, chapter 1, part 3.

SECTION 4. This act shall take effect July 1, 2018, the public welfare requiring it.