

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 564

100TH GENERAL ASSEMBLY

1384H.02P

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 conviction", any conviction, finding of guilt, plea of guilty, or plea of nolo contendere;

(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 criminal conviction directly relates to the duties and responsibilities for the licensed occupation.

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.

17 **4. (1) Before January 1, 2020, each state licensing authority shall revise its existing**
18 **licensing requirements to list the categories or specific criminal convictions that could**
19 **disqualify an applicant from receiving a license. Licensing authorities shall not use vague**
20 **or generic terms including, but not limited to, "moral turpitude" and "good character",**
21 **or consider arrests without a subsequent conviction. Licensing authorities shall only list**
22 **criminal convictions that are specific and directly related to the duties and responsibilities**
23 **for the licensed occupation.**

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

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

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

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

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

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

47 **5. An individual with a criminal record may petition a licensing authority at any**
48 **time for a determination of whether the individual's criminal record will disqualify the**
49 **individual from obtaining a license. This petition shall include details on the individual's**
50 **criminal record. The licensing authority shall inform the individual of his or her standing**
51 **within thirty days after the licensing authority has met, but in no event more than four**
52 **months after receiving the petition from the applicant. The decision shall be binding,**

53 unless the individual has subsequent criminal convictions or failed to disclose information
54 in his or her petition. The licensing authority may charge a fee to recoup its costs not to
55 exceed twenty-five dollars for each petition.

56 6. (1) If a licensing authority denies an individual a license solely or in part because
57 of the individual's prior conviction of a crime, the licensing authority shall notify the
58 individual in writing of the following:

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

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

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

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

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

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

73 7. The provisions of this section shall apply to any profession for which an
74 occupational license is issued in this state, including any new occupational license created
75 by a state licensing authority after August 28, 2019.

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

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

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