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For Some Tennessee Inmates, Parole is Now a (Presumptive) Right: A Summary of The Reentry Success Act of 2021¹

I. Introduction

In May of 2021, Tennessee Governor Bill Lee signed the Reentry Success Act of 2021² (“the RSA”) into law. The RSA overhauls Tennessee’s parole laws, and it is designed to reform several components of the parole hearing process, parole determinations, and parole eligibility. The RSA also tailors Tennessee’s reentry initiatives with the goal of reducing recidivism.

Most of the provisions of the RSA take effect on July 1, 2021.³ And although media coverage of the RSA has largely focused on the effects of the law post-release,⁴ for those who are currently incarcerated and eligible, the RSA’s most important function is that it creates a new, rebuttable presumption that parole will be granted at an inmate’s release eligibility date—and at every parole hearing thereafter—so long as certain criteria are met.

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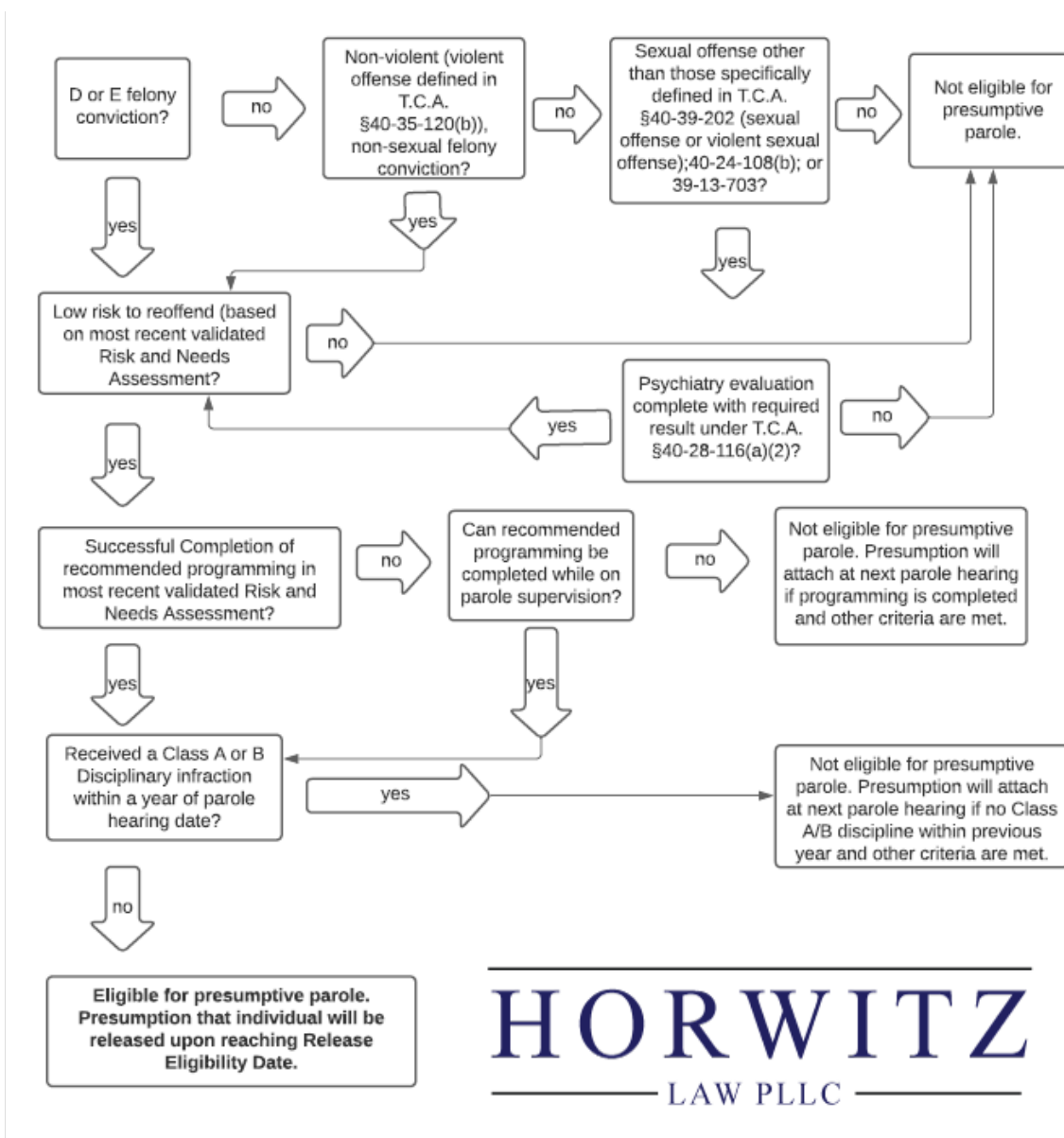
² Tennessee General Assembly, HB 0785, *Bill Summary*, <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HBo785> (last visited June 28, 2021).

