

SENATE, No. 878

STATE OF NEW JERSEY
215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Prohibits public and private employers from automatically disqualifying ex-offenders from employment.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT prohibiting public and private employers from
2 automatically disqualifying ex-offenders from employment and
3 supplementing Title 10 of the Revised Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. The provisions of this act shall apply to any application
9 by any person for a license or employment with any public or
10 private employer, who has previously been convicted of one or
11 more criminal offenses in this State or in any other jurisdiction, and
12 to any license or employment held by any person whose conviction
13 of one or more criminal offenses in this State or in any other
14 jurisdiction preceded this employment or granting of a license,
15 except where a mandatory forfeiture, disability, or bar to
16 employment is imposed by law, and has not been removed by an
17 executive pardon.

18 b. Nothing in this act shall be construed to affect any right an
19 employer may have with respect to an intentional misrepresentation
20 in connection with an application for employment made by a
21 prospective employee or previously made by a current employee.
22

23 2. An application for any licensure or employment to which the
24 provisions of this act are applicable shall not be denied by reason of
25 the applicant's having previously been convicted of one or more
26 criminal offenses, or by reason of a finding of lack of good moral
27 character when such finding is based solely upon the fact that the
28 applicant has previously been convicted of one or more criminal
29 offenses, unless:

30 a. there is a direct relationship between one or more of the
31 previous criminal offenses and the specific license or employment
32 sought; or

33 b. the issuance of the license or the granting of employment
34 would involve an unreasonable risk to property or to the safety or
35 welfare of specific persons or the general public.
36

37 3. a. In making a determination pursuant to section 2 of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 the public or private employer shall consider the following factors:

40 (1) the public policy of this State to encourage the licensure and
41 employment of persons previously convicted of one or more
42 criminal offenses;

43 (2) the specific duties and responsibilities necessarily related to
44 the license or employment sought;

45 (3) the bearing, if any, that the criminal offense or offenses for
46 which the person was previously convicted will have on his fitness
47 or ability to perform one or more such duties or responsibilities;

- 1 (4) the time which has elapsed since the occurrence of the
- 2 criminal offense or offenses;
- 3 (5) the age of the person at the time of occurrence of the
- 4 criminal offense or offenses;
- 5 (6) the seriousness of the offense or offenses;
- 6 (7) any information produced by the person, or produced on his
- 7 behalf, in regard to his rehabilitation and good conduct; and
- 8 (8) the legitimate interest of the public or private employer in
- 9 protecting property and the safety and welfare of specific
- 10 individuals or general public.
- 11 b. In making a determination pursuant to section 2 of P.L. ,
- 12 c. (C.) (pending before the Legislature as this bill), the
- 13 public agency or private employer shall also give consideration to a
- 14 certificate of rehabilitation issued to the applicant pursuant to
- 15 P.L.2007, c.327 (C.2A:168A-7 et seq.), which certificate shall
- 16 create a presumption of rehabilitation in regard to the offense or
- 17 offenses specified therein.
- 18
- 19 4. This act shall take effect on the first day of the seventh month
- 20 after enactment

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23 STATEMENT

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25 This bill would prohibit all public and private employers from

26 automatically disqualifying ex-offenders from employment. Public

27 and private employers would be prohibited from denying a person a

28 license or employment because the person has previously been

29 convicted of a criminal offense or because the person has been

30 determined to lack “good moral character” based on a previous

31 conviction. The bill applies to current, as well as prospective

32 employees.

33 Employers would not be subject to this prohibition if: (1) there

34 is a direct relationship between a previous criminal offense and the

35 specific license or employment sought; or (2) issuing the license or

36 hiring the person would involve an unreasonable risk to property or

37 to the safety or welfare of specific persons or the general public.

38 Employers must consider the following factors to determine if

39 either of these exceptions apply: (1) that this State’s policy is to

40 encourage licensing and employing persons previously convicted of

41 one or more criminal offenses; (2) the specific duties and

42 responsibilities related to the license or employment sought; (3) the

43 bearing, if any, the criminal offense will have on the person’s

44 fitness or ability to perform the required duties or responsibilities;

45 (4) how much time has elapsed since the offense was committed;

46 (5) the person’s age when the offense was committed; (6) the

47 seriousness of the offense; (7) information provided by the person

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1 showing rehabilitation and good conduct; and (8) the legitimate
2 interest of the public or private employer in protecting the property,
3 safety and welfare of specific individuals or general public.

4 Under the bill, the issuance of a certificate of rehabilitation to a
5 person creates a presumption of rehabilitation in regard to the
6 offenses to which the certificate applies. An employer must
7 consider the certificate in determining whether either of the
8 exceptions apply.

9 The rights of employers with respect to an intentional
10 misrepresentation in connection with an application for employment
11 made by a prospective employee or previously made by a current
12 employee are not affected by the provisions of the bill.