

By: Senator(s) Polk, Barnett, Blount

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2781
(As Sent to Governor)

1 AN ACT TO CREATE THE "FRESH START ACT OF 2019"; TO PROVIDE
2 THAT NO PERSON SHALL BE DISQUALIFIED FROM PURSUING, PRACTICING OR
3 ENGAGING IN ANY OCCUPATION FOR WHICH A LICENSE IS REQUIRED SOLELY
4 OR IN PART BECAUSE OF A PRIOR CONVICTION OF A CRIME, UNLESS THE
5 CRIME FOR WHICH THE PERSON WAS CONVICTED DIRECTLY RELATES TO THE
6 DUTIES AND RESPONSIBILITIES OF THE LICENSED OCCUPATION; TO
7 PROHIBIT THE USE OF VAGUE TERMS SUCH AS "MORAL TURPITUDE," "GOOD
8 CHARACTER" AND "ANY FELONY"; TO PROVIDE THAT WHEN PROMULGATING
9 RULES AND REGULATIONS RELATED TO THE QUALIFICATIONS FOR LICENSURE,
10 LICENSING AUTHORITIES SHALL ONLY CONSIDER CRIMINAL RECORDS THAT
11 ARE SPECIFIC AND DIRECTLY RELATED TO THE DUTIES AND
12 RESPONSIBILITIES OF THE LICENSED OCCUPATION; TO ESTABLISH A CLEAR
13 AND CONVINCING STANDARD OF PROOF WHEN DETERMINING WHETHER A PERSON
14 WILL BE DENIED A LICENSE; TO AUTHORIZE A PERSON WITH A CRIMINAL
15 RECORD TO PETITION A LICENSING AUTHORITY AT ANY TIME FOR A
16 DETERMINATION OF WHETHER THE PERSON'S CRIMINAL RECORD WILL
17 DISQUALIFY THAT PERSON FROM OBTAINING A LICENSE; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1.** This act shall be known and may be cited as the
21 "Fresh Start Act of 2019."

22 **SECTION 2.** As used in this act, the following words and
23 phrases shall have the meanings as defined in this section unless
24 the context clearly indicates otherwise:

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



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

29 (c) "Licensing authority" shall mean an agency,
30 examining board, credentialing board, or other office with the
31 authority to impose occupational fees or licensing requirements on
32 any profession.

33 **SECTION 3.** Absent applicable state law, no person shall be
34 disqualified from pursuing, practicing, or engaging in any
35 occupation for which a license is required solely or in part
36 because of a prior conviction of a crime, unless the crime for
37 which an applicant was convicted directly relates to the duties
38 and responsibilities for the licensed occupation. The provisions
39 of this section shall not apply to the admission or reinstatement
40 of any person to The Mississippi Bar as an attorney in good
41 standing authorized to practice law.

42 **SECTION 4.** (1) Absent applicable state law, licensing
43 authorities shall not have in any rulemaking for their
44 qualifications for licensure vague or generic terms including, but
45 not limited to, "moral turpitude," "any felony," and "good
46 character." Absent applicable state law, licensing authorities
47 may only consider criminal records that are specific and directly
48 related to the duties and responsibilities for the licensed
49 occupation when evaluating applicants.

50 (2) The licensing authority shall use the clear and
51 convincing standard of proof in examining the factors to determine



52 whether an applicant with a disqualifying criminal conviction will
53 be denied a license. Absent applicable state law, the licensing
54 authority shall make its determination based on the following
55 factors:

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

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

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

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

66 (3) All licensing authorities shall meet the requirements
67 listed in subsection (1) by one hundred twenty (120) days after
68 the enactment of this act.

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

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

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



77 **SECTION 5.** (1) Absent applicable state law, an individual
78 with a criminal record may petition a licensing authority at any
79 time for a determination of whether the individual's criminal
80 record will disqualify the individual from obtaining a license.
81 This petition shall include details on the individual's criminal
82 record. The licensing authority shall inform the individual of
83 his standing within thirty (30) days of receiving the petition
84 from the applicant. The licensing authority may charge a fee to
85 recoup its costs not to exceed Twenty-five Dollars (\$25.00) for
86 each petition.

87 (2) If a licensing authority denies an individual a license
88 solely or in part because of the individual's prior conviction of
89 a crime, the licensing authority shall notify the individual in
90 writing of the following:

91 (a) The grounds and reasons for the denial or
92 disqualification;

93 (b) That the individual has the right to a hearing to
94 challenge the licensing authority's decision;

95 (c) The earliest date the person may reapply for a
96 license; and

97 (d) That evidence of rehabilitation may be considered
98 upon reapplication.

99 (3) If an applicant's criminal history does not require a
100 denial of a license under applicable state law, any written
101 determination by the licensing authority that an applicant's



102 criminal conviction is directly related to the duties and
103 responsibilities for the licensed occupation must be documented in
104 written findings for each of the preceding factors under
105 subsection (2) by clear and convincing evidence sufficient for a
106 reviewing court.

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

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

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

117 **SECTION 6.** Notwithstanding any provision of law to the
118 contrary, no licensing authority shall suspend or revoke the
119 license it has issued to any person who is:

120 (a) In default or delinquent in the payment of their
121 student loans solely on the basis of such default or delinquency;
122 or

123 (b) In default or delinquent in the satisfaction of the
124 requirements of their work-conditional scholarship solely on the
125 basis of such default or delinquency.



126 **SECTION 7.** This act shall take effect and be in force from
127 and after July 1, 2019.

