

ASSEMBLY, No. 897

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROCCO

1 AN ACT requiring criminal history background checks on applicants
2 for certain State, county or municipal law enforcement positions
3 and supplementing chapter 14 of Title 40A of the New Jersey
4 Statutes.

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

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9 1. a. Notwithstanding the provisions of paragraph (4) of
10 N.J.S.40A:14-122, paragraph (5) of N.J.S.40A:14-145, paragraph (5)
11 of N.J.S.40A:14-9 or section 3 of P.L.1985, c.439 (C.40A:14-146.10)
12 or any other law or regulation that establishes standards for the
13 appointment of law enforcement officers based upon the candidates'
14 criminal history, a person shall not be appointed to a position as a law
15 enforcement officer in a law enforcement agency until the appointing
16 authority has first determined, consistent with the requirements and
17 standards of this act, that no criminal history record information exists
18 on file in the State Bureau of Identification in the Division of State
19 Police in the Department of Law and Public Safety or the Federal
20 Bureau of Investigation, which would disqualify that person from
21 employment as a law enforcement officer. This act shall not apply to
22 employees of the Department of Corrections who are subject to
23 criminal history checks required pursuant to P.L.1988, c.45
24 (C.30:4-3.5).

25 b. A person shall be disqualified from employment as a law
26 enforcement officer if the criminal history record check or other
27 investigation reveals:

28 (1) A conviction of any offense graded by Title 2C of the New
29 Jersey Statutes as a crime of the first, second or third degree or a
30 conviction of any offense in any other jurisdiction which, if committed
31 in New Jersey, would constitute a crime of the first, second or third
32 degree; or

33 (2) A conviction of any crime involving fraud or dishonesty; or

34 (3) A conviction of any other offense or combination of offenses
35 or adjudications of delinquency which, by their number or severity,

1 raise a substantial question as to the applicant's fitness or qualification
2 to enforce the criminal law.

3 c. Notwithstanding the provisions of subsection b. of this section,
4 an individual may be considered eligible for employment or service
5 despite a conviction disclosed by a criminal record check performed
6 pursuant to this act if the individual has affirmatively demonstrated to
7 the appointing authority, or a designee thereof, clear and convincing
8 evidence of his or her rehabilitation and fitness and qualification to
9 perform the duties of a law enforcement officer. In determining
10 whether an individual has affirmatively demonstrated rehabilitation, the
11 following factors shall be considered:

- 12 (1) The nature and seriousness of the offense;
- 13 (2) The circumstances under which the offense occurred;
- 14 (3) The date of the offense;
- 15 (4) The age of the individual when the offense was committed;
- 16 (5) Whether the offense was an isolated or repeated incident;
- 17 (6) Any social conditions which may have contributed to the
18 commission of the offense;
- 19 (7) Any evidence of rehabilitation, including service to the
20 community, acquisition of additional academic or vocational training
21 and successful employment record.

22 d. As used in this section:

23 "Criminal history record background check" means the process
24 whereby the State Bureau of Identification in the Division of State
25 Police in the Department of Law and Public Safety and the Federal
26 Bureau of Investigation compare a set of fingerprints with those in
27 their files for a determination as to the criminal history of the person
28 identified by the request.

29 "Law enforcement department or agency" means a police force,
30 authority or organization functioning within this State, whose officers
31 are required to receive training approved by the Police Training
32 Commission, and which has by statute or ordinance the responsibility
33 for investigating violations of the criminal laws, detecting crime and
34 enforcing the general criminal laws of this State.

35 "Law enforcement officer" means a person holding a position as a
36 regular, temporary, provisional or special officer of a law enforcement
37 department or agency with the power conferred by law to enforce the
38 criminal laws of this State and apprehend the offenders thereof.

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40 2. This act shall take effect immediately.

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STATEMENT

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45 This bill requires that a criminal history record background check
46 through the State Bureau of Identification or the Federal Bureau of

1 Investigation be completed on any applicant for a position as a law
2 enforcement officer before that applicant is appointed to that position.
3 The bill establishes criteria for evaluating the fitness of applicants and
4 criteria for establishing possible rehabilitation for those applicants who
5 may have a criminal record.

6 Under the provisions of the bill, the appointing authority may reject
7 any applicant whose overall criminal history raises a substantial
8 question as to his or her fitness to enforce the criminal law. Any
9 candidate who has been convicted of an offense of the first, second or
10 third degree under Title 2C of the New Jersey Statutes, or an
11 equivalent offense from another jurisdiction, or any offense involving
12 fraud or dishonesty or any combination of offenses or adjudications of
13 delinquency which, by number or severity, raise a question as to
14 fitness, is presumptively disqualified from appointment as a law
15 enforcement officer. However, any individual disqualified on those
16 bases shall be given the opportunity to demonstrate his or her
17 rehabilitation and fitness to the appointing authority. In order to
18 overcome the presumption, the applicant must make a clear and
19 convincing showing of rehabilitation. This statutory scheme, and the
20 factors that must be considered if a candidate attempts to demonstrate
21 rehabilitation, are roughly modeled on the statute currently used by the
22 Department of Education to assess the fitness of certain employees
23 under N.J.S.A.18A:6-7.1. The standards for exclusion are similar to
24 the standards for forfeiture of public office under N.J.S.A.2C:51-2.

25 The purpose of this bill is to ensure that the character and integrity
26 of an applicant is evaluated before an appointment is made in order to
27 maintain the public's confidence in the quality of the police forces of
28 this State.

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33 Requires criminal history background check on applicant for law
34 enforcement position.