

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2890

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2890, with committee amendments.

As amended, this bill requires professional and occupational boards in the Division of Consumer Affairs, when determining whether a person is disqualified from certification, registration or licensure because of a prior conviction of a crime or offense, to consider whether the crime or offense has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

Current law permits a board to suspend or revoke, refuse to issue, or refuse to admit a person to an examination for any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. The bill amends this standard of proof by deleting the reference to a crime or offense involving moral turpitude, and requires that the crime or offense have a direct or substantial relationship to the activity regulated by the board, or to be of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

In addition, the bill supplements current law to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by an entity solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare. In determining whether a crime or offense directly or substantially relates to the activity regulated by the entity, an entity must consider the following:

(1) the nature and seriousness of the crime or offense and the passage of time since its commission;

(2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity;

(3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity.

The bill provides that an entity shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the entity because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the entity has determined that the conviction may disqualify the person and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

The entity must also afford the person an opportunity to be heard before the entity prior to the entity making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the entity no later than 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. If the entity's final decision is to disqualify the person, the entity must notify the person, no later than 45 days after the hearing, in writing as to the grounds and reasons for the disqualification, the earliest date upon which the person may reapply, and that additional evidence of rehabilitation may be considered upon reapplication.

The bill also provides that a person's prior conviction for murder, or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration under "Megan's Law," or under an equivalent statute of another state or jurisdiction, creates a rebuttable presumption that a substantial relationship exists between the prior conviction and the profession or occupation regulated by the entity.

Under the bill, an individual is disqualified from certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if the individual has been convicted of embezzlement, fraud, crimes involving public corruption, or theft within five years preceding the submission of an application for certification, registration or licensure.

The supplemental sections of the bill apply to any license, certification, or registration issued by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a profession or occupation.

As amended and reported by the committee, Assembly Bill No. 2890 is identical to Senate Bill No. 942 (1R), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments clarify that certification, registration or licensure may be prohibited if such action is inconsistent with protecting the public's health, safety, and welfare. Additionally, language was added to expand to all entities, including those in any principal department of the Executive Branch of State government that certify, register or license a profession, the application of the process in the bill to determine if an individual should be prohibited from being certified, registered or licensed. References to a "board" were also changed to "entity" to capture the types of entities other than boards that certify, register or license a profession.

The amendments also change the timeline for an individual's opportunity to be heard from no later than 30 days after the individual has received notice from an entity to 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. Additionally, the amendments change an entity's deadline to issue a final determination after an individual's hearing to no later than 45 days after the hearing rather than no later than 30 days.

The amendments also add language to disqualify an individual from certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if the individual has been convicted of embezzlement, fraud, public corruption, or theft within five years preceding the submission of an application for certification, registration or licensure. Lastly, the amendments expand current language requiring data collection and allowing anticipatory regulations to all entities that certify, register or license a profession.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.