

FIRST REGULAR SESSION

HOUSE BILL NO. 472

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIER.

0926H.02I

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 324.206, 329.050, and 341.170, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 324.012, 324.025, 324.206, 329.050, and 341.170, to read as follows: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.

16 **4. (1) Before January 1, 2020, each state licensing authority shall revise its existing**
17 **licensing requirements to explicitly list the specific criminal convictions that could**
18 **disqualify an applicant from receiving a license. Licensing authorities shall not use vague**
19 **or generic terms including, but not limited to, "moral turpitude" and "good character",**
20 **or consider arrests without a subsequent conviction. Licensing authorities shall only list**
21 **criminal convictions that are specific and directly related to the duties and responsibilities**
22 **for the licensed occupation.**

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

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

28 **(b) The passage of time since the commission of the crime, including consideration**
29 **of the factors listed under subdivision (3) of this subsection;**

30 **(c) The relationship of the crime to the ability, capacity, and fitness required to**
31 **perform the duties and discharge the responsibilities of the occupation; and**

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

34 **(3) If an individual has a valid criminal conviction for a crime that could disqualify**
35 **the individual from receiving a license, the disqualification shall not last longer than five**
36 **years from the date of conviction, provided that the conviction is not for a crime that is**
37 **violent or sexual in nature and the individual has not been convicted of any other crime**
38 **during the five-year disqualification period. If an individual was incarcerated at any time**
39 **during the previous five years for a crime that could disqualify the individual from**
40 **receiving a license, the disqualification may last longer than five years but shall not last**
41 **longer than five years from the date the individual was released from incarceration,**
42 **provided that the incarceration was not for a crime that was violent or sexual in nature.**

43 **5. An individual with a criminal record may petition a licensing authority at any**
44 **time for a determination of whether the individual's criminal record will disqualify the**
45 **individual from obtaining a license. This petition shall include details on the individual's**
46 **criminal record. The licensing authority shall inform the individual of his or her standing**
47 **within thirty days of receiving the petition from the applicant. The licensing authority may**
48 **charge a fee to recoup its costs not to exceed twenty-five dollars for each petition.**

49 **6. (1) If a licensing authority denies an individual a license solely or in part because**
50 **of the individual's prior conviction of a crime, the licensing authority shall notify the**
51 **individual in writing of the following:**

- 52 **(a) The grounds and reasons for the denial or disqualification;**
53 **(b) That the individual has the right to a hearing as provided by chapter 621 to**
54 **challenge the licensing authority's decision;**
55 **(c) The earliest date the person may reapply for a license; and**
56 **(d) That evidence of rehabilitation may be considered upon reapplication.**
57 **(2) Any written determination by the licensing authority that an applicant's**
58 **criminal conviction is a specifically listed disqualifying conviction and is directly related**
59 **to the duties and responsibilities for the licensed occupation shall be documented with**
60 **written findings for each of the grounds or reasons under paragraph (a) of subdivision (1)**
61 **of this subsection by clear and convincing evidence sufficient for a reviewing court.**
62 **(3) In any administrative hearing or civil litigation authorized under this**
63 **subsection, the licensing authority shall carry the burden of proof on the question of**
64 **whether the applicant's criminal conviction directly relates to the occupation for which the**
65 **license is sought.**
66 **7. The provisions of this section shall apply to any profession for which an**
67 **occupational license is issued in this state, including any new occupational license created**
68 **by a state licensing authority after August 28, 2019. Notwithstanding any other provision**
69 **of law, political subdivisions shall be prohibited from creating any new occupational**
70 **licenses after August 28, 2019.**
71 **8. The provisions of this section shall not apply to peace officers or other law**
72 **enforcement personnel licensed under the provisions of chapter 590.**
73 **9. Any department with oversight over a licensing authority may promulgate all**
74 **necessary rules and regulations for the implementation of this section. Any rule or portion**
75 **of a rule, as that term is defined in section 536.010, that is created under the authority**
76 **delegated in this section shall become effective only if it complies with and is subject to all**
77 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
78 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
79 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
80 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
81 **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
2 **"Expanded Workforce Access Act of 2019".**
3 **2. For purposes of this section, the following terms mean:**
4 **(1) "Apprenticeship", a program that meets the federal guidelines set out in 29**
5 **C.F.R. Part 29 and 29 U.S.C. Section 50;**

6 (2) "License", a license, certificate, registration, permit, or accreditation that
7 enables a person to legally practice an occupation, profession, or activity in the state;

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

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

15 (1) Successfully completed the eighth grade;

16 (2) Completed an apprenticeship approved by the division of professional
17 registration or the United States Department of Labor, or otherwise permitted under state
18 or federal law. This apprenticeship may be completed under the supervision of a state-
19 licensed practitioner or at a state-licensed school; and

20 (3) Passed an examination, if one is deemed to be necessary, by the appropriate
21 licensing authority.

22 4. (1) The appropriate licensing authority shall establish a passing score for any
23 necessary examinations under the apprenticeship program which shall not exceed any
24 passing scores that are otherwise required for a non-apprenticeship license for the specific
25 profession.

26 (2) If there is no examination requirement for a non-apprenticeship license, no
27 examination shall be required for applicants who complete an apprenticeship.