³ *Id.*

⁴ Temple Ricke, *Tennessee Gov. Bill Lee signs criminal justice reform bills*, FOX17.COM, <https://fox17.com/news/local/tennessee-gov-bill-lee-to-sign-criminal-justice-reform-bills-alternatives-to-incarceration-act-re-entry-success-act> (May 24, 2021); Marshall Benson, *TN Sentate passes bills that helps convicts re-enter society*, WSMV.COM, https://www.wsmv.com/news/tn-senate-passes-bills-that-help-convicts-re-enter-society/article_1097105a-a85d-11eb-ac6e-fbfecb8a4c61.html (Apr. 28, 2021).

II. Tenn. Code Ann. § 40-35-503 and Presumptive Parole

The following flow chart provides a guide to the criteria that determine eligibility for presumptive release on parole under the RSA:



Parole eligibility is determined by reference to Tennessee Code Annotated § 40-35-503.⁵ The Reentry Success Act of 2021 does not eliminate any of § 40-35-503's criteria

⁵ See generally *McClain v. Tennessee Bd. of Parole*, No. M2018-00205-COA-R3-CV, 2018 WL 6528693, at *4 (Tenn. Ct. App. Dec. 11, 2018). See also T.C.A. §40-35-503.

permitting parole denials.⁶ This means that § 40-35-503(b), which sets forth the factors that may be used as a basis for denying an eligible inmate parole, remains intact.⁷

§ 40-35-503(b) sets forth four general, familiar criteria that may be used as a basis to deny parole:

- (1) There is a substantial risk that the defendant will not conform to the conditions of the release program;
- (2) The release from custody at the time would depreciate the seriousness of the crime of which the defendant stands convicted or promote disrespect for the law;
- (3) The release from custody at the time would have a substantially adverse effect on institutional discipline; or
- (4) The defendant's continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance the defendant's capacity to lead a law-abiding life when given release status at a later time.⁸

These considerations—and Tenn. Code Ann. § 40-35-503(b)'s provision that “Release on parole is a privilege and not a right, and no inmate convicted shall be granted parole” if the Board finds that any of these four factors is present—remain the law for “non-eligible” inmates. Under the RSA, however, with some limited exceptions,⁹ a new class of “eligible inmates” is presumptively entitled to release on parole as a matter of right absent good cause shown.¹⁰

Specifically, the RSA permits eligible inmates to circumvent the strictures of subsection (b) by meeting predetermined criteria “notwithstanding” Tenn. Code Ann. §

⁶ See generally TN LEGIS 410 (2021), 2021 Tennessee Laws Pub. Ch. 410 (H.B. 785).

⁷ See *id.* at §12. See also T.C.A. §40-35-503(b).

⁸ T.C.A. §40-35-503(b)(1-4).

⁹ See *infra*, pp. 5-6.

¹⁰ See generally Pub. Ch. 410 at §12.

40-35-503(b).¹¹ In particular, the RSA amends existing law to afford eligible inmates a presumption of release on parole upon reaching their release eligibility date unless good cause is shown by the Board of Parole to deny release.¹² Further, the presumption of releases attaches at every subsequent parole hearing even if parole is denied at the inmate's first eligibility date.¹³

"[G]ood cause shown" is not defined by the RSA, though future regulation will likely clarify the standard. However, the RSA defines "eligible inmate" with specificity. Specifically, a potential parolee must be serving time for a Class D or E felony, or a felony offense that is not a violent felony enumerated in Tenn. Code Ann. § 40-35-120(b).¹⁴ Most sexual offenses also preclude a person from presumptive parole under the RSA.¹⁵ Further,

