

FIRST REGULAR SESSION

# SENATE BILL NO. 251

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Read 1st time January 14, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1364S.01I

## 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  
2 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**  
2 **"Fresh Start Act of 2019".**

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

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

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

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

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

13 **3. Notwithstanding any other provision of law to the contrary,**  
14 **beginning January 1, 2020, no person shall be disqualified from**  
15 **pursuing, practicing, or engaging in any occupation for which a license**  
16 **is required solely or in part because of a prior conviction of a crime,**  
17 **unless the crime for which an applicant was convicted directly relates**  
18 **to the duties and responsibilities for the licensed occupation.**

19 **4. (1) Before January 1, 2020, each state licensing authority shall**  
20 **revise its existing licensing requirements to explicitly list the specific**  
21 **criminal convictions that could disqualify an applicant from receiving**

22 a license. Licensing authorities shall not use vague or generic terms  
23 including, but not limited to, "moral turpitude" and "good character", or  
24 consider arrests without a subsequent conviction. Licensing  
25 authorities shall only list criminal convictions that are specific and  
26 directly related to the duties and responsibilities for the licensed  
27 occupation.

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

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

35 (b) The passage of time since the commission of the crime,  
36 including consideration of the factors listed under subdivision (3) of  
37 this subsection;

38 (c) The relationship of the crime to the ability, capacity, and  
39 fitness required to perform the duties and discharge the  
40 responsibilities of the occupation; and

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

43 (3) If an individual has a valid criminal conviction for a crime  
44 that could disqualify the individual from receiving a license, the  
45 disqualification shall not last longer than five years from the date of  
46 conviction, provided that the conviction is not for a crime that is  
47 violent or sexual in nature and the individual has not been convicted  
48 of any other crime during the five-year disqualification period. If an  
49 individual was incarcerated at any time during the previous five years  
50 for a crime that could disqualify the individual from receiving a  
51 license, the disqualification may last longer than five years but shall  
52 not last longer than five years from the date the individual was  
53 released from incarceration, provided that the incarceration was not  
54 for a crime that was violent or sexual in nature.

55 5. An individual with a criminal record may petition a licensing  
56 authority at any time for a determination of whether the individual's  
57 criminal record will disqualify the individual from obtaining a  
58 license. This petition shall include details on the individual's criminal

59 record. The licensing authority shall inform the individual of his or  
60 her standing within thirty days of receiving the petition from the  
61 applicant. The licensing authority may charge a fee to recoup its costs  
62 not to exceed twenty-five dollars for each petition.

63       6. (1) If a licensing authority denies an individual a license  
64 solely or in part because of the individual's prior conviction of a crime,  
65 the licensing authority shall notify the individual in writing of the  
66 following:

- 67       (a) The grounds and reasons for the denial or disqualification;  
68       (b) That the individual has the right to a hearing as provided by  
69 chapter 621 to challenge the licensing authority's decision;  
70       (c) The earliest date the person may reapply for a license; and  
71       (d) That evidence of rehabilitation may be considered upon  
72 reapplication.

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

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

84       7. The provisions of this section shall apply to any profession for  
85 which an occupational license is issued in this state, including any new  
86 occupational license created by a state licensing authority after August  
87 28, 2019. Notwithstanding any other provision of law, political  
88 subdivisions shall be prohibited from creating any new occupational  
89 licenses after August 28, 2019.

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

93       9. Any department with oversight over a licensing authority may  
94 promulgate all necessary rules and regulations for the implementation  
95 of this section. Any rule or portion of a rule, as that term is defined in

96 section 536.010, that is created under the authority delegated in this  
97 section shall become effective only if it complies with and is subject to  
98 all of the provisions of chapter 536, and, if applicable, section  
99 536.028. This section and chapter 536 are nonseverable, and if any of  
100 the powers vested with the general assembly pursuant to chapter 536  
101 to review, to delay the effective date, or to disapprove and annul a rule  
102 are subsequently held unconstitutional, then the grant of rulemaking  
103 authority and any rule proposed or adopted after August 28, 2019, shall  
104 be invalid and void.

Unofficial ✓

Bill

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