

By: Senator(s) Turner-Ford

To: Judiciary, Division A

SENATE BILL NO. 2364

1 AN ACT TO AMEND SECTIONS 73-77-5, 73-77-7 AND 73-77-9,  
2 MISSISSIPPI CODE OF 1972, TO REMOVE THE LIMITATIONS ON  
3 APPLICABILITY FROM THE PROVISIONS OF FRESH START ACT; AND FOR  
4 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. \* \* \* No person shall be disqualified from  
9 pursuing, practicing, or engaging in any occupation for which a  
10 license is required solely or in part because of a prior  
11 conviction of a crime, unless the crime for which an applicant was  
12 convicted directly relates to the duties and responsibilities for  
13 the licensed occupation. The provisions of this section shall not  
14 apply to the admission or reinstatement of any person to The  
15 Mississippi Bar as an attorney in good standing authorized to  
16 practice law.

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



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

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

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

33           (b) The passage of time since the commission of the  
34 crime;

35           (c) The relationship of the crime to the ability,  
36 capacity, and fitness required to perform the duties and discharge  
37 the responsibilities of the occupation; and

38           (d) Any evidence of rehabilitation or treatment  
39 undertaken by the individual that might mitigate against a direct  
40 relation.

41           (3) All licensing authorities shall meet the requirements  
42 listed in subsection (1) by one hundred twenty (120) days after  
43 July 1, 2019.



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

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

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

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

54 73-77-9. (1) \* \* \* An individual with a criminal record may  
55 petition a licensing authority at any time for a determination of  
56 whether the individual's criminal record will disqualify the  
57 individual from obtaining a license. This petition shall include  
58 details on the individual's criminal record. The licensing  
59 authority shall inform the individual of his standing within  
60 thirty (30) days of receiving the petition from the applicant.  
61 The licensing authority may charge a fee to recoup its costs not  
62 to exceed Twenty-five Dollars (\$25.00) for each petition.

63 (2) If a licensing authority denies an individual a license  
64 solely or in part because of the individual's prior conviction of  
65 a crime, the licensing authority shall notify the individual in  
66 writing of the following:

67 (a) The grounds and reasons for the denial or  
68 disqualification;



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

71           (c) The earliest date the person may reapply for a  
72 license; and

73           (d) That evidence of rehabilitation may be considered  
74 upon reapplication.

75           (3) If an applicant's criminal history does not require a  
76 denial of a license under applicable state law, any written  
77 determination by the licensing authority that an applicant's  
78 criminal conviction is directly related to the duties and  
79 responsibilities for the licensed occupation must be documented in  
80 written findings for each of the preceding factors under  
81 subsection (2) by clear and convincing evidence sufficient for a  
82 reviewing court.

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

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

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



93           **SECTION 4.** This act shall take effect and be in force from  
94 and after July 1, 2021.