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* See also T.C.A. § 40-35-120(b)(1) ("For purposes of subdivisions (a)(1) and (a)(2), the following offenses are classified as violent offenses:

- (A) First degree murder, including any attempt, solicitation or facilitation to commit first degree murder;
- (B) Second degree murder and any attempt or facilitation to commit second degree murder;
- (C) Especially aggravated kidnapping and any attempt or facilitation to commit especially aggravated kidnapping;
- (D) Especially aggravated robbery and any attempt or facilitation to commit especially aggravated robbery;
- (E) Aggravated rape and any attempt or facilitation to commit aggravated rape;
- (F) Rape of a child and any attempt or facilitation to commit rape of a child;
- (G) Aggravated arson and any attempt or facilitation to commit aggravated arson;
- (H) Aggravated kidnapping;
- (I) Aggravated robbery;
- (J) Rape;
- (K) Aggravated sexual battery;
- (L) Especially aggravated burglary;
- (M) Aggravated child abuse;
- (N) Aggravated sexual exploitation of minor; and
- (O) Especially aggravated sexual exploitation of a minor.")

¹⁵ Sexual offenses include those enumerated in T.C.A. § 40-39-202(20):

(20) "Sexual offense" means:

(A) The commission of any act that, on or after November 1, 1989, constitutes the criminal offense of:

the potential parolee must be deemed a “low risk to reoffend or most appropriately supervised in the community” under his or her most recent, validated risk and needs

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- (i) Sexual battery, under § 39-13-505;
 - (ii) Statutory rape, under § 39-13-506, if the defendant has one (1) or more prior convictions for mitigated statutory rape under § 39-13-506(a), statutory rape under § 39-13-506(b) or aggravated statutory rape under § 39-13-506(c), or if the judge orders the person to register as a sexual offender pursuant to § 39-13-506(d);
 - (iii) Aggravated prostitution, under § 39-13-516, provided the offense occurred prior to July 1, 2010;
 - (iv) Sexual exploitation of a minor, under § 39-17-1003;
 - (v) False imprisonment where the victim is a minor, under § 39-13-302, except when committed by a parent of the minor;
 - (vi) Kidnapping, where the victim is a minor, under § 39-13-303, except when committed by a parent of the minor;
 - (vii) Indecent exposure, under § 39-13-511, upon a third or subsequent conviction;
 - (viii) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class D felony, Class E felony or a misdemeanor;
 - (ix) Spousal sexual battery, for those committing the offense prior to June 18, 2005, under former § 39-13-507 [repealed];
 - (x) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xi) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xii) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xiii) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xiv) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xv) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (20)(A);
 - (xvi) Aggravated statutory rape, under § 39-13-506(c);
 - (xvii) Soliciting sexual exploitation of a minor--exploitation of a minor by electronic means, under § 39-13-529;
 - (xviii) Promotion of prostitution, under § 39-13-515;
 - (xix) Patronizing prostitution where the victim is a minor, under § 39-13-514;
 - (xx) Observation without consent, under § 39-13-607, upon a third or subsequent conviction;
 - (xxi) Observation without consent, under § 39-13-607 when the offense is classified as a Class E felony;
 - (xxii) Unlawful photographing under § 39-13-605 when the offense is classified as a Class E or Class D felony;
 - (xxiii) Sexual contact with inmates, under § 39-16-408;
 - (xxiv) Unlawful photographing, under § 39-13-605, when convicted as a misdemeanor if the judge orders the person to register as a sexual offender pursuant to § 39-13-605; or
 - (xxv) Aggravated unlawful photography, under § 39-13-611

Sexual offenses also include offenses enumerated in T.C.A. §§ 40-24-108(b) and 39-13-703.

assessment performed pursuant to Tenn. Code Ann. § 41-1-126.¹⁶ The potential parolee must additionally have completed all recommendations from his or her most recent Tenn. Code Ann. § 41-1-126 assessment or be able to complete the recommendations while on parole.¹⁷ Beyond these requirements, any Class A or Class B disciplinary infraction within a year of the potential parolee's parole hearing date precludes the person from presumptive release on parole under the RSA.¹⁸ Finally, a person convicted of a non-prohibited sexual offense must have completed the steps of a psychological evaluation laid out in Tenn. Code Ann. § 40-35-503(c) with the statutorily required result.¹⁹

If all these conditions are satisfied, the potential parolee is presumptively entitled to release on parole, and, thus, may circumvent T.C.A. §40-35-503(b)'s frequently fatal factors, any one of which may be used as a basis for denying parole.²⁰ With respect to inmates who are presumptively entitled to release on parole, the Board is empowered to deny parole only for "good cause shown."

