

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2781**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

26        **SECTION 1.** (1) This act shall be known and may be cited as  
27 the "Fresh Start Act of 2019."

28        **SECTION 2.** The following words and phrases shall have the  
29 meanings as defined in this section unless the context clearly  
30 indicates otherwise:

31               (a) "Criminal record" shall mean any type of felony or  
32 misdemeanor conviction.

33               (b) "Licensing" shall mean any required training,  
34 education, or fee to work in a specific profession.



35           (c) "Licensing authority" shall mean an agency,  
36 examining board, credentialing board, or other office with the  
37 authority to impose occupational fees or licensing requirements on  
38 any profession.

39           **SECTION 3.** With the exception of admission or reinstatement  
40 to The Mississippi Bar as an attorney in good standing authorized  
41 to practice law, absent applicable state law, no person shall be  
42 disqualified from pursuing, practicing, or engaging in any  
43 occupation for which a license is required solely or in part  
44 because of a prior conviction of a crime, unless the crime for  
45 which an applicant was convicted directly relates to the duties  
46 and responsibilities for the licensed occupation.

47           **SECTION 4.** (1) With the exception of admission or  
48 reinstatement to The Mississippi Bar as an attorney in good  
49 standing authorized to practice law, absent applicable state law,  
50 licensing authorities shall not have in any rulemaking for their  
51 qualifications for licensure vague or generic terms including, but  
52 not limited to, "moral turpitude," "any felony," and "good  
53 character." Absent applicable state law, licensing authorities  
54 may only consider criminal records that are specific and directly  
55 related to the duties and responsibilities for the licensed  
56 occupation when evaluating applicants.

57           (2) The licensing authority shall use the clear and  
58 convincing standard of proof in examining the factors to determine  
59 whether an applicant with a disqualifying criminal conviction will



60 be denied a license. Absent applicable state law, the licensing  
61 authority shall make their determination based on the following  
62 factors:

63 (a) The nature and seriousness of the crime for which  
64 the individual was convicted;

65 (b) The passage of time since the commission of the  
66 crime;

67 (c) The relationship of the crime to the ability,  
68 capacity, and fitness required to perform the duties and discharge  
69 the responsibilities of the occupation; and

70 (d) Any evidence of rehabilitation or treatment  
71 undertaken by the individual that might mitigate against a direct  
72 relation.

73 (3) All licensing authorities shall meet the requirements  
74 listed in subsection (1) by one hundred twenty (120) days after  
75 the enactment of this act.

76 (4) For licensing authorities, the requirements listed in  
77 subsections (1) and (2) also apply to any new occupational  
78 licenses created after July 1, 2019.

79 (5) The licensing authority shall adopt necessary rules for  
80 the implementation of this section.

81 **SECTION 5.** (1) An individual with a criminal record may  
82 petition a licensing authority at any time for a determination of  
83 whether the individual's criminal record will disqualify the  
84 individual from obtaining a license. This petition shall include



85 details on the individual's criminal record. The licensing  
86 authority shall inform the individual of his standing within  
87 thirty (30) days of receiving the petition from the applicant.  
88 The board may charge a fee to recoup its costs not to exceed  
89 Twenty-five Dollars (\$25.00) for each petition.

90 (2) If a licensing authority denies an individual a license  
91 solely or in part because of the individual's prior conviction of  
92 a crime, the licensing authority shall notify the individual in  
93 writing of the following:

94 (a) The grounds and reasons for the denial or  
95 disqualification;

96 (b) That the individual has the right to a hearing to  
97 challenge the licensing authority's decision;

98 (c) The earliest date the person may reapply for a  
99 license; and

100 (d) That evidence of rehabilitation may be considered  
101 upon reapplication.

102 (3) If an applicant's criminal history does not require a  
103 denial of a license under applicable state law, any written  
104 determination by the licensing authority that an applicant's  
105 criminal conviction is directly related to the duties and  
106 responsibilities for the licensed occupation must be documented in  
107 written findings for each of the preceding factors under  
108 subsection (2) by clear and convincing evidence sufficient for a  
109 reviewing court.



110 (4) In any administrative hearing or civil litigation  
111 authorized under this section, the licensing authority shall carry  
112 the burden of proof on the question of whether the applicant's  
113 criminal conviction directly relates to the occupation for which  
114 the license is sought.

115 (5) The licensing authority shall adopt necessary rules for  
116 the implementation of this section.

117 **SECTION 6.** (1) Except for the Mississippi Board of Bar  
118 Admissions, which shall be exempt from the following, on or before  
119 July 1, 2019, each licensing authority with established statutory  
120 authority or adopted rules that allow that licensing authority to  
121 disqualify a person from pursuing or practicing an occupation for  
122 which a license is required solely or in part because of a prior  
123 conviction of crime shall begin to review its statutory authority  
124 and rules in order to propose statutory changes consistent with  
125 the following guidelines:

126 (a) Specifically identify those criminal convictions  
127 that in the opinion of the licensing authority should reasonably  
128 disqualify a person from receiving a license because the  
129 conviction directly relates to the duties and responsibilities of  
130 the licensed occupation;

131 (b) Identify instances of background history which  
132 would be considered as involving or pertaining to, "moral  
133 turpitude" and "good character," which in the opinion of the  
134 licensing authority would be a disqualifying crime or instance.



