

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 942

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Commerce Committee reports favorably Senate Bill No. 942.

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 safety.

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 in current law to delete 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 safety.

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 a board 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 board, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety. In determining whether a crime or offense directly or substantially relates to the activity regulated by the board, a board 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 board;
- (3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the board; 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 board.

The bill provides that a board shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the board because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the board 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 board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety.

The board must also afford the person an opportunity to be heard before the board prior to the board making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the board no later than 30 days after receiving the written notice of potential disqualification. If the board's final decision is to disqualify the person, the board must notify the person, no later than 30 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 board.

The bill requires the division to obtain data concerning the number of, and reasons for, disqualification by any board pursuant to the provisions of the bill, and annually submit a report to the Legislature that provides the disqualification data for each board.