

[First Reprint]
SENATE, No. 942

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

Co-Sponsored by:

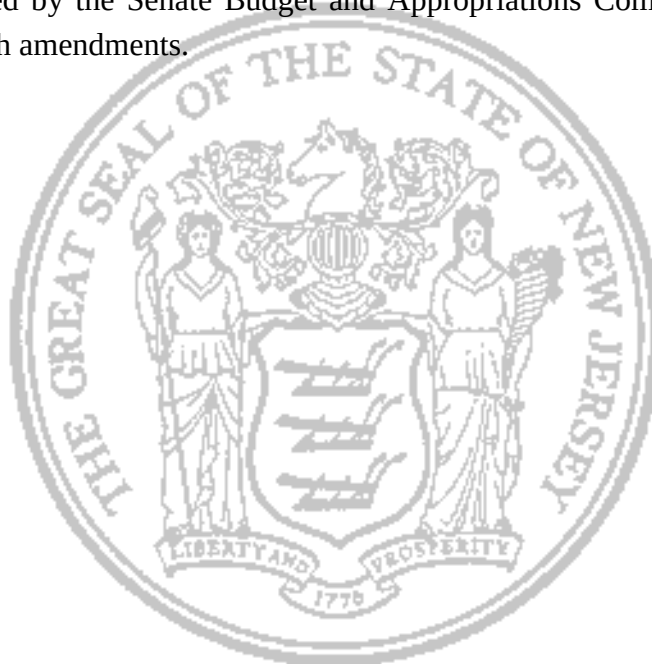
Senator O'Scanlon

SYNOPSIS

Requires certain standards for professional and occupational boards considering applicants with criminal history records.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 25, 2020, with amendments.



(Sponsorship Updated As Of: 6/25/2020)

1 AN ACT concerning criminal history records and professional or
 2 occupational boards, and amending and supplementing
 3 P.L.1978, c.73.

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

7
 8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read
 9 as follows:

10 8. A board may refuse to admit a person to an examination or
 11 may refuse to issue or may suspend or revoke any certificate,
 12 registration or license issued by the board upon proof that the
 13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or
 15 authorization to sit for an examination, as the case may be, through
 16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,
 18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross
 20 incompetence which damaged or endangered the life, health,
 21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or
 23 incompetence;

24 e. Has engaged in professional or occupational misconduct as
 25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any
 27 crime or offense **【involving moral turpitude or relating adversely】**
 28 that has a direct or substantial relationship to the activity regulated by
 29 the board or is of a nature such that certification, registration or
 30 licensure of the person would be inconsistent with the public's
 31 'health,'¹ safety, 'or welfare,'¹ provided that the board shall make
 32 this determination in a manner consistent with section 2 of P.L. ,
 33 c. (C.) (pending before the Legislature as this bill). For the
 34 **【purpose】** purposes of this subsection a judgment of conviction or a
 35 plea of guilty, non vult, nolo contendere or any other such
 36 disposition of alleged criminal activity shall be deemed a
 37 conviction;

38 g. Has had his authority to engage in the activity regulated by
 39 the board revoked or suspended by any other state, agency or
 40 authority for reasons consistent with this section;

41 h. Has violated or failed to comply with the provisions of any
 42 act or regulation administered by the board;

43 i. Is incapable, for medical or any other good cause, of
 44 discharging the functions of a licensee in a manner consistent with
 45 the public's health, safety and welfare;

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 25, 2020.

1 j. Has repeatedly failed to submit completed applications, or
2 parts of, or documentation submitted in conjunction with, such
3 applications, required to be filed with the Department of
4 Environmental Protection;

5 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-
6 1 et seq.) or any insurance fraud prevention law or act of another
7 jurisdiction or has been adjudicated, in civil or administrative
8 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
9 or has been subject to a final order, entered in civil or
10 administrative proceedings, that imposed civil penalties under that
11 act against the applicant or holder;

12 l. Is presently engaged in drug or alcohol use that is likely to
13 impair the ability to practice the profession or occupation with
14 reasonable skill and safety. For purposes of this subsection, the
15 term "presently" means at this time or any time within the previous
16 365 days;

17 m. Has prescribed or dispensed controlled dangerous substances
18 indiscriminately or without good cause, or where the applicant or
19 holder knew or should have known that the substances were to be
20 used for unauthorized consumption or distribution;

21 n. Has permitted an unlicensed person or entity to perform an
22 act for which a license or certificate of registration or certification
23 is required by the board, or aided and abetted an unlicensed person
24 or entity in performing such an act;

25 o. Advertised fraudulently in any manner.

26 The division is authorized, for purposes of facilitating
27 determinations concerning licensure eligibility, to require the
28 fingerprinting of each applicant in accordance with applicable State
29 and federal laws, rules and regulations. Each applicant shall submit
30 the applicant's name, address, and written consent to the director for
31 a criminal history record background check to be performed. The
32 division is authorized to receive criminal history record information
33 from the State Bureau of Identification in the Division of State
34 Police and the Federal Bureau of Investigation. Upon receipt of
35 such notification, the division shall forward the information to the
36 appropriate board which shall make a determination regarding the
37 issuance of licensure. The applicant shall bear the cost for the
38 criminal history record background check, including all costs of
39 administering and processing the check, unless otherwise provided
40 for by an individual enabling act. The Division of State Police shall
41 promptly notify the division in the event an applicant or licensee,
42 who was the subject of a criminal history record background check
43 pursuant to this section, is convicted of a crime or offense in this
44 State after the date the background check was performed.

