

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2962

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1997

Sponsored by Assemblymen MORAN, CONNORS, Asselta,  
Cottrell, Assemblywoman Gill, Assemblyman Greenwald,  
Assemblywoman Heck and Assemblyman LeFevre

1 AN ACT concerning criminal history record background checks of  
2 applicants for certain certifications, amending the title and body of  
3 P.L.1997, c.100, and repealing section 1 thereof.

4

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

7

8 1. The title of P.L.1997, c.100 is amended to read as follows:

9 AN ACT concerning criminal history record background checks for  
10 certain persons [who care for the elderly] and supplementing Title  
11 26, Title 45, and Title 53 of the Revised Statutes.

12 (cf: P.L.1997, c.100, title)

13

14 2. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to read  
15 as follows:

16 2. a. [A facility for the institutionalized elderly, as defined in  
17 section 1 of P.L.1997, c.100 (C.26:2H-82), shall not hire any  
18 unlicensed person serving in a position which involves regular contact  
19 with a patient, resident or client as the case may be,] The Department  
20 of Health and Senior Services shall not issue a nurse aide or personal  
21 care assistant certification to any applicant, except on a conditional  
22 basis as provided for in subsection d. of section 3 of P.L.1997, c.100  
23 (C.26:2H-84), unless the Commissioner of Health and Senior Services  
24 first determines, consistent with the requirements of sections 2 through  
25 6 of P.L.1997, c.100 ([C.26:2H-82 et al.] C.26:2H-83 through 87),  
26 that no criminal history record information exists on file in the Federal

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SJU committee amendments adopted November 17, 1997.

1 Bureau of Investigation, Identification Division, or in the State Bureau  
2 of Identification in the Division of State Police, which would disqualify  
3 that person from being [employed or utilized in such capacity or  
4 position] certified. A person shall be disqualified from [employment  
5 under P.L.1997, c.100 (C.26:2H-82 et al.)] certification if that  
6 person's criminal history record background check reveals a record of  
7 conviction of any of the following crimes and offenses:

8 (1) In New Jersey, any crime or disorderly persons offense:

9 (a) involving danger to the person, meaning those crimes and  
10 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,  
11 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or  
12 N.J.S.2C:15-1 et seq.; or

13 (b) against the family, children or incompetents, meaning those  
14 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et  
15 seq.; or

16 (c) involving theft as set forth in chapter 20 of Title 2C of the  
17 New Jersey Statutes; or

18 (d) involving any controlled dangerous substance or controlled  
19 substance analog as set forth in chapter 35 of Title 2C of the New  
20 Jersey Statutes except paragraph (4) of subsection a. of  
21 N.J.S.2C:35-10.

22 (2) In any other state or jurisdiction, of conduct which, if  
23 committed in New Jersey, would constitute any of the crimes or  
24 disorderly persons offenses described in paragraph (1) of this  
25 subsection.

26 b. Notwithstanding the provisions of subsection a. of this section,  
27 no person shall be disqualified from [employment under P.L.1997,  
28 c.100 (C.26:2H-82 et al.)] certification on the basis of any conviction  
29 disclosed by a criminal history record background check performed  
30 pursuant to sections 2 through 6 and section 14 of P.L.1997, c.100  
31 ([C.26:2H-82 et al.] C.26:2H-83 through 87 and C.53:1-20.9a) if the  
32 person has affirmatively demonstrated to the Commissioner of Health  
33 and Senior Services clear and convincing evidence of the person's  
34 rehabilitation. In determining whether a person has affirmatively  
35 demonstrated rehabilitation, the following factors shall be considered:

36 (1) the nature and responsibility of the position which the  
37 convicted person would hold or has held, as the case may be;

38 (2) the nature and seriousness of the offense;

39 (3) the circumstances under which the offense occurred;

40 (4) the date of the offense;

41 (5) the age of the person when the offense was committed;

42 (6) whether the offense was an isolated or repeated incident;

43 (7) any social conditions which may have contributed to the  
44 offense; and

45 (8) any evidence of rehabilitation, including good conduct in

1 prison or in the community, counseling or psychiatric treatment  
2 received, acquisition of additional academic or vocational schooling,  
3 successful participation in correctional work-release programs, or the  
4 recommendation of those who have had the person under their  
5 supervision.

6 c. If a person subject to the provisions of sections 2 through 6 of  
7 P.L.1997, c.100 ([C.26:2H-82 et al.] C.26:2H-83 through 87) refuses  
8 to consent to, or cooperate in, the securing of a criminal history record  
9 background check, the commissioner shall [direct the principal  
10 administrator of the facility not to consider the person for  
11 employment] not issue a nurse aide or personal care assistant  
12 certification and shall notify the applicant, and the applicant's employer  
13 if the applicant is conditionally employed as provided in subsection d.  
14 of section 3 of P.L.1997, c.100 (C.26:2H-84) or the applicant's  
15 prospective employer if known, of that denial.