28 (3) The number of working hours required for a competency-based apprenticeship
29 or a hybrid apprenticeship under 29 CFR 29.5 shall not exceed the number of educational
30 hours otherwise required for a non-apprenticeship license for the specific profession.

31 5. Any department with oversight over a licensing authority may promulgate all
32 necessary rules and regulations for the implementation of this section. Any rule or portion
33 of a rule, as that term is defined in section 536.010, that is created under the authority
34 delegated in this section shall become effective only if it complies with and is subject to all
35 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
36 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
37 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
38 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
39 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
2 as a dietitian as defined by subdivision (4) of subsection 2 of section 324.200, nothing in sections
3 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

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

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

8 (3) A licensed health care provider performing any activities described in sections
9 324.200 to 324.225 that are within the scope of practice of the licensee;

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

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

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

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

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

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

6 (2) If the applicants are apprentices, they shall have served and completed, as an
7 apprentice under the supervision of a licensed cosmetologist, the time and studies required by
8 the board which shall be no less than three thousand hours for cosmetologists, and no less than
9 eight hundred hours for manicurists and no less than fifteen hundred hours for esthetics.
10 However, when the classified occupation of manicurist is apprenticed in conjunction with the
11 classified occupation of cosmetologist, the apprentice shall be required to successfully complete
12 an apprenticeship of no less than a total of three thousand hours;

13 (3) If the applicants are students, they shall have had the required time in a licensed
14 school of no less than one thousand five hundred hours training or the credit hours determined
15 by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
16 Regulations, as amended, for the classification of cosmetologist, with the exception of public
17 vocational technical schools in which a student shall complete no less than one thousand two
18 hundred twenty hours training. **All students shall complete no less than one thousand hours
19 or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8
20 of Title 34 of the Code of Federal Regulations, as amended, for the classification of
21 hairdresser.** All students shall complete no less than four hundred hours or the credit hours
22 determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of
23 Federal Regulations, as amended, for the classification of manicurist. **However, when the
24 classified occupation of manicurist is taken in conjunction with the classified occupation
25 of cosmetologist, the student shall not be required to serve the extra four hundred hours
26 or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8
27 of Title 34 of the Code of Federal Regulations, as amended, otherwise required to include
28 manicuring of nails.** All students shall complete no less than seven hundred fifty hours or the
29 credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of
30 the Code of Federal Regulations, as amended, for the classification of esthetician. However,
31 when the classified occupation of [~~manicurist~~] **esthetician** is taken in conjunction with the
32 classified occupation of cosmetologist, the student shall not be required to serve the extra [~~four~~]
33 **five** hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of
34 Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, otherwise required
35 to include [~~manicuring of nails~~] **the practice of esthetics**; and

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

37 2. A person may apply to take the examination required by subsection 1 of this section
38 if the person is a graduate of a school of cosmetology or apprentice program in another state or
39 territory of the United States which has substantially the same requirements as an educational
40 establishment licensed pursuant to this chapter. A person may apply to take the examination
41 required by subsection 1 of this section if the person is a graduate of an educational
42 establishment in a foreign country that provides training for a classified occupation of
43 cosmetology, as defined by section 329.010, and has educational requirements that are
44 substantially the same requirements as an educational establishment licensed under this chapter.
45 The board has sole discretion to determine the substantial equivalency of such educational
46 requirements. The board may require that transcripts from foreign schools be submitted for its
47 review, and the board may require that the applicant provide an approved English translation of
48 such transcripts.

49 3. Each application shall contain a statement that, subject to the penalties of making a
50 false affidavit or declaration, the application is made under oath or affirmation and that its
51 representations are true and correct to the best knowledge and belief of the person signing the
52 application.

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

56 5. Applications for examination or licensure may be denied if the applicant has pleaded
57 guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following
58 offenses or offenses of a similar nature established under the laws of this state, any other state,
59 the United States, or any other country, notwithstanding whether sentence is imposed:

60 (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

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

69 (3) Any of the following offenses against the family and related offenses: incest,
70 abandonment of a child in the first degree, abandonment of a child in the second degree,
71 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual
72 performance, promoting sexual performance by a child, or trafficking in children; and

73 (4) Any of the following offenses involving child pornography and related offenses:
74 promoting obscenity in the first degree, promoting obscenity in the second degree when the
75 penalty is enhanced to a class E felony, promoting child pornography in the first degree,
76 promoting child pornography in the second degree, possession of child pornography in the first
77 degree, possession of child pornography in the second degree, furnishing child pornography to
78 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene
79 material.

341.170. 1. Applicants for a master plumber's license shall ~~[be at least twenty-five years~~
2 ~~of age and shall]~~ have had three years or more experience as a licensed journeyman plumber
3 theretofore licensed by any county or city operating under plumbing laws or regulations equal
4 to the requirements of sections 341.090 to 341.220. The applicant shall possess the ability to
5 direct other persons in the installation of plumbing and drainage and shall be skilled in planning,

6 designing and installing plumbing and drainage facilities and shall have a thorough knowledge
7 of the accepted standards, principles and art of plumbing for the protection of the public health.

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

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

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

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

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