

**SENATE, No. 942**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JANUARY 27, 2020

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator GERALD CARDINALE**

**District 39 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator O'Scanlon**

**SYNOPSIS**

Requires certain standards for professional and occupational boards considering applicants with criminal history records.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/25/2020)**

1 AN ACT concerning criminal history records and professional or  
2 occupational boards, and amending and supplementing  
3 P.L.1978, c.73.

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

7  
8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read  
9 as follows:

10 8. A board may refuse to admit a person to an examination or  
11 may refuse to issue or may suspend or revoke any certificate,  
12 registration or license issued by the board upon proof that the  
13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or  
15 authorization to sit for an examination, as the case may be, through  
16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,  
18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross  
20 incompetence which damaged or endangered the life, health,  
21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or  
23 incompetence;

24 e. Has engaged in professional or occupational misconduct as  
25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any  
27 crime or offense **【involving moral turpitude or relating adversely】**  
28 that has a direct or substantial relationship to the activity regulated by  
29 the board or is of a nature such that certification, registration or  
30 licensure of the person would be inconsistent with the public's  
31 safety, provided that the board shall make this determination in a  
32 manner consistent with section 2 of P.L. , c. (C. ) (pending  
33 before the Legislature as this bill). For the **【purpose】** purposes of  
34 this subsection a judgment of conviction or a plea of guilty, non  
35 vult, nolo contendere or any other such disposition of alleged  
36 criminal activity shall be deemed a conviction;

37 g. Has had his authority to engage in the activity regulated by  
38 the board revoked or suspended by any other state, agency or  
39 authority for reasons consistent with this section;

40 h. Has violated or failed to comply with the provisions of any  
41 act or regulation administered by the board;

42 i. Is incapable, for medical or any other good cause, of  
43 discharging the functions of a licensee in a manner consistent with  
44 the public's health, safety and welfare;

**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 j. Has repeatedly failed to submit completed applications, or  
2 parts of, or documentation submitted in conjunction with, such  
3 applications, required to be filed with the Department of  
4 Environmental Protection;

5 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-  
6 1 et seq.) or any insurance fraud prevention law or act of another  
7 jurisdiction or has been adjudicated, in civil or administrative  
8 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)  
9 or has been subject to a final order, entered in civil or  
10 administrative proceedings, that imposed civil penalties under that  
11 act against the applicant or holder;

12 l. Is presently engaged in drug or alcohol use that is likely to  
13 impair the ability to practice the profession or occupation with  
14 reasonable skill and safety. For purposes of this subsection, the  
15 term "presently" means at this time or any time within the previous  
16 365 days;

17 m. Has prescribed or dispensed controlled dangerous substances  
18 indiscriminately or without good cause, or where the applicant or  
19 holder knew or should have known that the substances were to be  
20 used for unauthorized consumption or distribution;

21 n. Has permitted an unlicensed person or entity to perform an  
22 act for which a license or certificate of registration or certification  
23 is required by the board, or aided and abetted an unlicensed person  
24 or entity in performing such an act;

25 o. Advertised fraudulently in any manner.

26 The division is authorized, for purposes of facilitating  
27 determinations concerning licensure eligibility, to require the  
28 fingerprinting of each applicant in accordance with applicable State  
29 and federal laws, rules and regulations. Each applicant shall submit  
30 the applicant's name, address, and written consent to the director for  
31 a criminal history record background check to be performed. The  
32 division is authorized to receive criminal history record information  
33 from the State Bureau of Identification in the Division of State  
34 Police and the Federal Bureau of Investigation. Upon receipt of  
35 such notification, the division shall forward the information to the  
36 appropriate board which shall make a determination regarding the  
37 issuance of licensure. The applicant shall bear the cost for the  
38 criminal history record background check, including all costs of  
39 administering and processing the check, unless otherwise provided  
40 for by an individual enabling act. The Division of State Police shall  
41 promptly notify the division in the event an applicant or licensee,  
42 who was the subject of a criminal history record background check  
43 pursuant to this section, is convicted of a crime or offense in this  
44 State after the date the background check was performed.

45 For purposes of this act:

46 "Completed application" means the submission of all of the  
47 information designated on the checklist, adopted pursuant to section

1 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of  
2 permit for which application is made.

3 "Permit" has the same meaning as defined in section 1 of  
4 P.L.1991, c.421 (C.13:1D-101).  
5 (cf: P.L.2003, c.199, s.31)  
6

7 2. (New section) a. Notwithstanding any law, rule or  
8 regulation to the contrary, a board shall not disqualify a person from  
9 obtaining or holding any certificate, registration or license issued by  
10 a board solely because the person has been convicted of or engaged in  
11 acts constituting any crime or offense, unless the crime or offense  
12 has a direct or substantial relationship to the activity regulated by  
13 the board or is of a nature such that certification, registration or  
14 licensure of the person would be inconsistent with the public's  
15 safety. For the purposes of this section, a judgment of conviction or  
16 a plea of guilty, non vult, nolo contendere or any other such  
17 disposition of alleged criminal activity shall be deemed a  
18 conviction. In making this determination, a board shall consider the  
19 following:

20 (1) the nature and seriousness of the crime or offense and the  
21 passage of time since its commission;

22 (2) the relationship of the crime or offense to the purposes of  
23 regulating the profession or occupation regulated by the board;

24 (3) any evidence of rehabilitation of the person in the period of  
25 time following the prior conviction that may be made available to  
26 the board; and

27 (4) the relationship of the crime or offense to the ability,  
28 capacity, and fitness required to perform the duties and discharge  
29 the responsibilities of the profession or occupation regulated by the  
30 board.