¹⁶ See Pub. Ch. 410 at §12. See also T.C.A. § 41-1-126:

(a) As used in this section, 'validated risk and needs assessment' means a determination of a person's risk to reoffend and the needs that, when addressed, reduce the risk to reoffend through the use of an actuarial assessment tool that assesses the dynamic and static factors that drive criminal behavior.

(b) The department of correction and community corrections agencies shall perform a validated risk and needs assessment on each felony offender under its supervision or custody upon receipt of the person and at least annually throughout the period of supervision or custody.

(c) The validated risk and needs assessment shall be used by the department, community corrections agencies, the board of parole, and the courts in making decisions and recommendations on programming and treatment options and post-prison supervision conditions for those who have been incarcerated.

(d) Portions of the validated risk and needs assessment shall be shared with community providers upon release, as deemed appropriate by the department, while respecting the privacy rights of the offender."

¹⁷ See Pub. Ch. 410 at §12.

¹⁸ *Id.*

¹⁹ See *id.*; T.C.A. §40-35-503(c); §40-28-116(a)(2).

²⁰ See Pub. Ch. 410 at §12.

At least in theory, the significance of this reform cannot be overstated. For all inmates, Tennessee’s parole statute has long provided that “[p]arole is a privilege, not a right.” *Brennan v. Bd. of Parole*, 512 S.W.3d 871, 873 (Tenn. 2017) (citing Tenn. Code Ann. §§ 40-28-117(a)(1), 40-35-503(b)). The RSA powerfully reverses this presumption for inmates who are eligible.²¹ Simply put: the RSA makes parole a presumptive right for any inmate who meets the above criteria at his or her release eligibility date and at any subsequent parole hearing thereafter.²²

III. Additional Reforms to Parole Considerations

Beyond creating a presumption of release on parole for eligible inmates, the RSA reforms Tenn. Code Ann. § 40-35-503(b) in other meaningful ways. Specifically, it amends subsection (b)(2) to forbid the board from denying parole if the sole basis for the denial is to avoid depreciating the seriousness of the crime or promote disrespect for the law.²³ This is a critical development, because such considerations can nearly always be used to justify denying parole. Importantly, though, certain specified offenses do not qualify under this subsection.²⁴

²¹ *Id.*

²² *Id.*

²³ *Id.* at §13.

²⁴ Pub. Ch. 410 at §13. (“except that the board's finding shall not be the sole basis for denying parole unless the individual is serving a sentence for any of the following offenses, in which case the board may deny parole for seriousness of the offense:

- (i) First degree murder or an attempt to commit, solicitation of, or facilitation of first degree murder;
- (ii) Second degree murder or an attempt to commit or facilitation of second degree murder;
- (iii) Voluntary manslaughter;
- (iv) Aggravated vehicular homicide;
- (v) Vehicular homicide;
- (vi) Especially aggravated kidnapping or an attempt to commit or facilitation of especially aggravated kidnapping;
- (vii) Trafficking for a commercial sex act;
- (viii) A human trafficking offense;
- (ix) Advertising commercial sexual abuse of a minor;

Another provision of the RSA clarifies that the Board cannot require that a condition or limitation be completed by an inmate prior to release on parole unless that condition or limitation is specifically recommended by the Department of Correction.²⁵ Practically, this means that in order to require an inmate to complete any conditions of parole in custody, the Department of Correction must specifically recommend that the condition be completed in custody,²⁶ and the Board of Parole cannot impose the condition without the recommendation.²⁷ This, too, is an important shift in the Board's independent authority, and in theory, it reduces the Board of Parole's authority to deny parole to eligible inmates.