16 (cf: P.L.1997, c.100, s.2)

17

18 3. Section 3 of P.L.1977, c.100 (C.26:2H-84) is amended to read  
19 as follows:

20 3. a. An applicant for [employment at a facility] certification  
21 shall submit to the Commissioner of Health and Senior Services the  
22 applicant's name, address and fingerprints taken on standard  
23 fingerprint cards by a State or municipal law enforcement agency. The  
24 commissioner is authorized to exchange fingerprint data with and  
25 receive criminal history record information from the Federal Bureau  
26 of Investigation and the Division of State Police for use in making the  
27 determinations required by sections 2 through 6 of P.L.1997,c.100  
28 ([C.26:2H-82 et al.] C.26:2H-83 through 87).

29 b. Upon receipt of the criminal history record information for a  
30 person from the Federal Bureau of Investigation or the Division of  
31 State Police, the commissioner shall immediately notify, in writing, the  
32 applicant, and the applicant's employer if the applicant is conditionally  
33 employed as provided in subsection d. of this section or the applicant's  
34 prospective employer[, in writing,] if known, of the person's  
35 qualification or disqualification for [employment] certification under  
36 sections 2 through 6 of P.L.1997,c.100 ([C.26:2H-82 et al.] C.26:2H-  
37 83 through 87). If the applicant is disqualified, the conviction or  
38 convictions which constitute the basis for the disqualification shall be  
39 identified in the notice to the applicant, but shall not be identified in  
40 the notice to the applicant's employer or prospective employer.

41 c. The applicant shall have 30 days from the date of the written  
42 notice of disqualification to petition the commissioner for a hearing on  
43 the accuracy of the applicant's criminal history record information or  
44 to establish the applicant's rehabilitation under subsection b. of section  
45 2 of P.L. 1997, c.100 (C.26:2H-83). The commissioner shall notify

1 the applicant's employer or prospective employer of the applicant's  
2 petition for a hearing within five days following the receipt of the  
3 petition from the applicant. Upon the issuance of a final decision upon  
4 a petition to the commissioner pursuant to this subsection, the  
5 commissioner shall notify the applicant and the applicant's employer or  
6 prospective employer as to whether the applicant remains disqualified  
7 from certification under sections 2 through 6 of P.L.1997, c. 100  
8 (C.26:2H-83 through 87).

9 d. [A facility may employ a person] An applicant may be issued  
10 conditional certification and may be employed as a nurse aide or a  
11 personal care assistant conditionally for a period not to exceed 180  
12 days, pending completion of a criminal history record background  
13 check required under sections 2 through 6 of P.L.1997,c.100  
14 ([C.26:2H-82 et al.] C.26:2H-83 through 87), if the person submits to  
15 the commissioner a sworn statement attesting that the person has not  
16 been convicted of any crime or disorderly persons offense as described  
17 in section 2 of P.L.1997, c.100 (C.26:2H-83). A person who submits  
18 a false sworn statement shall be disqualified from [employment by any  
19 facility, home health care agency, nurses' registry, employment agency,  
20 or temporary help agency,] certification as a nurse aide or a personal  
21 care assistant, as the case may be, and shall not have an opportunity  
22 to establish rehabilitation pursuant to subsection b. of section 2 of  
23 P.L.1997, c.100 (C.26:2H-83). A conditionally employed person who  
24 disputes the accuracy of the criminal history record information and  
25 who files a petition requesting a hearing pursuant to subsection c. of  
26 this section may remain employed [at the facility] by the employer until  
27 the commissioner rules on the applicant's petition but, pending the  
28 commissioner's ruling, the [facility] employer shall not permit the  
29 applicant to have unsupervised contact with [elderly] patients,  
30 residents or clients, as the case may be, who are 60 years of age or  
31 older.

32 [A person who is to be employed in any substitute capacity or  
33 position, who is rehired annually, shall only be required to undergo a  
34 criminal history record check upon initial employment. A person who  
35 has been qualified for employment as a result of a criminal history  
36 record background check pursuant to P.L.1997, c.100 (C.26:2H-82 et  
37 al.) may use that qualification to obtain employment with a  
38 simultaneous or subsequent employer without having to undergo  
39 another check required by P.L.1997,c.100 (C.26:2H-82 et al.) for a  
40 period of 12 months from the date of the initial notice of qualification  
41 from the commissioner. The person may request and the  
42 commissioner shall send a notice of qualification upon request to  
43 simultaneous or subsequent employers within 12 months following the  
44 date of the initial qualification notice.

45 Prospective and conditionally employed persons shall retain any

1 available right of review provided to applicants under Title 11A of the  
2 New Jersey Statutes.]

3 (cf: P.L.1997, c.100, s.3)

4

5 4. Section 4 of P.L.1997, c.100 (C.26:2H-85) is amended to read  
6 as follows:

7 4. ~~[The]~~ An applicant's employer if the applicant is conditionally  
8 employed as provided in subsection d. of section 3 of P.L.1997, c.100  
9 (C.26:2H-84) or an applicant's prospective employer may assume the  
10 cost of [all] the criminal history record background [checks] check  
11 conducted on [prospective employees] an applicant for nurse aide or  
12 personal care assistant certification, as the case may be, pursuant to  
13 sections 2 through 6 and section 14 of P.L.1997,c.100 ([C.26:2H-82  
14 et al.] C.26:2H-83 through 87 and C.53:1-20.9a); or the employer or  
15 prospective employer may require the [prospective employee]  
16 applicant to pay the cost of the criminal history record background  
17 [checks] check.

18 (cf: P.L.1997,c.100,s.4)

19

20 5. