

HCS HB 2141 -- FRESH START ACT OF 2020

SPONSOR: Grier

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Corrections and Public Institutions by a vote of 7 to 1. Voted "Do Pass" by the Standing Committee on Rules-Administrative Oversight by a vote of 6 to 0.

FRESH START ACT OF 2020

This bill establishes the "Fresh Start Act of 2020". Beginning January 1, 2021, a person cannot be disqualified from licensure for any occupation solely or in part because of a prior conviction of a crime, unless the criminal conviction directly relates to the duties and responsibilities for the licensed occupation.

Each state licensing authority must revise its existing licensing requirements to explicitly list which categories or specific criminal convictions could disqualify an applicant. The licensing authority cannot consider an arrest without a conviction. A disqualifying conviction must be specific and directly related to the duties and responsibilities of the occupation.

In determining whether an applicant with a conviction will be denied a license, the licensing authority must use a clear and convincing standard of proof and determine the nature and seriousness of the crime, the passage of time since the commission of the crime, the relationship of the crime to the fitness required to perform the duties of the occupation, and any evidence of rehabilitation.

An individual with a conviction cannot be disqualified from an occupation for more than five years, unless the crime is violent or sexual in nature or if the individual was convicted of another crime during that five-year period.

An individual with a conviction can petition the licensing authority for a determination of whether or not the individual's criminal record will disqualify him or her from licensure. The licensing authority must respond within 30 days after the licensing authority has met, but in no event more than four months after receiving the petition from the applicant.

If an individual is denied a license based on a previous criminal conviction, the licensing authority must notify the individual of the grounds for denial. Evidence for the grounds for denial must have clear and convincing evidence sufficient for a reviewing court. The applicant has the right to a hearing to challenge the

licensing authority's decision. The licensing authority has the burden of proof on whether the conviction directly relates to the occupation.

The provisions of the act also apply to any occupational license created after the effective date of the bill. Political subdivisions are prohibited from creating any new occupational licenses after the effective date of the bill.

These provisions do not apply to peace officers, law enforcement personnel, accountants, podiatrists, dentists, physicians and surgeons, pharmacists, nurses, or any persons under the supervision or jurisdiction of the Director of Finance.

PROFESSIONAL LICENSE RECIPROCITY

This bill makes changes to the existing professional licensure reciprocity statute, through which a person can become licensed in Missouri if they are licensed in another state.

The following individuals are currently excluded in statute from the provisions of this section: those with a certificate of license to teach in public schools; and those licensed by the Board of Registration for the Healing Arts, the Board of Nursing, the Board of Pharmacy, the State Committee of Psychologists, the Dental Board, the Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Architects, the Board of Optometry, and the Veterinary Medical Board.

This bill removes these exclusions and requires that licensure by reciprocity for these professions be the same as any other licensed profession in this state.

Currently, only a resident of Missouri is eligible to apply for a license by reciprocity, the bill allows any person to apply if the; applicant for licensure by reciprocity has had a license for at least one year in another state, territory, or the District of Columbia. The applicant must be licensed at the same practice level in the other state.

The bill removes the requirement that the other jurisdiction that issued the applicant's license must have substantially similar or more stringent requirements than the licensure requirements in Missouri. Instead, the bill requires that the other jurisdiction must have minimum education requirements and, if applicable, work experience and clinical supervision requirements. If licensure in Missouri requires an examination on the law of Missouri before licensure, then an applicant can be required to take and pass an examination on the laws of Missouri before being granted a license

by reciprocity.

The bill explicitly prevents licensure by reciprocity if an applicant has had his or her license revoked in another jurisdiction, is currently under investigation in another jurisdiction, or has a complaint pending in another jurisdiction, or if the applicant does not have a license in good standing in the other jurisdiction or has a criminal record that would disqualify the applicant in Missouri. If another jurisdiction has previously taken disciplinary action against an applicant, the applicant cannot be granted a license by reciprocity until the matter is resolved in the other jurisdiction.

This bill removes a provision that would allow an applicant to be denied a license if granting a license by reciprocity would endanger the public health, safety, or welfare.

Any person who is granted a license by reciprocity is subject to all applicable rules and regulations.

An applicant for licensure by reciprocity can still be required to submit fingerprints in order to access criminal records for purposes not relating to criminal justice.

The provisions of licensure by reciprocity do not apply to a profession that has a licensing compact with another state. A license issued by reciprocity is valid only in Missouri and does not make a licensee eligible to be part of an interstate compact. A person who is licensed in another state by an interstate compact is not eligible for licensure by reciprocity.

This bill is similar to HB 2046 and SCS SB 647 (2020) and HB 564 and HB 472 (2019).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that the bill provides transparency for boards and will correlate offenses to professions. Supporters believe that this bill will help create productivity in the state and help remove potential barriers for those individuals that have paid their debt to society. Furthermore, supporters feel that the bill would close up the loopholes and exceptions by clarifying and giving advance notice if an individual would qualify for a license.

The bill will remove barriers to work and allow more employees to contribute to the Missouri economy. This bill will allow employees to more easily be licensed in our state and fill the shortage of

jobs.

Testifying for the bill were Representative Grier; Opportunity Solutions Project; Gateway Foundation; Missouri Catholic Conference; Empower Missouri; Peggy Albers; Missouri Chamber of Commerce and Industry; Michael Bobzin; Greater Kansas City Chamber of Commerce; American Civil Liberties Union; and Jewish Community Relations Council.

OPPONENTS: Those who oppose the bill say that the real estate board is concerned with the opportunity to access homes if licensure is relaxed. We need to protect people's homes and property.

Testifying against the bill was Missouri Realtors.

OTHERS: Others testifying on the bill say the department will need to hire a couple more attorneys and request appropriations for additional expenses if this bill passes.

Testifying on the bill was Missouri Division of Professional Registration.