

[Second Reprint]

SENATE, No. 942

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

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Senator GERALD CARDINALE

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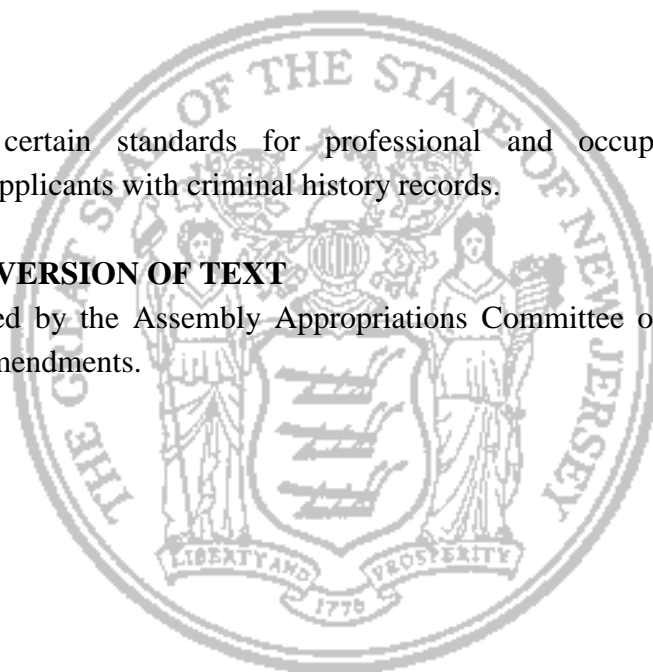
Senator O'Scanlon, Assemblywoman Reynolds-Jackson, Assemblyman Johnson and Assemblywoman Mosquera

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on February 24, 2021, with amendments.



(Sponsorship Updated As Of: 3/1/2021)

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**
33 **P.L. , c. (C.) (pending before the Legislature as this bill).** For
34 the **[purpose] purposes** of this subsection a judgment of conviction
35 or a 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.

²Assembly AAP committee amendments adopted February 24, 2021.

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 regulation
8 to the contrary, **¹[a board] an entity¹** shall not disqualify a person
9 from obtaining or holding any certificate, registration or license
10 issued by **¹[a board] an entity¹** solely because the person has been
11 convicted of or engaged in acts constituting any crime or offense,
12 unless the crime or offense has a direct or substantial relationship to
13 the activity regulated by the **¹[board] entity¹** or is of a nature such
14 that certification, registration or licensure of the person would be
15 inconsistent with the public's **¹health,¹ safety ¹, or welfare¹**. For
16 the purposes of this section, a judgment of conviction or a plea of
17 guilty, non vult, nolo contendere or any other such disposition of
18 alleged criminal activity shall be deemed a conviction. In making
19 this determination, **¹[a board] an entity¹** shall consider the
20 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 **¹[board]
25 entity¹**;

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 **¹[board] entity¹**; 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 **¹[board] entity¹**.

33 b. **¹[A board] An entity¹** shall not disqualify a person from
34 obtaining or holding a certificate, registration or license issued by
35 the **¹[board] entity¹** 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 **¹[board] entity¹** 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 **¹[board] entity¹** or is of
41 a nature such that certification, registration or licensure of the
42 person would be inconsistent with the public's **¹health,¹ safety, ¹or
43 welfare,¹ and affords the person an opportunity to be heard before
44 the **¹[board] entity¹** prior to the **¹[board] entity¹** making a final
45 decision on whether to disqualify the person. The person shall be
46 afforded an opportunity to be heard before the **¹[board] entity¹** no**

1 later than ²[30] 45² days after ²[receiving the written notice of
 2 potential disqualification] the entity receives the person's request
 3 for a hearing unless the person and the entity mutually agree to an
 4 extension². If, after the person is afforded the opportunity to be
 5 heard before the ¹[board] entity¹, the person is disqualified for a
 6 certificate, registration or license, the ¹[board] entity¹ shall notify
 7 the person, no later than ²[30] 45² days after the hearing, in writing
 8 of the following:

- 9 (1) the grounds and reasons for the denial or disqualification;
 10 (2) the earliest date the person may reapply for the certificate,
 11 registration or license; and
 12 (3) that additional evidence of rehabilitation may be considered
 13 upon reapplication.

14 c. If a person's prior conviction was for murder, pursuant to
 15 N.J.S.2C:11-3 or an equivalent statute of another state or
 16 jurisdiction, or any sex offense that would qualify the person for
 17 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
 18 under an equivalent statute of another state or jurisdiction, there
 19 shall be a rebuttable presumption that the crime or offense has a
 20 direct or substantial relationship to the activity regulated by the
 21 ¹[board] entity¹ or is of such a nature that certification, registration
 22 or licensure of the person would be inconsistent with the public's
 23 health, safety, or welfare¹.

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

30 ²e. No certificate, registration or license shall be issued by the
 31 Division of Local Government Services in the Department of
 32 Community Affairs to an individual who has, within the five years
 33 of preceding the submission of an application for a certificate,
 34 registration or license, been convicted of embezzlement, fraud,
 35 crimes involving public corruption, or theft.²

36
 37 3. (New section) The Director of the Division of Consumer
 38 Affairs in the Department of Law and Public Safety¹, and any entity
 39 subject to the requirements of section 2 of P.L. , c. (C.)
 40 (pending before the Legislature as this bill),¹ shall obtain data
 41 concerning the number of, and reasons for, disqualification by any
 42 ¹[board] entity¹ pursuant to section 2 of P.L. , c. (C.)
 43 (pending before the Legislature as this bill), and annually submit a
 44 report to the Legislature, pursuant to section 2 of P.L.1991, c.164
 45 (C.52:14-19.1), that provides the disqualification data for each
 46 ¹[board] entity¹.

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