

By: Representative Anthony

To: Business and Commerce;
Judiciary B

HOUSE BILL NO. 1362

1 AN ACT TO REVISE THE FRESH START ACT OF 2019; TO AMEND
 2 SECTION 73-77-7, MISSISSIPPI CODE OF 1972, TO PROHIBIT A LICENSING
 3 AUTHORITY FROM REQUIRING AN INDIVIDUAL TO DISCLOSE AN ARREST THAT
 4 WAS NOT FOLLOWED BY A CONVICTION, A NONVIOLENT MISDEMEANOR, A
 5 CONVICTION THAT WAS SEALED, ANNULLED, DISMISSED, EXPUNGED,
 6 PARDONED, OVERTURNED OR VACATED, OR A CONVICTION THAT OCCURRED
 7 MORE THAN THREE YEARS AGO; TO AMEND SECTION 73-77-9, MISSISSIPPI
 8 CODE OF 1972, TO PROVIDE THAT AN INDIVIDUAL MAY OFFER EVIDENCE OF
 9 REHABILITATION TO A LICENSING AUTHORITY WHEN THAT INDIVIDUAL
 10 PETITIONS THE LICENSING AUTHORITY REGARDING WHETHER HIS OR HER
 11 CRIMINAL RECORD WILL DISQUALIFY THE INDIVIDUAL FROM OBTAINING A
 12 LICENSE; TO REQUIRE THE LICENSING AUTHORITY TO MAKE THE
 13 APPLICATION FOR THE PETITION AND INFORMATION ABOUT THE PROCESS
 14 AVAILABLE ONLINE; AND FOR RELATED PURPOSES.

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

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

18 73-77-7. (1) Absent applicable state law, licensing
 19 authorities shall not have in any rulemaking for their
 20 qualifications for licensure vague or generic terms including, but
 21 not limited to, "moral turpitude," "any felony," and "good
 22 character." Absent applicable state law, 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) Licensing authorities shall not require an individual to
27 disclose:

28 (a) An arrest not followed by a conviction;

29 (b) A conviction that has been sealed, annulled,
30 dismissed, expunged, pardoned, overturned or vacated;

31 (c) A nonviolent misdemeanor; or

32 (d) A conviction older than three (3) years for which
33 the individual was not incarcerated; or a conviction for which the
34 individual's incarceration ended more than three (3) years before
35 the date of the licensing authorities' consideration, except for a
36 conviction of a felony related to a criminal sexual act, criminal
37 fraud or embezzlement, aggravated assault, aggravated robbery,
38 aggravated abuse, neglect or endangerment of a child, arson,
39 carjacking, kidnapping, or manslaughter, homicide or murder.

40 (* * *3) The licensing authority shall use the clear and
41 convincing standard of proof in examining the factors to determine
42 whether an applicant with a disqualifying criminal conviction will
43 be denied a license. Absent applicable state law, the licensing
44 authority shall make its determination based on the following
45 factors:

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



48 (b) The passage of time since the commission of the
49 crime;

50 (c) The relationship of the crime to the ability,
51 capacity, and fitness required to perform the duties and discharge
52 the responsibilities of the occupation; and

53 (d) Any evidence of rehabilitation or treatment
54 undertaken by the individual that might mitigate against a direct
55 relation.

56 (* * *4) All licensing authorities shall meet the
57 requirements listed in subsection (1) by one hundred twenty (120)
58 days after July 1, 2019.

59 (* * *5) For licensing authorities, the requirements listed
60 in subsections (1) and (2) also apply to any new occupational
61 licenses created after July 1, 2019.

62 (* * *6) The licensing authority shall adopt necessary
63 rules for the implementation of this section.

64 (* * *7) The provisions of this section shall not apply to
65 the admission or reinstatement of any person to The Mississippi
66 Bar as an attorney in good standing authorized to practice law.

67 **SECTION 2.** Section 73-77-9, Mississippi Code of 1972, is
68 amended as follows:

69 73-77-9. (1) Absent applicable state law, an individual
70 with a criminal record may petition a licensing authority at any
71 time for a determination of whether the individual's criminal
72 record will disqualify the individual from obtaining a license.



73 This petition shall include details on the individual's criminal
74 record. The individual may also offer evidence of rehabilitation
75 to the licensing authority. The licensing authority shall inform
76 the individual of his standing within thirty (30) days of
77 receiving the petition from the applicant. The licensing
78 authority may charge a fee to recoup its costs not to exceed
79 Twenty-five Dollars (\$25.00) for each petition. The licensing
80 authority shall make the application for the petition and
81 information about the process available online.

82 (2) If a licensing authority denies an individual a license
83 solely or in part because of the individual's prior conviction of
84 a crime, the licensing authority shall notify the individual in
85 writing of the following:

86 (a) The grounds and reasons for the denial or
87 disqualification;

88 (b) That the individual 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 an applicant's criminal history does not require a
95 denial of a license under applicable state law, any written
96 determination by the licensing authority that an applicant's
97 criminal conviction is directly related to the duties and



98 responsibilities for the licensed occupation must be documented in
99 written findings for each of the preceding factors under
100 subsection (2) by clear and convincing evidence sufficient for a
101 reviewing court.

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

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

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

112 **SECTION 3.** This act shall take effect and be in force from
113 and after July 1, 2024.

