AN ACT

To repeal sections 324.206, 329.050, and 341.170, RSMo, and to enact in lieu thereof five new sections relating to professional registration.

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

Section A. Sections 324.206, 329.050, and 341.170, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 324.012, 324.025, 324.206, 329.050, and 341.170, to read as follows: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 record", any type of felony or misdemeanor conviction;

(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 crime for which an applicant was convicted 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.
4. (1) Before January 1, 2020, each state licensing authority shall revise its 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 shall only list criminal convictions 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 criminal conviction listed under subdivision (1) of this subsection will be denied a license. The licensing authority shall make its 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, including consideration of the factors listed under subdivision (3) of this subsection;
(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 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. If an individual was incarcerated at any time during the previous five years for a crime that could disqualify the individual from receiving a license, the disqualification may last longer than five years but shall not last longer than five years from the date the individual was released from incarceration, provided that the incarceration was not for a crime that was violent or sexual in nature.

5. 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 or her standing within thirty days of receiving the petition from the applicant. The licensing authority may charge a fee to recoup its costs not to exceed twenty-five dollars for each petition.

6. (1) 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 as provided by chapter 621 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.

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

(3) In any administrative hearing or civil litigation authorized under this subsection, 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.

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

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

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

324.025. 1. The provisions of this section shall be known and may be cited as the "Expanded Workforce Access Act of 2019".

2. For purposes of this section, the following terms mean:

(1) "Apprenticeship", a program that meets the federal guidelines set out in 29 C.F.R. Part 29 and 29 U.S.C. Section 50;
(2) "License", a license, certificate, registration, permit, or accreditation that enables a person to legally practice an 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.

3. Beginning January 1, 2020, within the parameters established under the federal Labor Standards For the Registration of Apprenticeship Programs under 29 CFR Part 29 and 29 U.S.C. Section 50, each state licensing authority shall grant a license to any applicant who meets the following criteria:

   (1) Successfully completed the eighth grade;
   (2) Completed an apprenticeship approved by the division of professional registration or the United States Department of Labor, or otherwise permitted under state or federal law. This apprenticeship may be completed under the supervision of a state-licensed practitioner or at a state-licensed school; and
   (3) Passed an examination, if one is deemed to be necessary, by the appropriate licensing authority.

4. (1) The appropriate licensing authority shall establish a passing score for any necessary examinations under the apprenticeship program which shall not exceed any passing scores that are otherwise required for a non-apprenticeship license for the specific profession.
   (2) If there is no examination requirement for a non-apprenticeship license, no examination shall be required for applicants who complete an apprenticeship.
   (3) The number of working hours required for a competency-based apprenticeship or a hybrid apprenticeship under 29 CFR 29.5 shall not exceed the number of educational hours otherwise required for a non-apprenticeship license for the specific profession.

5. Any department with oversight over a licensing authority may promulgate all necessary rules and regulations for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void.
324.206. As long as the person involved does not represent or hold himself or herself out as a dietitian as defined by subdivision (4) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;

(2) Persons in the military services or working in federal facilities from performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

(3) A licensed health care provider performing any activities described in sections 324.200 to 324.225 that are within the scope of practice of the licensee;

(4) A person pursuing an approved educational program leading to a degree or certificate in dietetics at an accredited or approved educational program as long as such person does not provide dietetic services outside the educational program. Such person shall be designated by a title that clearly indicates the person's status as a student;

(5) Individuals who do not hold themselves out as dietitians marketing or distributing food products including dietary supplements as defined by the Food and Drug Administration or engaging in the explanation and education of customers regarding the use of such products;

(6) Any person [furnishing general nutrition information as] disseminating free literature or providing individualized nutrition assessment, guidance, encouragement, recommendations, or weight control services as to the use of food, food materials, or dietary supplements[, nor prevent in any way the free dissemination of literature];

provided, however, no such individual may call himself or herself a dietitian unless he or she is licensed under this chapter.

