

SENATE BILL NO. 308

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

1091S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 324.012, RSMo, and to enact in lieu thereof one new section relating to professional licensing determinations for individuals with criminal records.

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

Section A. Section 324.012, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 324.012,
3 to read as follows:

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

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

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

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

9 (3) "Licensing authority", an agency, examining board,
10 credentialing board, or other office of the state with the
11 authority to impose occupational fees or licensing
12 requirements on any profession. **For purposes of the**
13 **provisions of subsections 1 to 6 of this section,** the term
14 "licensing authority" shall not include the state board of
15 education's licensure of teachers pursuant to chapter 168,
16 the Missouri state board of accountant's licensure of
17 accountants pursuant to chapter 326, the board of podiatric
18 medicine's licensure of podiatrists pursuant to chapter 330,

19 the Missouri dental board's licensure of dentists pursuant
20 to chapter 332, the state board of registration for the
21 healing art's licensure of physicians and surgeons pursuant
22 to chapter 334, the Missouri state board of nursing's
23 licensure of nurses pursuant to chapter 335, the board of
24 pharmacy's licensure of pharmacists pursuant to chapter 338,
25 the Missouri real estate commission's licensure of real
26 estate brokers, real estate salespersons, or real estate
27 broker-salespersons pursuant to sections 339.010 to 339.205,
28 the Missouri veterinary medical board's licensure of
29 veterinarian's pursuant to chapter 340, the Missouri
30 director of finance appointed pursuant to chapter 361, or
31 the peace officer standards and training commission's
32 licensure of peace officers or other law enforcement
33 personnel pursuant to chapter 590;

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

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

45 4. Beginning August 28, 2020, applicants for
46 examination of licensure who have pleaded guilty to, entered
47 a plea of nolo contendere to, or been found guilty of any of
48 the following offenses or offenses of a similar nature
49 established under the laws of this state, any other state,
50 United States, or any other country, notwithstanding whether

51 sentence is imposed, shall be considered by state licensing
52 authorities to have committed a criminal offense that
53 directly relates to the duties and responsibilities of a
54 licensed profession:

55 (1) Any murder in the first degree, or dangerous
56 felony as defined under section 556.061 excluding an
57 intoxication-related traffic offense or intoxication-related
58 boating offense if the person is found to be a habitual
59 offender or habitual boating offender as such terms are
60 defined in section 577.001;

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

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

82 (4) Any of the following offenses involving child
83 pornography and related offenses: promoting obscenity in
84 the first degree, promoting obscenity in the second degree
85 when the penalty is enhanced to a class E felony, promoting
86 child pornography in the first degree, promoting child
87 pornography in the second degree, possession of child
88 pornography in the first degree, possession of child
89 pornography in the second degree, furnishing child
90 pornography to a minor, furnishing pornographic materials to
91 minors, or coercing acceptance of obscene material;

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

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

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

122 6. (1) Licensing authorities shall only list criminal
123 convictions that are directly related to the duties and
124 responsibilities for the licensed occupation.

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

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

131 (b) The passage of time since the commission of the
132 crime, including consideration of the factors listed under
133 subdivision (3) of this subsection;

134 (c) The relationship of the crime to the ability,
135 capacity, and fitness required to perform the duties and
136 discharge the responsibilities of the occupation; and

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

140 (3) If an individual has a valid criminal conviction
141 for a criminal offense that could disqualify the individual
142 from receiving a license, the disqualification shall not
143 apply to an individual who has been exonerated for a crime

144 for which he or she has previously been convicted of or
145 incarcerated.

146 7. An individual with a criminal record may petition a
147 licensing authority at any time for a determination of
148 whether the individual's criminal record will disqualify the
149 individual from obtaining a license. This petition shall
150 include details on the individual's criminal record. The
151 licensing authority shall inform the individual of his or
152 her standing within thirty days after the licensing
153 authority has met, but in no event more than four months
154 after receiving the petition from the applicant. The
155 decision shall be binding, unless the individual has
156 subsequent criminal convictions or failed to disclose
157 information in his or her petition. The licensing authority
158 may charge a fee by rule to recoup its costs as set by
159 rulemaking authority not to exceed twenty-five dollars for
160 each petition.

161 8. (1) If a licensing authority denies an individual
162 a license solely or in part because of the individual's
163 prior conviction of a crime, the licensing authority shall
164 notify the individual in writing of the following:

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

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

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

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

174 (2) Any written determination by the licensing
175 authority that an applicant's criminal conviction is a

176 specifically listed disqualifying conviction and is directly
177 related to the duties and responsibilities for the licensed
178 occupation shall be documented with written findings for
179 each of the grounds or reasons under paragraph (a) of
180 subdivision (1) of this subsection by clear and convincing
181 evidence sufficient for a reviewing court.

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

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

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