

ASSEMBLY, No. 1019

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex and Union)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Requires criminal history record check of school district volunteers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



A1019 SPENCER, CAPUTO

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1 AN ACT concerning criminal history record checks for school
2 district volunteers and amending P.L.1986, c.116 and P.L.1998,
3 c.31.

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

7
8 1. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to
9 read as follows:

10 1. A facility, center, school, or school system under the
11 supervision of the Department of Education and board of education
12 which cares for, or is involved in the education of children under
13 the age of 18 shall not employ for pay or contract for the paid
14 services of any teaching staff member or substitute teacher, teacher
15 aide, child study team member, school physician, school nurse,
16 custodian, school maintenance worker, cafeteria worker, school law
17 enforcement officer, school secretary or clerical worker or any other
18 person serving in a position which involves regular contact with
19 pupils unless the employer has first determined consistent with the
20 requirements and standards of this act, that no criminal history
21 record information exists on file in the Federal Bureau of
22 Investigation, Identification Division, or the State Bureau of
23 Identification which would disqualify that individual from being
24 employed or utilized in such capacity or position. An individual
25 employed by a board of education or a school bus contractor
26 holding a contract with a board of education, in the capacity of a
27 school bus driver, shall be required to meet the criminal history
28 record requirements pursuant to section 6 of P.L.1989, c.104
29 (C.18A:39-19.1). A facility, center, school, or school system under
30 the supervision of the Department of Education and board of
31 education which cares for, or is involved in the education of
32 children under the age of 18 **[may]** shall require criminal history
33 record checks for individuals who, on an unpaid voluntary basis,
34 provide services that involve regular contact with pupils. **[In the**
35 **case of school districts involved in a sending-receiving relationship,**
36 **the decision to require criminal history record checks for volunteers**
37 **shall be made jointly by the boards of education of the sending and**
38 **receiving districts.]**

39 An individual, except as provided in subsection g. of this section,
40 shall be permanently disqualified from employment or service
41 under this act if the individual's criminal history record check
42 reveals a record of conviction for any crime of the first or second
43 degree; or

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.

- 1 a. An offense as set forth in chapter 14 of Title 2C of the New
2 Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as
3 set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or
- 4 b. An offense involving the manufacture, transportation, sale,
5 possession, distribution or habitual use of a "controlled dangerous
6 substance" as defined in the "Comprehensive Drug Reform Act of
7 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined
8 pursuant to N.J.S.2C:36-1 et seq.; or
- 9 c. (1) A crime involving the use of force or the threat of force
10 to or upon a person or property including, but not limited to,
11 robbery, aggravated assault, stalking, kidnapping, arson,
12 manslaughter and murder; or
- 13 (2) A crime as set forth in chapter 39 of Title 2C of the New
14 Jersey Statutes, a third degree crime as set forth in chapter 20 of
15 Title 2C of the New Jersey Statutes, or a crime as listed below:
- | | |
|--|-----------------|
| 16 Recklessly endangering another person | N.J.S.2C:12-2 |
| 17 Terroristic threats | N.J.S.2C:12-3 |
| 18 Criminal restraint | N.J.S.2C:13-2 |
| 19 Luring, enticing child into motor | |
| 20 vehicle, structure or isolated area | P.L.1993, c.291 |
| 21 (C.2C:13-6) | |
| 22 Causing or risking widespread injury | |
| 23 or damage | N.J.S.2C:17-2 |
| 24 Criminal mischief | N.J.S.2C:17-3 |
| 25 Burglary | N.J.S.2C:18-2 |
| 26 Usury | N.J.S.2C:21-19 |
| 27 Threats and other improper influence | N.J.S.2C:27-3 |
| 28 Perjury and false swearing | N.J.S.2C:28-3 |
| 29 Resisting arrest | N.J.S.2C:29-2 |
| 30 Escape | N.J.S.2C:29-5; |
- 31 or
- 32 (3) Conspiracy to commit or an attempt to commit any of the
33 crimes described in this act.
- 34 d. For the purposes of this section, a conviction exists if the
35 individual has at any time been convicted under the laws of this
36 State or under any similar statutes of the United States or any other
37 state for a substantially equivalent crime or other offense.
- 38 e. Notwithstanding the provisions of this section, an individual
39 shall not be disqualified from employment or service under this act
40 on the basis of any conviction disclosed by a criminal record check
41 performed pursuant to this act without an opportunity to challenge
42 the accuracy of the disqualifying criminal history record.
- 43 f. When charges are pending for a crime or any other offense
44 enumerated in this section, the **[employing]** board of education
45 shall be notified that the candidate shall not be eligible for
46 employment or service until the commissioner has made a

A1019 SPENCER, CAPUTO

4

1 determination regarding qualification or disqualification upon
2 adjudication of the pending charges.

3 g. This section shall first apply to criminal history record
4 checks conducted on or after the effective date of P.L.1998, c.31
5 (C.18A:6-7.1c et al.); except that in the case of an individual
6 employed by a board of education or a contracted service provider
7 who is required to undergo a check upon employment with another
8 board of education or contracted service provider, the individual
9 shall be disqualified only for the following offenses:

10 (1) any offense enumerated in this section prior to the effective
11 date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

12 (2) any offense enumerated in this section which had not been
13 enumerated in this section prior to the effective date of P.L.1998,
14 c.31 (C.18A:6-7.1c et al.), if the person was convicted of that
15 offense on or after the effective date of that act.