Also helpful to those seeking parole, the RSA reduces the amount of time permitted between parole hearings from ten years to six years for all inmates except those serving a sentence for multiple first-degree murder or facilitation of first-degree murder convictions.²⁸ The RSA also adds a new section to Tenn. Code Ann. § 40-28-503 that permits victims and victim representatives to be heard via a recorded video victim impact

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- (x) Especially aggravated robbery or an attempt to commit or facilitation of especially aggravated robbery;
 - (xi) Aggravated rape of a child or an attempt to commit or facilitation of aggravated rape of a child;
 - (xii) Aggravated rape or an attempt to commit or facilitation of aggravated rape;
 - (xiii) Rape of a child or an attempt to commit or facilitation of rape of a child;
 - (xiv) Rape;
 - (xv) Aggravated sexual battery;
 - (xvi) Especially aggravated burglary;
 - (xvii) Aggravated child abuse;
 - (xviii) Aggravated sexual exploitation of a minor;
 - (xix) Especially aggravated sexual exploitation of a minor;
 - (xx) Aggravated vehicular assault;
 - (xxi) Aggravated abuse of an elderly or vulnerable adult, or
 - (xxii) Vehicular assault;”).

²⁵ *Id.* at §10.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at §9.

statement, rather than providing an in-person statement at parole hearings.²⁹ Although the victim or victim representative will be given notice of subsequent parole hearings and will have the option of submitting a new statement, they can also opt to use the video statement at any subsequent hearing by requesting that the video be resubmitted at any future parole hearings. If such a request is made, the video statement will be submitted at every subsequent hearing until the victim indicates otherwise.³⁰

Finally, the Board can no longer use an inmate's programming history against him or her as a basis for denying parole. The previous version of Tenn. Code Ann. § 40-35-503(g) afforded the Board "the right to deny parole to an inmate who has made no attempt to improve [educational, vocational, or employment] skills while incarcerated."³¹ The RSA deletes this sentence entirely.³² This means that, although improving these types of skills can help a potential parolee be granted parole, failing to do so can no longer be used as a justification for denying parole. This reform will be particularly helpful for inmates who could not participate in programming because of long waitlists, due to their custody level and housing assignment, and similar obstacles.

These additional reforms should result in more inmates being granted release on parole. Coupled with a presumption of release on parole for many inmates, the RSA also curtails the Board's authority to deny parole by placing meaningful restrictions on when it can do so.

²⁹ *Id.* at §3.

³⁰ *Id.* at §3(c)(2).

³¹ *Id.*

³² *Id.* at §14.

IV. Mandatory Parole and Reentry Reforms

In addition to creating a new class of eligible inmates who are presumptively entitled to release on parole, the RSA also creates a class of inmates eligible for “mandatory reentry supervision.” Although the specifics and timing of mandatory parole are different, the most significant difference in the statutory language is the elimination of a “for good cause shown” denial, instead mandating that the inmate *must* be released,³³ as set forth in Title 40, Chapter 35, Part 5.³⁴ The section—now codified at Tenn. Code Ann. § 40-35-506—has two effects:

(1) It mandates parole a year before an inmate’s sentence expires for certain eligible inmates³⁵; and

(2) It mandates reentry supervision for a year after a non-eligible inmate’s sentence expiration date.³⁶

Importantly, unlike presumptive parole, the mandatory parole provision is not retroactive.³⁷ This means that mandatory early parole release and the mandatory tacking on of a year of supervision for certain inmates apply only to those convicted after July 1,

³³ *Id.* at §15(b)(1).

³⁴ *Id.* at §15.

³⁵ *Id.* (“As used in this section, “eligible inmate” means an inmate who:

- (1) Is serving a felony sentence for an offense that occurred on or after July 1, 2021;
- (2) Is eligible for parole consideration;
- (3) Is calculated to have one (1) year or less remaining until expiration of all sentences that the inmate is serving or set to serve, or is calculated to reach the inmate’s release eligibility date with less than one (1) year remaining until expiration;
- (4) Does not have an active detainer for new or untried charges or sentences to serve in other jurisdictions;
- (5) Has not been classified as maximum or close custody for disciplinary reasons in the previous two (2) years; and
- (6) If the inmate has previously had the inmate’s probation or parole revoked, has served at least six (6) months since returning to custody after revocation of probation or parole.”)

