



**SENATE BILL 2032**

By Lowe

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 38; Title 50; Title 62 and Title 68, relative to employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, Part 3, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Employee" means an individual who performs services for a public safety employer for valuable consideration, or on a volunteer basis, and does not include a self-employed independent contractor;

(2) "Public safety employer" means an individual or entity that employs one (1) or more employees and includes this state and political subdivisions of this state and that requires an employee or prospective employee to submit to a mental health evaluation as a condition of employment or prospective employment in a public safety position;

(3) "Public safety position" means employment in a position or job type that has as a primary focus the protection of persons or property, or the enforcement of laws, apprehension of criminals, or the prevention of crime, and includes:

(A) A law enforcement officer, as defined in § 7-51-210;

(B) A firefighter, emergency medical technician, or volunteer rescue squad worker, as those terms are defined in § 7-51-210;

(C) An individual licensed pursuant to the Emergency Medical Services Act of 1983, compiled in title 68, chapter 140, part 3; and

(D) An individual licensed or registered pursuant to the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35; and

(4) "Qualified mental health professional" means a qualified mental health professional, as defined in § 33-1-101, who is authorized within the professional's lawful scope of practice to administer a mental health evaluation for purposes of employment in a public safety position.

(b) A public safety employer shall grant the employee or prospective employee reasonable access to the employee or prospective employee's full employment record, including the results of a mental health evaluation or screening and any report from a qualified mental health professional or other evaluator. The public safety employer may require that such access be during normal business hours.

(c) If a prospective employee submits to a mental health evaluation or screening as a condition of prospective employment with a public safety employer, and the prospective employee is denied employment, in whole or in part, because of the results of the mental health evaluation and screening, then:

(1) The prospective employee must be granted reasonable access to the results of the evaluation or screening according to subsection (b);

(2) The public safety employer must permit the prospective employee to submit the results of an alternative, equivalent mental health evaluation or screening conducted by a qualified mental health professional, conducted at the prospective employee's expense; and

(3) The public safety employer shall reevaluate the prospective employee using the submitted alternative mental health evaluation or screening.

(d) An employee may bring a private cause of action for a violation of this section against a public safety employer for declaratory or injunctive relief. A court shall award to an employee who prevails in such action reasonable court costs and attorney fees.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB2032

Bailey  
Signature of Sponsor

**AMEND Senate Bill No. 2032\***

**House Bill No. 2074**

by deleting "shall" and substituting "may" in subdivision (c)(3) in Section 1.

**AND FURTHER AMEND** by deleting "this section" and substituting "subsection (b)" in subsection (d) in Section 1.

**AND FURTHER AMEND** by adding the following as a new subsection in Section 1:

(e) An evaluation, result, or other record provided to an employee or prospective employee pursuant to subsection (b) or subdivision (c)(1) is subject to the confidentiality requirements of title 10, chapter 7, part 5.