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Chapter No. 470
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SENATE BILL NO. 2781

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2781

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

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

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

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

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

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

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

SECTION 3. Absent applicable state law, no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation. 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 4. (1) Absent applicable state law, licensing authorities shall not have in any rulemaking for their qualifications for licensure vague or generic terms including, but not limited to, "moral turpitude," "any felony," and "good character." Absent applicable state law, licensing authorities may only consider criminal records that are specific and directly related to the duties and responsibilities for the licensed occupation when evaluating applicants.

(2) 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.

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

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

(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 5. (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. This petition shall include details on the individual's criminal record. The licensing authority shall inform the individual of his standing within thirty (30) days of receiving the petition from the applicant. The licensing authority may charge a fee to recoup its costs not to exceed Twenty-five Dollars ($25.00) for each petition.

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

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

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

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

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

(3) If an applicant's criminal history does not require a denial of a license under applicable state law, any written determination by the licensing authority that an applicant's 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 6. Notwithstanding any provision of law to the contrary, no licensing authority shall suspend or revoke the license it has issued to any person who is:

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

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

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

PASSED BY THE SENATE
March 29, 2019

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 29, 2019

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

April 16, 2019
10:14 AM