

Fresh Start Model Bill

- (A) Short title.** This Act shall be known and may be cited as the “Fresh Start Act of 2019.”
- (B) Purpose.** The purpose of this Act is to help individuals with criminal records re-enter the workforce, stay out of welfare, and stay out of prison.
- (C) Definitions.**
- (1) “Criminal record” shall mean any type of felony or misdemeanor conviction.
 - (2) “Licensing” shall mean any required training, education, or fee to work in a specific profession.
 - (3) “Licensing authority” shall mean an agency, examining board, credentialing board, or other office with the authority to impose occupational fees or licensing requirements on any profession.
- (D) Anti-discrimination provision.** 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.
- (E) Required revision of licensing restrictions that are based on criminal records.**
- (1) All State licensing authorities shall revise their existing licensing requirements to explicitly list the specific criminal convictions that could disqualify an applicant from receiving a license. Licensing authorities shall not use vague or generic terms including, but not limited to, “moral turpitude” and “good character,” or consider arrests without a subsequent conviction. Licensing authorities may only list disqualifying criminal records that are specific and directly related to the duties and responsibilities for the licensed occupation.
 - (2) The licensing authority shall use the clear and convincing standard of proof in examining the factors to determine whether an applicant with a disqualifying criminal conviction will be denied a license. The licensing authority shall make their determination based on the following factors:
 - a. The nature and seriousness of the crime for which the individual was convicted;
 - b. The passage of time since the commission of the crime;
 - c. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation; and
 - d. Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against a direct relation.
 - (3) If an individual has a valid criminal conviction for a crime that could disqualify the individual from receiving a license, the disqualification shall not last longer than five (5) years from the date of conviction provided that the conviction is not for a crime that is violent or sexual in nature and the individual has not been convicted of any other crime during the five-year disqualification period.
 - a. The potential disqualification period may last longer if an applicant with a disqualifying criminal conviction was incarcerated for a crime that was not violent or sexual in nature at any time during the previous five (5) years. In this case, the disqualification may last no longer than five (5) years from the date the individual was released from incarceration.

- (4) All licensing authorities shall meet the requirements listed in (1) by 120 days after the enactment of this Act.
- (5) For state licensing authorities, the requirements listed in (1), (2), and (3) also apply to any new occupational licenses that are created after *{effective date of this act}*.
- (6) The licensing authority shall adopt necessary rules for the implementation of this section.

(F) Petition for Review of Licensing Authorities' Decisions.

- (1) An individual with a criminal record may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include details on the individual's criminal record. The licensing authority shall inform the individual of his standing within 30 days of receiving the petition from the applicant. The board may charge a fee to recoup its costs not to exceed \$25 for each petition.
- (2) If a licensing authority denies an individual a license solely or in part because of the individual's prior conviction of a crime, the licensing authority shall notify the individual in writing of the following:
 - a. The grounds and reasons for the denial or disqualification;
 - b. That the individual has the right to a hearing to challenge the licensing authority's decision;
 - c. The earliest date the person may reapply for a license; and
 - d. That evidence of rehabilitation may be considered upon reapplication.
- (3) Any written determination by the licensing authority that an applicant's criminal conviction is specifically listed as a disqualifying conviction and is directly related to the duties and responsibilities for the licensed occupation must be documented in written findings for each of the preceding factors under (F)(2) by clear and convincing evidence sufficient for a reviewing court.
- (4) In any administrative hearing or civil litigation authorized under this section, the licensing authority shall carry the burden of proof on the question of whether the applicant's criminal conviction directly relates to the occupation for which the license is sought.
- (5) The licensing authority shall adopt necessary rules for the implementation of this section.

(G) Implementation and effective date.

- (1) This Act shall be enacted notwithstanding any other provision or law, except for provisions or laws pertaining to peace officers and other law enforcement personnel.
- (2) The requirements of this Act shall be effective on January 1, 2020.