

# ASSEMBLY, No. 2781

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**SYNOPSIS**

Requires immediate forfeiture of public office, position or employment, without application by the prosecutor, for public officials and employees convicted under Federal law of certain public corruption offenses.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/27/2021)**

1 AN ACT concerning forfeiture of public office and amending  
2 N.J.S.2C:51-2.

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

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7 1. N.J.S.2C:51-2 is amended to read as follows:

8 2C:51-2. Forfeiture of Public Office, Position, or Employment.

9 a. A person holding any public office, position, or  
10 employment, elective or appointive, under the government of this  
11 State or any agency or political subdivision thereof, who is  
12 convicted of an offense shall forfeit such office, position or  
13 employment if:

14 (1) He is convicted under the laws of this State of an offense  
15 involving dishonesty or of a crime of the third degree or above or  
16 under the laws of another state or of the United States of an offense  
17 or a crime which, if committed in this State, would be such an  
18 offense or crime;

19 (2) He is convicted of an offense involving or touching such  
20 office, position or employment; or

21 (3) The Constitution so provides.

22 As used in this subsection, "involving or touching such office,  
23 position or employment" means that the offense was related directly  
24 to the person's performance in, or circumstances flowing from, the  
25 specific public office, position or employment held by the person.

26 b. A court of this State shall enter an order of forfeiture  
27 pursuant to subsection a.:

28 (1) (a) Immediately upon a finding of guilt by the trier of fact  
29 or a plea of guilty entered in any court of this State; and

30 (b) Immediately upon notice to a court of this State by the  
31 county prosecutor or the Attorney General, following a finding of  
32 guilt by the trier of fact or a plea of guilty entered in any court of  
33 the United States,

34 unless the court, for good cause shown, orders a stay of such  
35 forfeiture pending a hearing on the merits at the time of sentencing,  
36 or at the time of the forfeiture notice concerning a conviction in any  
37 court of the United States, as applicable; or

38 (2) Upon application of the county prosecutor or the Attorney  
39 General, when the forfeiture is based upon a conviction of an  
40 offense under the laws of another state **[or of the United States]**.  
41 An order of forfeiture pursuant to this **[paragraph]** subsection shall  
42 be deemed to have taken effect on the date the person was found  
43 guilty by the trier of fact or pled guilty to the offense.

44 c. No court shall grant a stay of an order of forfeiture pending  
45 appeal of a conviction or forfeiture order unless the court is clearly

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 convinced that there is a substantial likelihood of success on the  
2 merits. If the conviction be reversed or the order of forfeiture be  
3 overturned, he shall be restored, if feasible, to his office, position or  
4 employment with all the rights, emoluments and salary thereof from  
5 the date of forfeiture.

6 Any official action taken by the convicted person on or after the  
7 date as of which a forfeiture of the person's office shall take effect  
8 shall, during a period of 60 days following the date on which an  
9 order of forfeiture shall have been issued hereunder, be voidable by  
10 the person's successor in office or, if the office of the person was  
11 that of member of the governing body of a county, municipality or  
12 independent authority, by that governing body.

13 d. In addition to the punishment prescribed for the offense, and  
14 the forfeiture set forth in subsection a. of N.J.S.2C:51-2, any person  
15 convicted of an offense involving or touching on his public office,  
16 position or employment shall be forever disqualified from holding  
17 any office or position of honor, trust or profit under this State or  
18 any of its administrative or political subdivisions. As used in this  
19 subsection, "involving or touching on his public office, position or  
20 employment" means that the offense was related directly to the  
21 person's performance in, or circumstances flowing from, the  
22 specific public office, position or employment held by the person.

23 e. Any forfeiture or disqualification under subsection a., b. or  
24 d. which is based upon a conviction of a disorderly persons or petty  
25 disorderly persons offense may be waived by the court upon  
26 application of the county prosecutor or the Attorney General and for  
27 good cause shown.