135           (2) In considering these recommendations, the licensing  
136 authority should:

137           (a) Use a clear and convincing standard of proof in  
138 examining the factors to determine whether an applicant with a  
139 disqualifying criminal conviction should be denied a license;

140           (b) Consider licensing disqualification decisions based  
141 on the following factors:

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

144                   (ii) The passage of time since the commission of  
145 the crime;

146                   (iii) The relationship of the crime to the  
147 ability, capacity and fitness required to perform the duties and  
148 discharge the responsibilities of the occupation;

149                   (iv) Any evidence of rehabilitation or treatment  
150 undertaken by an individual that might mitigate against pursuing,  
151 practicing or engaging in the occupation; and

152                   (v) Regarding felony convictions of a violent or  
153 sexual nature, the health and safety of clients and customers  
154 served by the occupation;

155           (c) Identify those instances where a disqualifying  
156 criminal conviction results in a licensing disqualification but  
157 that disqualification in the opinion of the licensing authority  
158 should be limited to a specific time duration except for crimes of



159 a violent or sexual nature, of no more than five (5) years from  
160 the date the individual is released from incarceration.

161 (3) On or before November 1, 2020, those licensing  
162 authorities shall submit the information in subsection (1) to the  
163 Mississippi Joint Committee on Performance Evaluation and  
164 Expenditure Review (PEER). PEER shall review the submitted  
165 information and prepare a report to be submitted to the  
166 Legislature no later than December 31, 2020.

167 (4) Notwithstanding any provisions of the laws of the State  
168 of Mississippi to the contrary, each licensing authority in the  
169 state shall be required to provide the information required in  
170 subsection (1) of this section and cooperate with PEER when PEER  
171 is making the report to the Legislature.

172 **SECTION 7.** This act shall take effect and be in force from  
173 and after July 1, 2019.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE "FRESH START ACT OF 2019"; TO PROVIDE  
2 THAT NO PERSON SHALL BE DISQUALIFIED FROM PURSUING, PRACTICING OR  
3 ENGAGING IN ANY OCCUPATION FOR WHICH A LICENSE IS REQUIRED SOLELY  
4 OR IN PART BECAUSE OF A PRIOR CONVICTION OF A CRIME, UNLESS THE  
5 CRIME FOR WHICH THE PERSON WAS CONVICTED DIRECTLY RELATES TO THE  
6 DUTIES AND RESPONSIBILITIES OF THE LICENSED OCCUPATION; TO  
7 PROHIBIT THE USE OF VAGUE TERMS SUCH AS "MORAL TURPITUDE," "GOOD  
8 CHARACTER" AND "ANY FELONY"; TO PROVIDE THAT WHEN PROMULGATING  
9 RULES AND REGULATIONS RELATED TO THE QUALIFICATIONS FOR LICENSURE,  
10 LICENSING AUTHORITIES SHALL ONLY CONSIDER CRIMINAL RECORDS THAT  
11 ARE SPECIFIC AND DIRECTLY RELATED TO THE DUTIES AND  
12 RESPONSIBILITIES OF THE LICENSED OCCUPATION; TO ESTABLISH A CLEAR  
13 AND CONVINCING STANDARD OF PROOF WHEN DETERMINING WHETHER A PERSON  
14 WILL BE DENIED A LICENSE; TO AUTHORIZE A PERSON WITH A CRIMINAL



15 RECORD TO PETITION A LICENSING AUTHORITY AT ANY TIME FOR A  
16 DETERMINATION OF WHETHER THE PERSON'S CRIMINAL RECORD WILL  
17 DISQUALIFY THAT PERSON FROM OBTAINING A LICENSE; TO REQUIRE EACH  
18 LICENSING AUTHORITY WITH ESTABLISHED STATUTORY AUTHORITY OR  
19 ADOPTED RULES THAT ALLOW THAT LICENSING AUTHORITY TO DISQUALIFY A  
20 PERSON FROM PURSUING OR PRACTICING AN OCCUPATION FOR WHICH A  
21 LICENSE IS REQUIRED SOLELY OR IN PART BECAUSE OF A PRIOR  
22 CONVICTION OF CRIME SHALL BEGIN TO REVIEW ITS STATUTORY AUTHORITY  
23 AND RULES IN ORDER TO PROPOSE STATUTORY CHANGES CONSISTENT WITH  
24 THE CERTAIN GUIDELINES AND FOR RELATED PURPOSES.

