

FIRST REGULAR SESSION

# HOUSE BILL NO. 564

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIER.

1384H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapter 324, RSMo, by adding thereto one new section relating to professional registration.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto one new section, to be known as section 324.012, to read as follows:

**324.012. 1. This section shall be known and may be cited as the "Fresh Start Act of 2019".**

**2. As used in this section, the following terms mean:**

**(1) "Criminal record", any type of felony or misdemeanor conviction;**

**(2) "Licensing", any required training, education, or fee to work in a specific occupation, profession, or activity in the state;**

**(3) "Licensing authority", an agency, examining board, credentialing board, or other office of the state with the authority to impose occupational fees or licensing requirements on any profession;**

**(4) "Political subdivision", a city, town, village, municipality, or county.**

**3. Notwithstanding any other provision of law, beginning January 1, 2020, 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.**

**4. (1) Before January 1, 2020, each state licensing authority shall revise its existing licensing requirements to explicitly list the specific criminal convictions that could**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **disqualify an applicant from receiving a license. Licensing authorities shall not use vague**  
19 **or generic terms including, but not limited to, "moral turpitude" and "good character",**  
20 **or consider arrests without a subsequent conviction. Licensing authorities shall only list**  
21 **criminal convictions that are specific and directly related to the duties and responsibilities**  
22 **for the licensed occupation.**

23 **(2) The licensing authority shall use the clear and convincing standard of proof in**  
24 **examining the factors to determine whether an applicant with a criminal conviction listed**  
25 **under subdivision (1) of this subsection will be denied a license. The licensing authority**  
26 **shall make its determination based on the following factors:**

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

28 **(b) The passage of time since the commission of the crime, including consideration**  
29 **of the factors listed under subdivision (3) of this subsection;**

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

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

34 **(3) If an individual has a valid criminal conviction for a crime that could disqualify**  
35 **the individual from receiving a license, the disqualification shall not last longer than five**  
36 **years from the date of conviction, provided that the conviction is not for a crime that is**  
37 **violent or sexual in nature and the individual has not been convicted of any other crime**  
38 **during the five-year disqualification period. If an individual was incarcerated at any time**  
39 **during the previous five years for a crime that could disqualify the individual from**  
40 **receiving a license, the disqualification may last longer than five years but shall not last**  
41 **longer than five years from the date the individual was released from incarceration,**  
42 **provided that the incarceration was not for a crime that was violent or sexual in nature.**

43 **5. An individual with a criminal record may petition a licensing authority at any**  
44 **time for a determination of whether the individual's criminal record will disqualify the**  
45 **individual from obtaining a license. This petition shall include details on the individual's**  
46 **criminal record. The licensing authority shall inform the individual of his or her standing**  
47 **within thirty days of receiving the petition from the applicant. The licensing authority may**  
48 **charge a fee to recoup its costs not to exceed twenty-five dollars for each petition.**

49 **6. (1) If a licensing authority denies an individual a license solely or in part because**  
50 **of the individual's prior conviction of a crime, the licensing authority shall notify the**  
51 **individual in writing of the following:**

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

53           (b) That the individual has the right to a hearing as provided by chapter 621 to  
54 challenge the licensing authority's decision;

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

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

57           (2) Any written determination by the licensing authority that an applicant's  
58 criminal conviction is a specifically listed disqualifying conviction and is directly related  
59 to the duties and responsibilities for the licensed occupation shall be documented with  
60 written findings for each of the grounds or reasons under paragraph (a) of subdivision (1)  
61 of this subsection by clear and convincing evidence sufficient for a reviewing court.

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

66           7. The provisions of this section shall apply to any profession for which an  
67 occupational license is issued in this state, including any new occupational license created  
68 by a state licensing authority after August 28, 2019. Notwithstanding any other provision  
69 of law, political subdivisions shall be prohibited from creating any new occupational  
70 licenses after August 28, 2019.

71           8. The provisions of this section shall not apply to peace officers or other law  
72 enforcement personnel licensed under the provisions of chapter 590.

73           9. Any department with oversight over a licensing authority may promulgate all  
74 necessary rules and regulations for the implementation of this section. Any rule or portion  
75 of a rule, as that term is defined in section 536.010, that is created under the authority  
76 delegated in this section shall become effective only if it complies with and is subject to all  
77 of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
78 chapter 536 are nonseverable, and if any of the powers vested with the general assembly  
79 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul  
80 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
81 any rule proposed or adopted after August 28, 2019, shall be invalid and void.

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