³⁶ *Id.*

³⁷ *Id.* at §15(a)(1)(A).

The eligibility criteria also differ from those that determine eligibility for presumptive parole. Instead of making distinctions between offense felony classes, mandatory parole applies to everyone serving a felony sentence who is eligible for parole consideration; has one year or less until the expiration of all sentences; does not have an active detainer; and has not been classified as maximum or close custody for the previous two years.³⁹ Although potentially beneficial for inmates not otherwise eligible for discretionary parole, this section adds an additional year to any inmate's sentence who does not qualify, albeit a year on parole instead of in custody.⁴⁰ For those inmates who will have an additional year of supervision added to their sentences, it is important to remember that the RSA requires the sentencing judge to include in the sentencing order that an individual sentenced to or pleading to a felony offense after July 1, 2021, may be subject to this extra year of supervision.⁴¹ The mandatory reentry programming has been the most publicized piece of the RSA,⁴² which Governor Lee hopes will help those currently incarcerated reintegrate into the community with lower recidivism rates.⁴³

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at §16.

⁴² See *Tennessee legislature passes two bills to reform criminal justice system*, 10NEWS, <https://www.wbir.com/article/news/politics/tennessee-legislature-passes-two-bills-to-reform-criminal-justice-system/51-0doae356-aad1-4859-9e68-10fe5248ado4> (April 28, 2021); Temple Ricke, *Tennessee Gov. Bill Lee signs criminal justice reform bills*, FOX17.COM, <https://fox17.com/news/local/tennessee-gov-bill-lee-to-sign-criminal-justice-reform-bills-alternatives-to-incarceration-act-re-entry-success-act> (May 24, 2021); Marshall Benson, *TN Sentate passes bills that helps convicts re-enter society*, WSMV.COM, https://www.wsmv.com/news/tn-senate-passes-bills-that-help-convicts-re-enter-society/article_1097105a-a85d-11eb-ac6e-fbfeeb8a4c61.html (Apr. 28, 2021).

⁴³ Gov. Bill Lee Introduces 2021 Legislative Initiatives, TN OFFICE OF THE GOVERNOR, <https://www.tn.gov/governor/news/2021/2/25/gov--bill-lee-introduces-2021-legislative-initiatives.html> (Feb. 25, 2021).

The RSA attempts to reduce recidivism rates in other ways as well. Beyond eliminating some of the fees required to obtain a restricted driver's license,⁴⁴ it immunizes employers from certain claims of civil liability for negligence in hiring, training, retaining, or supervising an employee who was previously convicted of a crime.⁴⁵ Further, evidence that the employee had previously been convicted of a crime is statutorily deemed inadmissible.⁴⁶

The immunity afforded by the RSA is intended to incentivize employers to hire convicted felons, which, if successful, would reduce recidivism. There are, however, three specified exceptions to this grant of immunity:

First, immunity does not apply if a prior offense was committed while performing duties substantially similar to the duties required for the present employment.⁴⁷ Although this proposition is not clearly defined, the practical application would presumably deny immunity to, for example, a bank that hired a person to handle money who was previously convicted of stealing a client's money.

Second, immunity does not apply if the employee was convicted of a violent offense defined in Tenn. Code Ann. § 40-35-120(b) or a violent sexual offense defined in § 40-39-202.

Third, immunity does not apply under certain circumstances when an employer hires an individual previously convicted of an offense involving an element of fraud or misuse of funds or property, and the cause of action concerns an allegation that the

⁴⁴ Pub. Ch. 410 at §§5-8.

⁴⁵ *Id.* at §17.