45 For purposes of this act:

46 "Completed application" means the submission of all of the
47 information designated on the checklist, adopted pursuant to section

1 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
2 permit for which application is made.

3 "Permit" has the same meaning as defined in section 1 of
4 P.L.1991, c.421 (C.13:1D-101).
5 (cf: P.L.2003, c.199, s.31)
6

7 2. (New section) a. Notwithstanding any law, rule or
8 regulation to the contrary, **'[a board] an entity'** shall not disqualify
9 a person from obtaining or holding any certificate, registration or
10 license issued by **'[a board] an entity'** solely because the person has
11 been convicted of or engaged in acts constituting any crime or
12 offense, unless the crime or offense has a direct or substantial
13 relationship to the activity regulated by the **'[board] entity'** or is of
14 a nature such that certification, registration or licensure of the
15 person would be inconsistent with the public's **'health,¹ safety ¹, or
16 welfare¹**. For the purposes of this section, a judgment of conviction
17 or a plea of guilty, non vult, nolo contendere or any other such
18 disposition of alleged criminal activity shall be deemed a
19 conviction. In making this determination, **'[a board] an entity'** shall
20 consider the following:

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

23 (2) the relationship of the crime or offense to the purposes of
24 regulating the profession or occupation regulated by the **'[board] entity'**;
25

26 (3) any evidence of rehabilitation of the person in the period of
27 time following the prior conviction that may be made available to
28 the **'[board] entity'**; and

29 (4) the relationship of the crime or offense to the ability,
30 capacity, and fitness required to perform the duties and discharge
31 the responsibilities of the profession or occupation regulated by the
32 **'[board] entity'**.

33 b. **'[A board] An entity'** shall not disqualify a person from
34 obtaining or holding a certificate, registration or license issued by
35 the **'[board] entity'** because of a person's prior conviction of a
36 crime or offense unless it provides the person with a written notice
37 that the **'[board] entity'** has determined that the conviction may
38 disqualify the person, and an explanation for the preliminary
39 determination that the crime or offense has a direct or substantial
40 relationship to the activity regulated by the **'[board] entity'** or is of a
41 nature such that certification, registration or licensure of the person
42 would be inconsistent with the public's **'health,¹ safety, ¹or welfare,¹**
43 and affords the person an opportunity to be heard before the
44 **'[board] entity'** prior to the **'[board] entity'** making a final
45 decision on whether to disqualify the person. The person shall be
46 afforded an opportunity to be heard before the **'[board] entity'** no

1 later than 30 days after receiving the written notice of potential
2 disqualification. If, after the person is afforded the opportunity to
3 be heard before the **'[board] entity'**, the person is disqualified for a
4 certificate, registration or license, the **'[board] entity'** shall notify
5 the person, no later than 30 days after the hearing, in writing of the
6 following:

7 (1) the grounds and reasons for the denial or disqualification;

8 (2) the earliest date the person may reapply for the certificate,
9 registration or license; and

10 (3) that additional evidence of rehabilitation may be considered
11 upon reapplication.

12 c. If a person's prior conviction was for murder, pursuant to
13 N.J.S.2C:11-3 or an equivalent statute of another state or
14 jurisdiction, or any sex offense that would qualify the person for
15 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
16 under an equivalent statute of another state or jurisdiction, there
17 shall be a rebuttable presumption that the crime or offense has a
18 direct or substantial relationship to the activity regulated by the
19 **'[board] entity'** or is of such a nature that certification, registration
20 or licensure of the person would be inconsistent with the public's
21 **'health,' safety, 'or welfare'**.

22 **'d. This section shall apply to any license, certification, or**
23 **registration issued by any entity designated in section 2 of P.L.1978,**
24 **c.73 (C.45:1-15), or by any principal department of the Executive**
25 **Branch of State government or any entity within any department or**
26 **any other entity hereafter created to license or otherwise regulate a**
27 **profession or occupation.'**
28

29 3. (New section) The Director of the Division of Consumer
30 Affairs in the Department of Law and Public Safety¹, and any entity
31 subject to the requirements of section 2 of P.L. , c. (C.)
32 (pending before the Legislature as this bill),¹ shall obtain data
33 concerning the number of, and reasons for, disqualification by any
34 **'[board] entity'** pursuant to section 2 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), and annually submit a
36 report to the Legislature, pursuant to section 2 of P.L.1991, c.164
37 (C.52:14-19.1), that provides the disqualification data for each
38 **'[board] entity'**.
39

40 4. This act shall take effect on the 90th day next following
41 enactment, except that the Director of the Division of Consumer
42 Affairs in the Department of Law and Public Safety¹, and any other
43 entity subject to the requirements of section 2 of P.L. , c. (C.)
44 (pending before the Legislature as this bill),¹ may take any
45 anticipatory administrative action in advance as shall be necessary
46 for the implementation of this act.