

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "324.012. 1. This section shall be known and may be
4 cited as the "Fresh Start Act of 2020".

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

6 (1) "Criminal conviction", any conviction, finding of
7 guilt, plea of guilty, or plea of nolo contendere;

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

11 (3) "Licensing authority", an agency, examining board,
12 credentialing board, or other office of the state with the
13 authority to impose occupational fees or licensing
14 requirements on any profession. For purposes of the
15 provisions of this section other than subsection 7 of this
16 section, the term "licensing authority" shall not include
17 the state board of education's licensure of teachers
18 pursuant to chapter 168, the Missouri state board of
19 accountant's licensure of accountants pursuant to chapter
20 326, the board of podiatric medicine's licensure of
21 podiatrists pursuant to chapter 330, the Missouri dental
22 board's licensure of dentists pursuant to chapter 332, the
23 state board of registration for the healing art's licensure
24 of physicians and surgeons pursuant to chapter 334, the
25 Missouri state board of nursing's licensure of nurses
26 pursuant to chapter 335, the board of pharmacy's licensure

27 of pharmacists pursuant to chapter 338, the Missouri real
28 estate commission's licensure of real estate brokers, real
29 estate salespersons, or real estate broker-salespersons
30 pursuant to sections 339.010 to 339.205, the Missouri
31 veterinary medical board's licensure of veterinarian's
32 pursuant to chapter 340, the Missouri director of finance
33 appointed pursuant to chapter 361, or the peace officer
34 standards and training commission's licensure of peace
35 officers or other law enforcement personnel pursuant to
36 chapter 590;

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

39 3. Notwithstanding any other provision of law,
40 beginning January 1, 2021, no person shall be disqualified
41 by a state licensing authority from pursuing, practicing, or
42 engaging in any occupation for which a license is required
43 solely or in part because of a prior conviction of a crime
44 in this state or another state, unless the criminal
45 conviction directly relates to the duties and
46 responsibilities for the licensed occupation as set forth in
47 this section or is violent or sexual in nature.

48 4. Beginning August 28, 2020, applicants for
49 examination of licensure who have pleaded guilty to, entered
50 a plea of nolo contendere to, or been found guilty of any of
51 the following offenses or offenses of a similar nature
52 established under the laws of this state, any other state,
53 United States, or any other country, notwithstanding whether
54 sentence is imposed, shall be considered by state licensing
55 authorities to have committed a criminal offense that
56 directly relates to the duties and responsibilities of a
57 licensed profession:

58 (1) Any murder in the first degree, or dangerous
59 felony as defined under section 556.061 excluding an

60 intoxication-related traffic offense or intoxication-related
61 boating offense if the person is found to be a habitual
62 offender or habitual boating offender as such terms are
63 defined in section 577.001;

64 (2) Any of the following sexual offenses: rape in the
65 first degree, forcible rape, rape, statutory rape in the
66 first degree, statutory rape in the second degree, rape in
67 the second degree, sexual assault, sodomy in the first
68 degree, forcible sodomy, statutory sodomy in the first
69 degree, statutory sodomy in the second degree, child
70 molestation in the first degree, child molestation in the
71 second degree, sodomy in the second degree, deviate sexual
72 assault, sexual misconduct involving a child, sexual
73 misconduct in the first degree under section 566.090 as it
74 existed prior to August 28, 2013, sexual abuse under section
75 566.100 as it existed prior to August 28, 2013, sexual abuse
76 in the first or second degree, enticement of a child, or
77 attempting to entice a child;

78 (3) Any of the following offenses against the family
79 and related offenses: incest, abandonment of a child in the
80 first degree, abandonment of a child in the second degree,
81 endangering the welfare of a child in the first degree,
82 abuse of a child, using a child in a sexual performance,
83 promoting sexual performance by a child, or trafficking in
84 children; and

85 (4) Any of the following offenses involving child
86 pornography and related offenses: promoting obscenity in
87 the first degree, promoting obscenity in the second degree
88 when the penalty is enhanced to a class E felony, promoting
89 child pornography in the first degree, promoting child
90 pornography in the second degree, possession of child
91 pornography in the first degree, possession of child
92 pornography in the second degree, furnishing child

93 pornography to a minor, furnishing pornographic materials to
94 minors, or coercing acceptance of obscene material;