⁴⁶ *Id.*

⁴⁷ *Id.* at §17 (1)(b)(i).

employee misused funds or property.⁴⁸

The RSA also contains occupational licensing reforms. With respect to denying or refusing to renew an application for a professional license based on a criminal conviction, the RSA amends what a professional licensing board must consider in its decision-making process.⁴⁹ The professional licensing board is no longer required to consider the length of time that has passed since the conviction occurred.⁵⁰ The RSA also eliminates analysis of the nature of the crime. Instead, it mandates that a licensing board only compare the nature of the crime to the purposes of regulating the occupation.⁵¹

The RSA additionally attempts to make those inmates housed in county facilities more workplace ready when released. Specifically, while individuals are still incarcerated, the RSA provides accreditation stipends for counties that either house convicted felons pursuant to a state contract or that house convicted felons awaiting transfer to a state facility who provide evidence-based programming to inmates.⁵² In order to receive the funding, the programming must cater to educational needs, vocational training, mental health services, substance abuse rehabilitation, and healthy relationship building.⁵³

This stipend is reviewed annually to ensure that a satisfactory number of inmates are enrolling in and successfully completing the programming.⁵⁴ In order to ensure that inmates are actually receiving skills that translate into society once released, after three years of receiving the accreditation stipend, the recidivism rates in the county will also be

⁴⁸ *Id.* at §17 (c)(2).

⁴⁹ *Id.* at §22.

⁵⁰ *See id.* *See also* T.C.A. §62-76-104(4)(A)(iI).

⁵¹ *Id.* at §22 (4)(A). *See also* T.C.A. 62-76-104(4)(A)(i) and (iii).

⁵² *Id.* at §18.

⁵³ *Id.* at §18 (i)(2)(B).

⁵⁴ *Id.* at §18 (i)(4).

reviewed annually to determine whether the programming is effective.⁵⁵ If the recidivism rates are not satisfactory, the county may be required to create a corrective action plan.⁵⁶ The RSA also adds language to various parts of the Tennessee Code that further empowers state community colleges and colleges of applied technology to partner and contract with local governments to develop evidence-based programming.⁵⁷

V. Penalties for Parole Violations

The RSA does not formally remove or grant any additional power to the Parole Board with respect to parole violations. The current statutory language also allows the Board to determine punishment for parole violators as it sees fit, with virtually no guidelines.⁵⁸ The RSA does add guidelines for potential sentences for parole violators whose violation is not based on a new class A misdemeanor or felony charge, or allegations of absconding.⁵⁹ However, the Act still maintains the law’s “may, if it sees fit” language, granting the Board the ability to choose whether it follows the applicable guidelines.⁶⁰ If followed, the guidelines suggest a sentence of 15 days for the first violation, 30 days for the second, 90 days for the third, and a sentence to serve the remainder of the violator’s sentence for a fourth or subsequent violation.⁶¹

For any violation based on a new charge for a Class A misdemeanor or a felony, the

⁵⁵ *Id.* at §18 (i)(6).

⁵⁶ *Id.*

⁵⁷ *Id.* at §§18 and 20-21.

⁵⁸ Tenn. Code Ann. §40-28-122(c)(1)(“The board shall, within a reasonable time, act upon the charges, and **may, if it sees fit**, require the prisoner to serve out in prison the balance of the maximum term for which the prisoner was originally sentenced, calculated from the date of delinquency or such part thereof, as it may determine, or impose the punishment as it deems proper, subject to § 40-28-123.”) (emphasis added).

⁵⁹ Pub. Ch. 410 at §11.

⁶⁰ *Id.* at §11 (1)(A).

⁶¹ *Id.*

RSA maintains the Board's ability to require the violator to serve the remainder of the maximum sentence originally given.⁶² The RSA also maintains the current framework set forth in Tenn. Code Ann. § 40-28-123, which mandates a sentence to serve for any parolee who is convicted of a felony while on parole, with the sentence length left to the sole discretion of the Board.⁶³ Given this context, it is unlikely that the RSA's violation reforms will meaningfully affect sentencing with respect to parole violations.

VI. Conclusion

As detailed above, the Reentry Success Act of 2021 reforms the parole process in several meaningful ways. Parole is now a presumptive right for eligible inmates, and even those who are not presumptively entitled to release on parole will benefit from a more restricted Board of Parole. Presumably, more programming will now be available to those housed in county facilities, and that programming will be monitored for its effectiveness. Finally, for all but the most serious offenders, sentences will be cut short by a year via mandatory parole, even if the inmate does not qualify for presumptive release. Overall, if the Reentry Success Act functions as intended, many incarcerated, parole-eligible individuals stand to benefit. For a quick reference guide to see if you or your loved one qualifies for presumptive parole as of right, consult the flow chart above.

⁶² *Id.* at §11 (B).

⁶³ *Id.*