28 f. Except as may otherwise be ordered by the Attorney General  
29 as the public need may require, any person convicted of an offense  
30 under section 97 of P.L.1999, c.440 (C.2C:21-34), N.J.S.2C:27-2,  
31 N.J.S.2C:27-3, N.J.S.2C:27-5, section 100 of P.L.1999, c.440  
32 (C.2C:27-9), section 5 of P.L.2003, c.255 (C.2C:27-10), section 6  
33 of P.L.2003, c.255 (C.2C:27-11), N.J.S.2C:29-4, N.J.S.2C:30-2, or  
34 N.J.S.2C:30-3 of this Title shall be ineligible, either directly or  
35 indirectly, to submit a bid, enter into any contract, or to conduct any  
36 business with any board, agency, authority, department,  
37 commission, public corporation, or other body of this State, of this  
38 or one or more other states, or of one or more political subdivisions  
39 of this State for a period of, but not more than, 10 years from the  
40 date of conviction for a crime of the second degree, or five years  
41 from the date of conviction for a crime of the third degree. It is the  
42 purpose of this subsection to bar any individual convicted of any of  
43 the above enumerated offenses and any business, including any  
44 corporation, partnership, association or proprietorship in which  
45 such individual is a principal, or with respect to which such  
46 individual owns, directly or indirectly, or controls 5% or more of  
47 the stock or other equity interest of such business, from conducting  
48 business with public entities.

1 The State Treasurer shall keep and maintain a list of all  
2 corporations barred from conducting such business pursuant to this  
3 section.

4 g. In any case in which the issue of forfeiture is not raised in a  
5 court of this State at the time of a finding of guilt, entry of guilty  
6 plea or sentencing, a forfeiture of public office, position or  
7 employment required by this section may be ordered by a court of  
8 this State upon application of the county prosecutor or the Attorney  
9 General or upon application of the public officer or public entity  
10 having authority to remove the person convicted from his public  
11 office, position or employment. The fact that a court has declined  
12 to order forfeiture shall not preclude the public officer or public  
13 entity having authority to remove the person convicted from  
14 seeking to remove or suspend the person from his office, position or  
15 employment on the ground that the conduct giving rise to the  
16 conviction demonstrates that the person is unfit to hold the office,  
17 position or employment.

18 (cf: P.L.2007, c.49, s.5)

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20 2. This act shall take effect immediately and shall apply to any  
21 person convicted of an offense prior to, on, or after the effective  
22 date.

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#### STATEMENT

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27 This bill would provide that State and local public officials and  
28 employees convicted under Federal law of certain public corruption  
29 offenses would forfeit their office, position, or employment  
30 immediately, without application by the prosecutor. Immediate  
31 forfeiture without application by the prosecutor is required under  
32 current law for State and local public officials and employees  
33 convicted under State law.

34 Currently, N.J.S.2C:51-2 provides that public officials and public  
35 employees convicted of certain criminal offenses must forfeit their  
36 public office, position or employment. Forfeiture applies if the  
37 person is convicted under State law of an offense involving  
38 dishonesty or of a crime of the third degree or above, or if the  
39 person is convicted under the laws of another state or under Federal  
40 law of a criminal offense which, if committed in New Jersey, would  
41 be an offense involving dishonesty or of a crime of the third degree  
42 or above. Forfeiture also applies if the person is convicted of an  
43 offense involving or touching such office, position or employment,  
44 or if the Constitution so provides.

45 N.J.S.2C:51-2 provides that if a person is found guilty or pleads  
46 guilty in State court to an applicable offense, the State court must  
47 enter an order of forfeiture immediately unless the court, for good  
48 cause shown, orders a stay pending a hearing on the merits at the

1 time of sentencing. However, if the person is convicted of an  
2 applicable offense in Federal court or under the laws of another  
3 state, a New Jersey court can enter an order of forfeiture only upon  
4 application of the county prosecutor or the Attorney General.

5 Under the bill, if a defendant is convicted in Federal court of an  
6 applicable offense, the county prosecutor or the Attorney General  
7 would notify a State court and the State court would enter the order  
8 of forfeiture immediately. The bill would not affect the procedures  
9 for persons convicted of an offense under the laws of another state;  
10 in those cases the county prosecutor or Attorney General would still  
11 be required to bring an application to a New Jersey court for an  
12 order of forfeiture.