

ASSEMBLY, No. 1877

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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District 39 (Bergen and Passaic)

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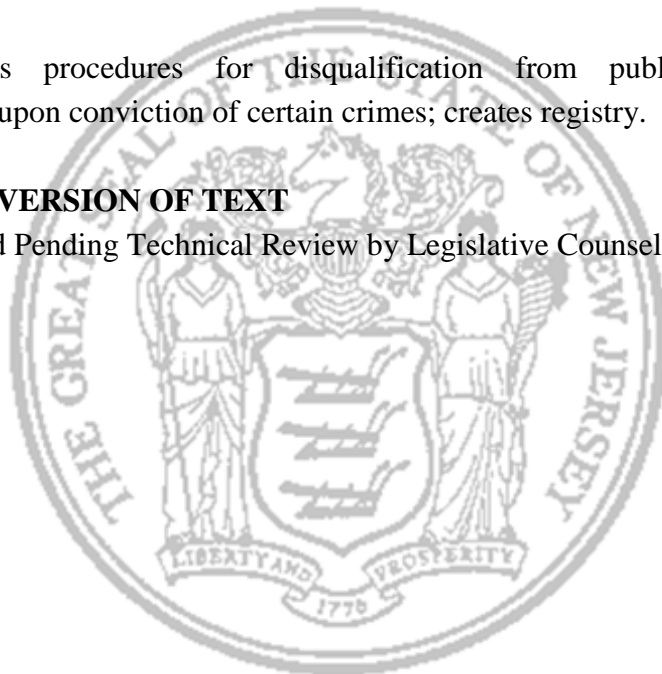
Assemblyman DePhillips, Assemblywoman DiMaso, Assemblyman Clifton, Assemblywoman B.DeCroce, Assemblymen Space, Wirths, Rooney, Thomson, Dancer, Assemblywoman Gove, Assemblymen Webber, DiMaio, Peters, Auth, Assemblywoman N.Munoz, Assemblymen Bramnick, McGuckin, Assemblywoman Murphy, Assemblymen Peterson, Rumpf, DeAngelo, Benson, Johnson, Egan, Zwicker, Burzichelli, Assemblywoman Vainieri Huttel, Assemblymen Houghtaling, McKeon, Assemblywoman Downey and Assemblyman Calabrese

SYNOPSIS

Establishes procedures for disqualification from public office or employment upon conviction of certain crimes; creates registry.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning forfeiture of public office or employment and
2 amending N.J.S.2C:51-2.

3

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

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7 1. N.J.S.2C:51-2 is amended to read as follows:

8 2C:51-2. Forfeiture of Public Office, Position, or Employment.

9 a. A person holding any public office, position, or
10 employment, elective or appointive, under the government of this
11 State or any agency or political subdivision thereof, who is
12 convicted of an offense shall forfeit such office, position or
13 employment if:

14 (1) He is convicted under the laws of this State of an offense
15 involving dishonesty or of a crime of the third degree or above or
16 under the laws of another state or of the United States of an offense
17 or a crime which, if committed in this State, would be such an
18 offense or crime;

19 (2) He is convicted of an offense involving or touching such
20 office, position or employment; or

21 (3) The Constitution so provides.

22 As used in this subsection, "involving or touching such office,
23 position or employment" means that the offense was related directly
24 to the person's performance in, or circumstances flowing from, the
25 specific public office, position or employment held by the person.

26 b. A court of this State shall enter an order of forfeiture
27 pursuant to subsection a.:

28 (1) Immediately upon a finding of guilt by the trier of fact or a
29 plea of guilty entered in any court of this State unless the court, for
30 good cause shown, orders a stay of such forfeiture pending a
31 hearing on the merits at the time of sentencing; or

32 (2) Upon application of the county prosecutor or the Attorney
33 General, when the forfeiture is based upon a conviction of an
34 offense under the laws of another state or of the United States. An
35 order of forfeiture pursuant to this paragraph shall be deemed to
36 have taken effect on the date the person was found guilty by the
37 trier of fact or pled guilty to the offense.

38 c. No court shall grant a stay of an order of forfeiture pending
39 appeal of a conviction or forfeiture order unless the court is clearly
40 convinced that there is a substantial likelihood of success on the
41 merits. If the conviction be reversed or the order of forfeiture be
42 overturned, he shall be restored, if feasible, to his office, position or
43 employment with all the rights, emoluments and salary thereof from
44 the date of forfeiture.

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 Any official action taken by the convicted person on or after the
2 date as of which a forfeiture of the person's office shall take effect
3 shall, during a period of 60 days following the date on which an
4 order of forfeiture shall have been issued hereunder, be voidable by
5 the person's successor in office or, if the office of the person was
6 that of member of the governing body of a county, municipality or
7 independent authority, by that governing body.

8 d. (1) In addition to the punishment prescribed for the offense,
9 and the forfeiture set forth in subsection a. of N.J.S.2C:51-2, any
10 person convicted of an offense involving or touching on his public
11 office, position or employment shall be forever disqualified from
12 holding any office or position of honor, trust or profit under this
13 State or any of its administrative or political subdivisions. As used
14 in this subsection, "involving or touching on his public office,
15 position or employment" means that the offense was related directly
16 to the person's performance in, or circumstances flowing from, the
17 specific public office, position or employment held by the person.