16 (cf: P.L.2007, c.82, s.1)

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18 2. Section 2 of P.L.1986, c.116 (C.18A:6-7.2) is amended to
19 read as follows:

20 2. An applicant for employment or service in any of the
21 positions covered by this act shall submit to the Commissioner of
22 Education his or her name, address and fingerprints taken in
23 accordance with procedures established by the commissioner. The
24 Commissioner of Education is hereby authorized to exchange
25 fingerprint data with and receive criminal history record
26 information from the Federal Bureau of Investigation and the
27 Division of State Police for use in making the determinations
28 required by this act. No criminal history record check shall be
29 performed pursuant to this act unless the applicant shall have
30 furnished his or her written consent to such a check. The applicant
31 shall bear the cost for the criminal history record check, including
32 all costs for administering and processing the check.

33 **【If a facility, center, school, or school system under the**
34 **supervision of the Department of Education or board of education**
35 **requires a criminal history record check for an unpaid volunteer, the**
36 **facility, center, school, or school system under the supervision of**
37 **the Department of Education or school board shall reimburse the**
38 **applicant for the cost of the check.】 A facility, center, school, or**
39 **school system under the supervision of the Department of**
40 **Education or board of education may reimburse an applicant**
41 **-serving in a paid position or as an unpaid volunteer for the cost of**
42 **the check.**

43 (cf: P.L.2007, c.82, s.2)

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45 3. Section 13 of P.L.1998, c.31 (C.18A:6-7.2a) is amended to
46 read as follows:

47 13. The Commissioner of Education is authorized to:

1 a. receive all criminal history data necessary to complete the
2 criminal history records check as required pursuant to P.L.1986,
3 c.116 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104
4 (C.18A:39-19.1), or as permitted pursuant to P.L.1989, c.229
5 (C.18A:6-4.13 et seq.);

6 b. receive all data in accordance with section 3 of P.L.1986,
7 c.116 (C.18A:6-7.3), section 6 of P.L.1989, c.104 (C.18A:39-19.1)
8 and section 3 of P.L.1989, c. 229 (C.18A:6-4.15) on charges
9 pending against an employee **[or]**, school bus driver, or unpaid
10 volunteer who has previously undergone a criminal history records
11 check; and

12 c. adjust the fees set by the Department of Education for the
13 criminal history records checks.

14 (cf: P.L. 2002, c.119, s.5)

15

16 4. Section 3 of P.L.1986, c.116 (C.18A:6-7.3) is amended to
17 read as follows:

18 3. Upon receipt of the criminal history record information for
19 an applicant from the Federal Bureau of Investigation and the
20 Division of State Police, the Commissioner of Education shall
21 notify the applicant, in writing, of the applicant's qualification or
22 disqualification for employment or service under this act. If the
23 applicant is disqualified, the convictions which constitute the basis
24 for the disqualification shall be identified in the written notice to
25 the applicant. The applicant shall have 14 days from the date of the
26 written notice of disqualification to challenge the accuracy of the
27 criminal history record information. If no challenge is filed or if the
28 determination of the accuracy of the criminal history record
29 information upholds the disqualification, the commissioner shall
30 notify the **[employing]** board of education that the applicant has
31 been disqualified from employment or service, and a copy of the
32 written notice of disqualification for applicants who hold a
33 certificate issued by the State Board of Examiners shall be
34 forwarded to that board.

35 The commissioner is authorized to share all criminal history
36 record information regarding teaching staff members with the State
37 Board of Examiners. In addition, the commissioner is authorized to
38 share criminal history record information of an applicant from the
39 Federal Bureau of Investigation or the State Bureau of
40 Identification with the appropriate court in order to obtain copies of
41 the judgment of conviction and such other documents as the
42 commissioner deems necessary to confirm the completeness and
43 accuracy of the record.

44 Following qualification for employment or service pursuant to
45 this section, the State Bureau of Identification shall immediately
46 forward to the Commissioner of Education any information which
47 the bureau receives on a charge pending against an employee or

1 unpaid volunteer. If the charge is for one of the crimes or offenses
2 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the
3 commissioner shall notify the **[employing]** board of education or
4 contractor, and the board or contractor shall take appropriate action.
5 If the pending charge results in conviction, the employee or unpaid
6 volunteer shall not be eligible for continued employment or service.
7 (cf: P.L.2002, c.119, s.6)

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9 5. Section 4 of P.L.1986, c.116 (C.18A:6-7.4) is amended to
10 read as follows:

11 4. The Commissioner of Education may maintain the criminal
12 record and application documents on a candidate for no longer than
13 three years from the date of determination as to the candidate's
14 qualification or disqualification for employment with an employer
15 or service as an unpaid volunteer. The three-year retention
16 limitation shall not apply to statistical data on crimes and any other
17 offenses or an ongoing list of candidates who are qualified or
18 disqualified. All documents submitted by a candidate and all
19 criminal history record information shall be maintained by the
20 commissioner in a confidential manner.
21 (cf: P.L.1998, c.31, s.9)

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23 6. This act shall take effect immediately and shall first be
24 applicable to unpaid volunteers in the 2009-2010 school year.

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27 STATEMENT

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29 This bill requires that any individual who volunteers to provide
30 service on an unpaid basis in a public school district must undergo a
31 criminal history record check in accordance with the same standards
32 and procedures used to conduct such checks on paid school district
33 employees. Under current law a school district may choose to
34 conduct background checks on volunteers and if it does so then the
35 district must bear the cost of the check. Under this bill, the
36 volunteer will bear the cost of the check.

37 The requirement to conduct criminal history record checks for
38 unpaid volunteers will first be applicable in the 2009-2010 school
39 year. Any person serving in a school district as an unpaid volunteer
40 in that school year or who first serves in that school district in any
41 subsequent school year will be required to undergo a check.