

ASSEMBLY, No. 2070

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JOE HOWARTH

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Establishes system in which State and local government entities are made aware of certain public safety issues involving medications for certain public employees and applicants.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning public safety and supplementing Titles 11A and
2 40A of the New Jersey Statutes.

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

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7 1. a. The State, or an appointing authority that has adopted the
8 provisions of Title 11 of the New Jersey Statutes, may define
9 restricted medications and restricted titles. Individuals may be
10 disqualified from public employment in a restricted title if the
11 individual is currently taking one, or more, restricted medications.
12 Medications shall be restricted if the employer determines the
13 medication is a prescribed controlled dangerous substance which
14 may impair an individual's ability to perform in a restricted title.
15 Titles shall be restricted if the employer determines that the title
16 entails work which could not be safely performed if the individual
17 is taking certain restricted medications.

18 b. If an individual is required to undergo drug testing, and the
19 individual is employed in, or is a prospective candidate for public
20 employment in, a restricted title pursuant to subsection a. of this
21 section, then the State or appointing authority may take certain
22 actions. The employer may direct the drug testing laboratory to
23 inform the employer and the employer shall notify the Civil Service
24 Commission, that an individual is not qualified to perform in a
25 restricted title if the individual tests positive for a restricted
26 medication. The specific medication, test result, or any other health
27 information regarding the individual shall not be disclosed by the
28 drug testing laboratory to the employer in violation of any State or
29 federal law or regulation.

30 c. Nothing in this section shall be construed to limit the ability
31 of the State or appointing authority to deny employment to any
32 individual on the grounds that the individual tests positive for the
33 unlawful use of a controlled dangerous substance.

34 d. Implementation of this law shall be implemented in
35 compliance with the American with Disabilities Act.

36

37 2. a. A local government agency may define restricted
38 medications and restricted titles. Individuals may be disqualified
39 from public employment in a restricted title if the individual is
40 currently taking one, or more, restricted medications. Medications
41 shall be restricted if the agency determines the medication is a
42 prescribed controlled dangerous substance which may impair an
43 individual's ability to perform in a restricted title. Titles shall be
44 restricted if the agency determines that the title entails work which
45 could not be safely performed if the individual is taking certain
46 restricted medications.

47 b. If an individual is required to undergo drug testing, and the
48 individual is employed in, or is a prospective candidate for public
49 employment in, a restricted title pursuant to subsection a. of this

1 section, then the agency may take certain actions. The agency may
2 direct the drug testing laboratory to inform the agency that an
3 individual is not qualified to perform in a restricted title if the
4 individual tests positive for a restricted medication. The specific
5 medication, test result, or any other health information regarding
6 the individual shall not be disclosed by the drug testing laboratory
7 to the agency in violation of any State or federal law or regulation.

8 c. Nothing in this section shall be construed to limit the ability
9 of the agency to deny employment to any individual on the grounds
10 that the individual tests positive for the unlawful use of a controlled
11 dangerous substance.

12 d. Implementation of this law shall be implemented in
13 compliance with the American with Disabilities Act.

14 e. For purposes of this section, “local government agency”
15 means any agency, board, governing body, including the chief
16 executive officer, bureau, division, office, commission or other
17 instrumentality within a county or municipality, and any
18 independent local authority, including any entity created by more
19 than one county or municipality, which performs functions other
20 than of a purely advisory nature, but shall not include a school
21 board.

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23 3. This act shall take effect 180 days following enactment.
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26 STATEMENT

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28 This bill would allow the State and county and local
29 governmental agencies to be notified when certain employees or
30 prospective employees are unfit for employment due to the use of
31 certain medications.

32 Currently, certain individuals are subject to drug tests and if the
33 individual tests positive due to a prescribed drug, the individual is
34 reported as negative for drug use due to privacy concerns.

35 This bill would allow the State and the county and local agencies
36 to define restricted medications and job titles. The agencies could
37 identify job titles as restricted if the job title requires work by the
38 individual that could not be performed safely if the individual was
39 taking certain restricted medications. The restricted medications
40 would be identified as prescribed controlled dangerous substances
41 that could impair an individual’s ability to perform in a restricted
42 title. If the employee, or prospective employee, tests positive for a
43 restricted medication, the drug testing laboratory can be directed to
44 report to the agency that the employee is unfit for the restricted job
45 title.

46 To ensure medical privacy to the individual, the bill requires that
47 the specific medication, test result, or any other health information
48 regarding the individual be kept confidential by the drug testing
49 laboratory.