

By: Representative Mickens

To: Business and Commerce;
Judiciary B

HOUSE BILL NO. 270

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



related to the duties and responsibilities for the licensed occupation when evaluating applicants.

(2) Licensing authorities shall not require an individual to disclose:

- (a) An arrest not followed by a conviction;
- (b) A conviction that has been sealed, annulled, dismissed, expunged, pardoned, overturned or vacated;
- (c) A nonviolent misdemeanor; or
- (d) A conviction older than three (3) years for which the individual was not incarcerated; or a conviction for which the individual's incarceration ended more than three (3) years before the date of the licensing authorities' consideration, except for a conviction of a felony related to a criminal sexual act, criminal fraud or embezzlement, aggravated assault, aggravated robbery, aggravated abuse, neglect or endangerment of a child, arson, carjacking, kidnapping, or manslaughter, homicide or murder.

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

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



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

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

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

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

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

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

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

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

73-77-9. (1) Absent applicable state law, an individual with a criminal record may petition a licensing authority at any time for a determination of whether the individual's criminal 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



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

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2025.