329.050. 1. Applicants for examination or licensure pursuant to this chapter shall possess the following qualifications:

(1) They shall provide documentation of successful completion of courses approved by the board, have an education equivalent to the successful completion of the tenth grade, and be at least seventeen years of age;

(2) If the applicants are apprentices, they shall have served and completed, as an apprentice under the supervision of a licensed cosmetologist, the time and studies required by the board which shall be no less than three thousand hours for cosmetologists, and no less than eight hundred hours for manicurists and no less than fifteen hundred hours for esthetics. However, when the classified occupation of manicurist is apprenticed in conjunction with the classified occupation of cosmetologist, the apprentice shall be required to successfully complete an apprenticeship of no less than a total of three thousand hours;
(3) If the applicants are students, they shall have had the required time in a licensed school of no less than one thousand five hundred hours training or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of cosmetologist, with the exception of public vocational technical schools in which a student shall complete no less than one thousand two hundred twenty hours training. **All students shall complete no less than one thousand hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of hairdresser.** All students shall complete no less than four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of manicurist. **However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, otherwise required to include manicuring of nails.** All students shall complete no less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of esthetician. However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra five hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, otherwise required to include manicuring of nails the practice of esthetics; and

(4) They shall have passed an examination to the satisfaction of the board.

2. A person may apply to take the examination required by subsection 1 of this section if the person is a graduate of a school of cosmetology or apprentice program in another state or territory of the United States which has substantially the same requirements as an educational establishment licensed pursuant to this chapter. A person may apply to take the examination required by subsection 1 of this section if the person is a graduate of an educational establishment in a foreign country that provides training for a classified occupation of cosmetology, as defined by section 329.010, and has educational requirements that are substantially the same requirements as an educational establishment licensed under this chapter. The board has sole discretion to determine the substantial equivalency of such educational requirements. The board may require that transcripts from foreign schools be submitted for its review, and the board may require that the applicant provide an approved English translation of such transcripts.
3. Each application shall contain a statement that, subject to the penalties of making a false affidavit or declaration, the application is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application.

4. The sufficiency of the qualifications of applicants shall be determined by the board, but the board may delegate this authority to its executive director subject to such provisions as the board may adopt.

5. Applications for examination or licensure may be denied if the applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this state, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:
   (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;
   (2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, rape in the second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;
   (3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; and
   (4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class E felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material.

341.170. 1. Applicants for a master plumber's license shall be at least twenty-five years of age and shall have had three years or more experience as a licensed journeyman plumber theretofore licensed by any county or city operating under plumbing laws or regulations equal to the requirements of sections 341.090 to 341.220. The applicant shall possess the ability to direct other persons in the installation of plumbing and drainage and shall be skilled in planning,
designing and installing plumbing and drainage facilities and shall have a thorough knowledge of the accepted standards, principles and art of plumbing for the protection of the public health.

2. An applicant for a license as a journeyman plumber shall be at least twenty-one years of age and shall have had at least five years' experience as an apprentice under the direction and supervision of a master plumber licensed under the provisions of sections 341.090 to 341.220 or a master plumber licensed under the plumbing laws and regulations of any county or city operating under laws or regulations equal to the requirements of sections 341.090 to 341.220. He or she shall have a practical knowledge of plumbing and shall be skilled in the art of installing plumbing and drainage facilities and shall have knowledge of the accepted standards and principles of plumbing and sewer or drainage facilities for the protection of the public health.

3. An applicant for a master drainlayer's license shall be at least twenty-five years of age and shall have had three years' or more experience as a licensed journeyman drainlayer theretofore licensed by any county or city operating under plumbing laws or regulations equal to the requirements of sections 341.090 to 341.220. The applicant shall possess the ability to direct other persons in the installation of drains and sewers and shall be skilled in planning, designing and installing sewer and drain facilities and shall have a thorough practical knowledge of the accepted standards, principles and art of drainlaying for the protection of the public health.

4. An applicant for a journeyman drainlayer's license shall have worked at drainlaying under the supervision of a licensed master plumber or master drainlayer for a period of at least one year and shall possess a knowledge of drainlaying and the ability to lay drains and shall have a thorough understanding of sewer and drain installation and shall have the ability to install all types of sewers and drains conformable with standard engineering principles and specifications.

5. Any licensed master plumber or journeyman plumber desirous of engaging in the business of drainlaying shall secure a drainlayer's license and no master plumber or journeyman plumber shall engage in the business of drainlaying without first securing a drainlayer's license.