

By: Senator(s) Polk, Barnett, Blount

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2781

1 AN ACT TO CREATE THE "MISSISSIPPI FRESH START ACT"; TO
2 PROVIDE THAT NO PERSON SHALL BE DISQUALIFIED FROM PURSUING,
3 PRACTICING OR ENGAGING IN ANY OCCUPATION FOR WHICH A LICENSE IS
4 REQUIRED SOLELY OR IN PART BECAUSE OF A PRIOR CONVICTION OF A
5 CRIME, UNLESS THE CRIME FOR WHICH AN APPLICANT WAS CONVICTED
6 DIRECTLY RELATES TO THE DUTIES AND RESPONSIBILITIES FOR THE
7 LICENSED OCCUPATION; TO REQUIRE THE REVISION OF CERTAIN LICENSING
8 RESTRICTIONS THAT ARE BASED ON CRIMINAL RECORDS; TO PROVIDE FOR
9 THE REVIEW OF LICENSING AUTHORITIES' DECISIONS; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** (1) This act shall be known and may be cited as
13 the "Mississippi Fresh Start Act."

14 (2) Definitions. As used in this act, unless the context
15 clearly indicates otherwise:

16 (a) "Criminal record" shall mean any type of felony or
17 misdemeanor conviction.

18 (b) "Licensing" shall mean any required training,
19 education, or fee to work in a specific profession.

20 (c) "Licensing authority" shall mean an agency,
21 examining board, credentialing board, or other office with the



22 authority to impose occupational fees or licensing requirements on
23 any profession.

24 (3) Antidiscrimination provision. Absent applicable state
25 law, no person shall be disqualified from pursuing, practicing, or
26 engaging in any occupation for which a license is required solely
27 or in part because of a prior conviction of a crime, unless the
28 crime for which an applicant was convicted directly relates to the
29 duties and responsibilities for the licensed occupation.

30 (4) Required revision of licensing authorities' regulatory
31 restrictions that are based on criminal records.

32 (a) Absent applicable state law, licensing authorities
33 shall not have in any rulemaking for their qualifications for
34 licensure vague or generic terms including, but not limited to,
35 "moral turpitude," "any felony," and "good character." Absent
36 applicable state law, licensing authorities may only consider
37 criminal records that are specific and directly related to the
38 duties and responsibilities for the licensed occupation when
39 evaluating applicants.

40 (b) 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 their determination based on the following
45 factors:



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

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

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

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

56 (c) All licensing authorities shall meet the
57 requirements listed in paragraph (a) of this subsection by One
58 Hundred Twenty (120) days after the enactment of this act.

59 (d) For licensing authorities, the requirements listed
60 in paragraphs (a) and (b) of this subsection also apply to any new
61 occupational licenses created after July 1, 2019.

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

64 (5) Petition for Review of Licensing Authorities' Decisions.

65 (a) An individual with a criminal record may petition a
66 licensing authority at any time for a determination of whether the
67 individual's criminal record will disqualify the individual from
68 obtaining a license. This petition shall include details on the
69 individual's criminal record. The licensing authority shall
70 inform the individual of his standing within thirty (30) days of



71 receiving the petition from the applicant. The board may charge a
72 fee to recoup its costs not to exceed Twenty-five Dollars (\$25.00)
73 for each petition.

74 (b) If a licensing authority denies an individual a
75 license solely or in part because of the individual's prior
76 conviction of a crime, the licensing authority shall notify the
77 individual in writing of the following:

78 (i) The grounds and reasons for the denial or
79 disqualification;

80 (ii) That the individual has the right to a
81 hearing to challenge the licensing authority's
82 decision;

83 (iii) The earliest date the person may reapply for
84 a license; and

85 (iv) That evidence of rehabilitation may be
86 considered upon reapplication.

87 (c) If an applicant's criminal history does not require
88 a denial of a license under applicable state law, any written
89 determination by the licensing authority that an applicant's
90 criminal conviction is directly related to the duties and
91 responsibilities for the licensed occupation must be documented in
92 written findings for each of the preceding factors under paragraph
93 (b) of this subsection by clear and convincing evidence sufficient
94 for a reviewing court.



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

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

102 **SECTION 2.** This act shall take effect and be in force from
103 and after July 1, 2019, and shall stand repealed on June 30, 2019.