18 (2) The disqualification provided for in paragraph (1) of this
19 subsection shall be entered as a court order at the time the court
20 enters the order of forfeiture set forth in subsection b. of this
21 section. When the conviction is for an offense under the laws of
22 another state or of the United States, the county prosecutor or the
23 Attorney General shall make an application for a disqualification
24 order as provided for in paragraph (1) of this subsection to a
25 Superior Court judge designated by the Chief Justice. An order for
26 disqualification based upon a conviction of an offense under the
27 laws of another state or of the United States shall be deemed to
28 have taken effect on the date the person was found guilty by the
29 trier of fact or pled guilty to the offense.

30 (3) The Administrative Office of the Courts shall establish and
31 maintain a central registry of all persons who have had
32 disqualification orders entered pursuant to paragraph (1) and (2) of
33 this subsection.

34 e. Any forfeiture or disqualification under subsection a., b. or
35 d. which is based upon a conviction of a disorderly persons or petty
36 disorderly persons offense may be waived by the court upon
37 application of the county prosecutor or the Attorney General and for
38 good cause shown.

39 f. Except as may otherwise be ordered by the Attorney General
40 as the public need may require, any person convicted of an offense
41 under section 97 of P.L.1999, c.440 (C.2C:21-34), N.J.S.2C:27-2,
42 N.J.S.2C:27-3, N.J.S.2C:27-5, section 100 of P.L.1999, c. 440
43 (C.2C:27-9), section 5 of P.L.2003, c.255 (C.2C:27-10), section 6
44 of P.L.2003, c.255 (C.2C:27-11), N.J.S.2C:29-4, N.J.S.2C:30-2, or
45 N.J.S.2C:30-3 of **【this】** Title 2C of the New Jersey Statutes shall be
46 ineligible, either directly or indirectly, to submit a bid, enter into
47 any contract, or to conduct any business with any board, agency,
48 authority, department, commission, public corporation, or other

1 body of this State, of this or one or more other states, or of one or
2 more political subdivisions of this State for a period of, but not
3 more than, 10 years from the date of conviction for a crime of the
4 second degree, or five years from the date of conviction for a crime
5 of the third degree. It is the purpose of this subsection to bar any
6 individual convicted of any of the above enumerated offenses and
7 any business, including any corporation, partnership, association or
8 proprietorship in which such individual is a principal, or with
9 respect to which such individual owns, directly or indirectly, or
10 controls 5% or more of the stock or other equity interest of such
11 business, from conducting business with public entities.

12 The State Treasurer shall keep and maintain a list of all
13 corporations barred from conducting such business pursuant to this
14 section.

15 g. In any case in which the issue of forfeiture is not raised in a
16 court of this State at the time of a finding of guilt, entry of guilty
17 plea or sentencing, a forfeiture of public office, position or
18 employment required by this section may be ordered by a court of
19 this State upon application of the county prosecutor or the Attorney
20 General or upon application of the public officer or public entity
21 having authority to remove the person convicted from his public
22 office, position or employment. The fact that a court has declined
23 to order forfeiture shall not preclude the public officer or public
24 entity having authority to remove the person convicted from
25 seeking to remove or suspend the person from his office, position or
26 employment on the ground that the conduct giving rise to the
27 conviction demonstrates that the person is unfit to hold the office,
28 position or employment.

29 (cf: P.L. 2007, c.49, s.5)

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31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill would amend N.J.S.2C:51-2 concerning forfeiture of
37 public office, position or employment upon conviction of certain
38 criminal offenses.

39 Currently under subsection b. of N.J.S.2C:51-2 a court shall
40 enter an order of forfeiture when the defendant is found guilty or
41 pleads guilty in State court, or upon application of a county
42 prosecutor or Attorney General when the criminal offense is based
43 on another state's law or federal law. Currently under subsection d.
44 of N.J.S.2C:51-2 any person convicted of an offense "involving or
45 touching" his public office, position, or employment is forever
46 disqualified from holding any office or position of honor, trust or
47 profit in the State or any of its administrative or political
48 subdivision. This bill would establish a procedure for

1 disqualification in subsection d. similar to the procedure set out in
2 N.J.S.2C:51-2 under subsection b. concerning forfeiture.

3 The bill would require that the court order concerning the
4 disqualification of employment set forth in subsection d. of
5 N.J.S.2C:51-2 be entered at the same time the court enters the order
6 of forfeiture set forth in subsection b. of N.J.S.2C:51-2. However,
7 if the conviction is for an offense under the laws of another state or
8 of the United States, the county prosecutor or the Attorney General
9 would be required to make an application to a Superior Court judge
10 designated by the Chief Justice for a disqualification order. This
11 disqualification order would be deemed to have taken effect on the
12 date the person was found guilty by the trier of fact or pled guilty to
13 the offense.

14 The Administrative Office of the Courts would be required to
15 establish and maintain a central registry of all persons who have
16 had disqualification orders entered pursuant to subsection d of the
17 statute.