31 b. A board shall not disqualify a person from obtaining or  
32 holding a certificate, registration or license issued by the board  
33 because of a person's prior conviction of a crime or offense unless  
34 it provides the person with a written notice that the board has  
35 determined that the conviction may disqualify the person, and an  
36 explanation for the preliminary determination that the crime or offense  
37 has a direct or substantial relationship to the activity regulated by the  
38 board or is of a nature such that certification, registration or licensure  
39 of the person would be inconsistent with the public's safety, and  
40 affords the person an opportunity to be heard before the board prior  
41 to the board making a final decision on whether to disqualify the  
42 person. The person shall be afforded an opportunity to be heard  
43 before the board no later than 30 days after receiving the written  
44 notice of potential disqualification. If, after the person is afforded  
45 the opportunity to be heard before the board, the person is  
46 disqualified for a certificate, registration or license, the board shall  
47 notify the person, no later than 30 days after the hearing, in writing  
48 of the following:

- 1 (1) the grounds and reasons for the denial or disqualification;
- 2 (2) the earliest date the person may reapply for the certificate,
- 3 registration or license; and
- 4 (3) that additional evidence of rehabilitation may be considered
- 5 upon reapplication.
- 6 c. If a person's prior conviction was for murder, pursuant to
- 7 N.J.S.2C:11-3 or an equivalent statute of another state or
- 8 jurisdiction, or any sex offense that would qualify the person for
- 9 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
- 10 under an equivalent statute of another state or jurisdiction, there
- 11 shall be a rebuttable presumption that the crime or offense has a
- 12 direct or substantial relationship to the activity regulated by the board
- 13 or is of such a nature that certification, registration or licensure of
- 14 the person would be inconsistent with the public's safety.

15

16 3. (New section) The Director of the Division of Consumer  
17 Affairs in the Department of Law and Public Safety shall obtain  
18 data concerning the number of, and reasons for, disqualification by  
19 any board pursuant to section 2 of P.L. , c. (C. ) (pending  
20 before the Legislature as this bill), and annually submit a report to  
21 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
22 19.1), that provides the disqualification data for each board.

23

24 4. This act shall take effect on the 90th day next following  
25 enactment, except that the Director of the Division of Consumer  
26 Affairs in the Department of Law and Public Safety may take any  
27 anticipatory administrative action in advance as shall be necessary  
28 for the implementation of this act.

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### 31 STATEMENT

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33 This bill requires professional and occupational boards in the  
34 Division of Consumer Affairs, when determining whether a person is  
35 disqualified from certification, registration or licensure because of a  
36 prior conviction of a crime or offense, to consider whether the crime or  
37 offense has a direct or substantial relationship to the activity regulated  
38 by the board or is of a nature such that certification, registration or  
39 licensure of the person would be inconsistent with the public's safety.

40 Current law permits a board to suspend or revoke, refuse to issue,  
41 or refuse to admit a person to an examination for any certificate,  
42 registration or license issued by the board upon proof that the applicant  
43 or holder of such certificate, registration or license has been convicted  
44 of, or engaged in acts constituting, any crime or offense involving  
45 moral turpitude or relating adversely to the activity regulated by the  
46 board. The bill amends this standard of proof in current law to delete  
47 the reference to a crime or offense involving moral turpitude, and  
48 requires that the crime or offense have a direct or substantial

1 relationship to the activity regulated by the board, or to be of a nature  
2 such that certification, registration or licensure of the person would be  
3 inconsistent with the public's safety.

4 In addition, the bill supplements current law to provide that no  
5 person will be disqualified from obtaining or holding any certificate,  
6 registration or license issued by a board solely because of a prior  
7 conviction of a crime or offense, unless the crime or offense has a  
8 direct or substantial relationship to the activity regulated by the board,  
9 or is of a nature such that certification, registration or licensure of the  
10 person would be inconsistent with the public's safety. In determining  
11 whether a crime or offense directly or substantially relates to the  
12 activity regulated by the board, a board must consider the following:

13 (1) the nature and seriousness of the crime or offense and the  
14 passage of time since its commission;

15 (2) the relationship of the crime or offense to the purposes of  
16 regulating the profession or occupation regulated by the board;

17 (3) any evidence of rehabilitation of the person in the period of  
18 time following the prior conviction that may be made available to the  
19 board; and

20 (4) the relationship of the crime or offense to the ability, capacity,  
21 and fitness required to perform the duties and discharge the  
22 responsibilities of the profession or occupation regulated by the board.

23 The bill provides that a board shall not disqualify a person from  
24 obtaining or holding a certificate, registration or license issued by the  
25 board because of a person's prior conviction of a crime or offense  
26 unless it provides the person with a written notice that the board has  
27 determined that the conviction may disqualify the person and an  
28 explanation for the preliminary determination that the crime or offense  
29 has a direct or substantial relationship to the activity regulated by the  
30 board or is of a nature such that certification, registration or licensure  
31 of the person would be inconsistent with the public's safety.

32 The board must also afford the person an opportunity to be heard  
33 before the board prior to the board making a final decision on whether  
34 to disqualify the person. The person shall be afforded an opportunity  
35 to be heard before the board no later than 30 days after receiving the  
36 written notice of potential disqualification. If the board's final  
37 decision is to disqualify the person, the board must notify the person,  
38 no later than 30 days after the hearing, in writing as to the grounds and  
39 reasons for the disqualification, the earliest date upon which the person  
40 may reapply, and that additional evidence of rehabilitation may be  
41 considered upon reapplication.

42 The bill also provides that a person's prior conviction for murder,  
43 or an equivalent statute of another state or jurisdiction, or any sex  
44 offense that would qualify the person for registration under "Megan's  
45 Law," or under an equivalent statute of another state or jurisdiction,  
46 creates a rebuttable presumption that a substantial relationship exists  
47 between the prior conviction and the profession or occupation  
48 regulated by the board.

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