

By: Senator(s) Horhn, Jackson (11th),  
Norwood, Simmons (12th), Jackson (32nd),  
Simmons (13th)

To: Labor; Judiciary,  
Division B

SENATE BILL NO. 2759  
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 73-77-5, 73-77-7 AND 73-77-9,  
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROVISIONS OF  
3 THE FRESH START ACT OF 2019 SHALL APPLY NOTWITHSTANDING ANY OTHER  
4 PROVISION OF LAW; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 73-77-5, Mississippi Code of 1972, is  
7 amended as follows:

8 73-77-5. \* \* \* Notwithstanding any other provision of law,  
9 no person shall be disqualified from pursuing, practicing, or  
10 engaging in any occupation for which a license is required solely  
11 or in part because of a prior conviction of a crime, unless the  
12 crime for which an applicant was convicted directly relates to the  
13 duties and responsibilities for the licensed occupation. The  
14 provisions of this section shall not apply to the admission or  
15 reinstatement of any person to The Mississippi Bar as an attorney  
16 in good standing authorized to practice law.

17 **SECTION 2.** Section 73-77-7, Mississippi Code of 1972, is  
18 amended as follows:



19           73-77-7. (1) \* \* \* Notwithstanding any other provision of  
20 law, licensing authorities shall not have in any rulemaking for  
21 their qualifications for licensure vague or generic terms  
22 including, but not limited to, "moral turpitude," "any felony,"  
23 and "good character." \* \* \* Notwithstanding any other provision  
24 of law, licensing authorities may only consider criminal records  
25 that are specific and directly related to the duties and  
26 responsibilities for the licensed occupation when evaluating  
27 applicants.

28           (2) The licensing authority shall use the clear and  
29 convincing standard of proof in examining the factors to determine  
30 whether an applicant with a disqualifying criminal conviction will  
31 be denied a license. \* \* \* Notwithstanding any other provision of  
32 law, the licensing authority shall make its determination based on  
33 the following factors:

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

36           (b) The passage of time since the commission of the  
37 crime;

38           (c) The relationship of the crime to the ability,  
39 capacity, and fitness required to perform the duties and discharge  
40 the responsibilities of the occupation; and

41           (d) Any evidence of rehabilitation or treatment  
42 undertaken by the individual that might mitigate against a direct  
43 relation.



44        Nothing in this section shall preclude any board, commission  
45 or other licensing entity from granting licenses to individuals  
46 convicted of disqualifying convictions, after considering the  
47 factors listed under this subsection (2).

48        (3) All licensing authorities shall meet the requirements  
49 listed in subsection (1) by one hundred twenty (120) days after  
50 July 1, \* \* \* 2020.

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

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

56        (6) The provisions of this section shall not apply to the  
57 admission or reinstatement of any person to The Mississippi Bar as  
58 an attorney in good standing authorized to practice law.

59        (7) For any board, commission or other licensing entity with  
60 an existing procedure for hearings and appeals following the  
61 denial of a license codified in rules or statute on January 1,  
62 2020, those existing procedures for hearings and appeals shall  
63 supersede the provisions of this section.

64        **SECTION 3.** Section 73-77-9, Mississippi Code of 1972, is  
65 amended as follows:

66        73-77-9. (1) \* \* \* Notwithstanding any other provision of  
67 law, an individual with a criminal record may petition a licensing  
68 authority at any time for a determination of whether the



69 individual's criminal record will disqualify the individual from  
70 obtaining a license. This petition shall include details on the  
71 individual's criminal record. The licensing authority shall  
72 inform the individual of his standing within thirty (30) days of  
73 receiving the petition from the applicant. The licensing  
74 authority may charge a fee to recoup its costs not to exceed  
75 Twenty-five Dollars (\$25.00) for each petition.

76 (2) If a licensing authority denies an individual a license  
77 solely or in part because of the individual's prior conviction of  
78 a crime, the licensing authority shall notify the individual in  
79 writing of the following:

80 (a) The grounds and reasons for the denial or  
81 disqualification;

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

84 (c) The earliest date the person may reapply for a  
85 license; and

86 (d) That evidence of rehabilitation may be considered  
87 upon reapplication.

88 Nothing in this section shall preclude any board, commission  
89 or other licensing entity from granting licenses to individuals  
90 convicted of disqualifying convictions, after considering the  
91 factors listed under this subsection (2).

92 (3) If an applicant's criminal history does not require a  
93 denial of a license under \* \* \*, any written determination by the



94 licensing authority that an applicant's criminal conviction is  
95 directly related to the duties and responsibilities for the  
96 licensed occupation must be documented in written findings for  
97 each of the preceding factors under subsection (2) by clear and  
98 convincing evidence sufficient for a reviewing court.

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

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

106 (6) The provisions of this section shall not apply to the  
107 admission or reinstatement of any person to The Mississippi Bar as  
108 an attorney in good standing authorized to practice law.

109 (7) For any board, commission or other licensing entity with  
110 an existing procedure for hearings and appeals following the  
111 denial of a license codified in rules or statute on January 1,  
112 2020, those existing procedures for hearings and appeals shall  
113 supersede the provisions of this section.

114 **SECTION 4.** This act shall take effect and be in force from  
115 and after July 1, 2020, and shall stand repealed from and after  
116 June 30, 2020.