95 (5) The offense of delivery of a controlled substance,
96 as provided in section 579.020, may be a disqualifying
97 criminal offense for the following occupations: real estate
98 appraisers and appraisal management companies, licensed
99 pursuant to sections 339.500 to 339.549; and nursing home
100 administrators, licensed pursuant to chapter 344; and

101 (6) Any offense an essential element of which is fraud
102 may be a disqualifying criminal offense for the following
103 occupations: private investigators, licensed pursuant to
104 sections 324.1100 to 324.1148; accountants, licensed
105 pursuant to chapter 326; architects, licensed pursuant to
106 sections 327.091 to 327.172; engineers, licensed pursuant to
107 sections 327.181 to 327.271; land surveyors, licensed
108 pursuant to sections 327.272 to 327.371; landscape
109 architects, licensed pursuant to sections 327.600 to
110 327.635; chiropractors, licensed pursuant to chapter 331;
111 embalmers and funeral directors, licensed pursuant to
112 chapter 333; real estate appraisers and appraisal management
113 companies, licensed pursuant to sections 339.500 to 339.549;
114 and nursing home administrators, licensed pursuant to
115 chapter 344.

116 5. If an individual is charged with any of the crimes
117 set forth in subsection 4 of this section, and is convicted,
118 pleads guilty to, or is found guilty of a lesser-included
119 offense and is sentenced to a period of incarceration, such
120 conviction shall only be considered by state licensing
121 authorities as a criminal offense that directly relates to
122 the duties and responsibilities of a licensed profession for
123 four years, beginning on the date such individual is
124 released from incarceration.

125 6. (1) [Licensing authorities shall only list
126 criminal convictions that are directly related to the duties
127 and responsibilities for the licensed occupation.

128 (2)] The licensing authority shall determine whether
129 an applicant with a criminal conviction [listed under
130 subdivision (1) of this subsection] will be denied a license
131 based on the following factors:

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

134 (b) The passage of time since the commission of the
135 crime, including consideration of the factors listed under
136 subdivision [(3)] (2) of this subsection;

137 (c) The relationship of the crime to the ability,
138 capacity, and fitness required to perform the duties and
139 discharge the responsibilities of the occupation; and

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

143 [(3)] (2) If an individual has a valid criminal
144 conviction for a criminal offense that could disqualify the
145 individual from receiving a license, the disqualification
146 shall not apply to an individual who has been exonerated for
147 a crime for which he or she has previously been convicted of
148 or incarcerated.

149 7. An individual with a criminal record may petition a
150 licensing authority at any time for a determination of
151 whether the individual's criminal record will disqualify the
152 individual from obtaining a license. This petition shall
153 include details on the individual's criminal record. The
154 licensing authority shall inform the individual of his or
155 her standing within thirty days after the licensing
156 authority has met, but in no event more than four months
157 after receiving the petition from the applicant. The

158 decision shall be binding, unless the individual has
159 subsequent criminal convictions or failed to disclose
160 information in his or her petition. If the decision is that
161 the individual is disqualified, the individual shall be
162 notified in writing of the grounds and reasons for
163 disqualification. The licensing authority may charge a fee
164 by rule to recoup its costs as set by rulemaking authority
165 not to exceed twenty-five dollars for each petition.

166 8. (1) If a licensing authority denies an individual
167 a license solely or in part because of the individual's
168 prior conviction of a crime, the licensing authority shall
169 notify the individual in writing of the following:

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

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

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

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

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

187 (3) In any administrative hearing or civil litigation
188 authorized under this subsection, the licensing authority
189 shall carry the burden of proof on the question of whether

190 the applicant's criminal conviction directly relates to the
191 occupation for which the license is sought.

192 9. The provisions of this section shall apply to any
193 profession for which an occupational license is issued in
194 this state, including any new occupational license created
195 by a state licensing authority after August 28, 2020.
196 Notwithstanding any other provision of law, political
197 subdivisions shall be prohibited from creating any new
198 occupational licenses after August 28, 2020. The provisions
199 of this section shall not apply to business licenses, where
200 the terms "occupational licenses" and "business licenses"
201 are used interchangeably in a city or county charter
202 definition."; and

203 Further amend the title and enacting clause accordingly.