

By: Senator(s) Horhn

To: Labor; Judiciary,
Division A

SENATE BILL NO. 2792

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, * * * 2021.

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, * * * 2020.

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 2021, 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 2021, 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, 2021.

