

By: Representative Mickens

To: Public Health and Human Services

HOUSE BILL NO. 193

1 AN ACT TO AMEND SECTIONS 73-77-1, 73-77-3, 73-77-5, 73-77-7  
 2 AND 73-77-9, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN  
 3 PROVISIONS OF THE FRESH START ACT; TO PROVIDE THAT THE FRESH START  
 4 ACT SUPERSEDES ANY OTHER PROVISION OF LAW TO THE CONTRARY; TO MAKE  
 5 TECHNICAL, NONSUBSTANTIVE CHANGES; TO AMEND SECTION 99-19-35,  
 6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PERSON CONVICTED OF  
 7 CERTAIN CRIMES MAY PRACTICE MEDICINE OR DENTISTRY ONCE THE RECORD  
 8 HAS BEEN EXPUNGED; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 73-77-1, Mississippi Code of 1972, is  
 11 amended as follows:

12 73-77-1. This chapter shall be known and may be cited as the  
 13 "Fresh Start Act \* \* \*."

14 **SECTION 2.** Section 73-77-3, Mississippi Code of 1972, is  
 15 amended as follows:

16 73-77-3. **Definitions.** As used in this chapter, the  
 17 following words and phrases \* \* \* have the meanings as defined in  
 18 this section unless the context clearly indicates otherwise:

19 (a) "Criminal record" \* \* \* means any type of felony or  
 20 misdemeanor conviction.



21 (b) "Licensing" \* \* \* means any required training,  
22 education \* \* \* or fee to work in a specific profession.

23 (c) "Licensing authority" \* \* \* means an agency,  
24 examining board, credentialing board \* \* \* or other \* \* \* entity  
25 with the authority to impose occupational fees or licensing  
26 requirements on \* \* \* a profession.

27 **SECTION 3.** Section 73-77-5, Mississippi Code of 1972, is  
28 amended as follows:

29 73-77-5. \* \* \* Notwithstanding any other provision of law to  
30 the contrary, no person shall be disqualified from pursuing,  
31 practicing \* \* \* or engaging in any occupation for which a license  
32 is required solely or in part because of a prior conviction of a  
33 crime, unless the crime for which \* \* \* the person was convicted  
34 directly relates to the duties and responsibilities for the  
35 licensed occupation. \* \* \*

36 **SECTION 4.** Section 73-77-7, Mississippi Code of 1972, is  
37 amended as follows:

38 73-77-7. (1) \* \* \* Notwithstanding any other provision of  
39 law to the contrary, licensing authorities shall not \* \* \* use  
40 vague or generic terms including, but not limited to, "moral  
41 turpitude," "any felony," and "good character \* \* \*" when  
42 promulgating rules and regulations related to the qualifications  
43 for licensure. \* \* \* Notwithstanding any other provision of law  
44 to the contrary, when promulgating rules and regulations related  
45 to the qualifications for licensure, licensing authorities \* \* \*



46 shall only consider criminal records that are specific and  
47 directly related to the duties and responsibilities \* \* \* of the  
48 licensed occupation \* \* \*.

49 (2) Notwithstanding any other provision of law to the  
50 contrary, the licensing authority shall \* \* \* apply the clear and  
51 convincing standard of proof \* \* \* when examining the following  
52 factors to determine whether \* \* \* a person with a \* \* \* criminal  
53 record is disqualified from receiving a license:

54 (a) The nature and seriousness of the crime for which  
55 the \* \* \* person was convicted;

56 (b) The passage of time since the \* \* \* crime was  
57 committed;

58 (c) The relationship of the crime to the ability,  
59 capacity \* \* \* and fitness required to perform the duties and  
60 discharge the responsibilities of the licensed occupation; and

61 (d) Any evidence of rehabilitation or treatment  
62 undertaken by the individual that might mitigate against a direct  
63 relation.

64 (3) All licensing authorities shall meet the requirements  
65 listed in subsection (1) \* \* \* no later than one hundred twenty  
66 (120) days after July 1, \* \* \* 2022.

67 (4) \* \* \* The requirements listed in subsections (1) and (2)  
68 also apply to any new occupational licenses created after July  
69 1, \* \* \* 2022.

70 \* \* \*



71           **SECTION 5.** Section 73-77-9, Mississippi Code of 1972, is  
72 amended as follows:

73           73-77-9. (1) \* \* \* Notwithstanding any other provision of  
74 law to the contrary, \* \* \* a person with a criminal record may  
75 petition a licensing authority at any time for a determination of  
76 whether the \* \* \* person's criminal record will disqualify \* \* \*  
77 that person from obtaining a license. This petition shall include  
78 details on the \* \* \* person's criminal record. The licensing  
79 authority shall inform the individual of his or her standing  
80 within thirty (30) days of receiving the petition from the \* \* \*  
81 person. The licensing authority may charge a fee \* \* \* not to  
82 exceed Twenty-five Dollars (\$25.00) for each petition.

83           (2) If a licensing authority \* \* \* disqualifies a person  
84 from receiving a license solely or in part because of the \* \* \*  
85 person's \* \* \* criminal record, the licensing authority shall  
86 notify the \* \* \* person in writing of the following:

- 87           (a) The grounds and reasons for \* \* \* disqualification;  
88           (b) That the \* \* \* person has the right to a hearing to  
89 challenge the licensing authority's decision;  
90           (c) The earliest date the person may reapply for a  
91 license; and  
92           (d) That evidence of rehabilitation may be considered  
93 upon reapplication.

94           (3) If \* \* \* a person's criminal \* \* \* record \* \* \*  
95 disqualifies that person from receiving a license and the



96 licensing authority determines that the criminal record is related  
97 directly to the duties and responsibilities of the licensed  
98 occupation, the licensing authority must document its findings in  
99 writing sufficient for a reviewing court.

100 (4) In any administrative hearing or civil litigation  
101 authorized under this section, the licensing authority shall carry  
102 the burden of proof on the question of whether the \* \* \* person's  
103 criminal \* \* \* record directly relates to the \* \* \* duties and  
104 responsibilities of the licensed occupation.

105 (5) The licensing authority shall \* \* \* promulgate the  
106 necessary rules and regulations \* \* \* to implement the provisions  
107 of this section.

108 (6) The provisions of \* \* \* this chapter supersede any other  
109 provision of law to the contrary.

110 **SECTION 6.** Section 99-19-35, Mississippi Code of 1972, is  
111 amended as follows:

112 99-19-35. A person convicted of bribery, burglary, theft,  
113 arson, obtaining money or goods under false pretenses, perjury,  
114 forgery, embezzlement, or bigamy, shall not be allowed to practice  
115 medicine or dentistry, or be appointed to hold or perform the  
116 duties of any office of profit, trust, or honor, unless after full  
117 pardon or expungement for the same.

118 **SECTION 7.** This act shall take effect and be in force from  
119 and after July 1, 2022.

