

**SENATE, No. 878**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**SYNOPSIS**

Prohibits public and private employers from automatically disqualifying ex-offenders from employment.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT prohibiting public and private employers from  
2 automatically disqualifying ex-offenders from employment and  
3 supplementing Title 10 of the Revised Statutes.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. a. The provisions of this act shall apply to any application  
9 by any person for a license or employment with any public or  
10 private employer, who has previously been convicted of one or  
11 more criminal offenses in this State or in any other jurisdiction, and  
12 to any license or employment held by any person whose conviction  
13 of one or more criminal offenses in this State or in any other  
14 jurisdiction preceded this employment or granting of a license,  
15 except where a mandatory forfeiture, disability, or bar to  
16 employment is imposed by law, and has not been removed by an  
17 executive pardon.

18 b. Nothing in this act shall be construed to affect any right an  
19 employer may have with respect to an intentional misrepresentation  
20 in connection with an application for employment made by a  
21 prospective employee or previously made by a current employee.  
22

23 2. An application for any licensure or employment to which the  
24 provisions of this act are applicable shall not be denied by reason of  
25 the applicant's having previously been convicted of one or more  
26 criminal offenses, or by reason of a finding of lack of good moral  
27 character when such finding is based solely upon the fact that the  
28 applicant has previously been convicted of one or more criminal  
29 offenses, unless:

30 a. there is a direct relationship between one or more of the  
31 previous criminal offenses and the specific license or employment  
32 sought; or

33 b. the issuance of the license or the granting of employment  
34 would involve an unreasonable risk to property or to the safety or  
35 welfare of specific persons or the general public.  
36

37 3. a. In making a determination pursuant to section 2 of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill),  
39 the public or private employer shall consider the following factors:

40 (1) the public policy of this State to encourage the licensure and  
41 employment of persons previously convicted of one or more  
42 criminal offenses;

43 (2) the specific duties and responsibilities necessarily related to  
44 the license or employment sought;

45 (3) the bearing, if any, that the criminal offense or offenses for  
46 which the person was previously convicted will have on his fitness  
47 or ability to perform one or more such duties or responsibilities;

1 (4) the time which has elapsed since the occurrence of the  
2 criminal offense or offenses;

3 (5) the age of the person at the time of occurrence of the  
4 criminal offense or offenses;

5 (6) the seriousness of the offense or offenses;

6 (7) any information produced by the person, or produced on his  
7 behalf, in regard to his rehabilitation and good conduct; and

8 (8) the legitimate interest of the public or private employer in  
9 protecting property and the safety and welfare of specific  
10 individuals or general public.

11 b. In making a determination pursuant to section 2 of P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill), the  
13 public agency or private employer shall also give consideration to a  
14 certificate of rehabilitation issued to the applicant pursuant to  
15 P.L.2007, c.327 (C.2A:168A-7 et seq.), which certificate shall  
16 create a presumption of rehabilitation in regard to the offense or  
17 offenses specified therein.

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19 4. This act shall take effect on the first day of the seventh month  
20 after enactment

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23 STATEMENT

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25 This bill would prohibit all public and private employers from  
26 automatically disqualifying ex-offenders from employment. Public  
27 and private employers would be prohibited from denying a person a  
28 license or employment because the person has previously been  
29 convicted of a criminal offense or because the person has been  
30 determined to lack “good moral character” based on a previous  
31 conviction. The bill applies to current, as well as prospective  
32 employees.

33 Employers would not be subject to this prohibition if: (1) there  
34 is a direct relationship between a previous criminal offense and the  
35 specific license or employment sought; or (2) issuing the license or  
36 hiring the person would involve an unreasonable risk to property or  
37 to the safety or welfare of specific persons or the general public.  
38 Employers must consider the following factors to determine if  
39 either of these exceptions apply: (1) that this State’s policy is to  
40 encourage licensing and employing persons previously convicted of  
41 one or more criminal offenses; (2) the specific duties and  
42 responsibilities related to the license or employment sought; (3) the  
43 bearing, if any, the criminal offense will have on the person’s  
44 fitness or ability to perform the required duties or responsibilities;  
45 (4) how much time has elapsed since the offense was committed;  
46 (5) the person’s age when the offense was committed; (6) the  
47 seriousness of the offense; (7) information provided by the person

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1 showing rehabilitation and good conduct; and (8) the legitimate  
2 interest of the public or private employer in protecting the property,  
3 safety and welfare of specific individuals or general public.

4 Under the bill, the issuance of a certificate of rehabilitation to a  
5 person creates a presumption of rehabilitation in regard to the  
6 offenses to which the certificate applies. An employer must  
7 consider the certificate in determining whether either of the  
8 exceptions apply.

9 The rights of employers with respect to an intentional  
10 misrepresentation in connection with an application for employment  
11 made by a prospective employee or previously made by a current  
12 employee are not affected by the provisions of the bill.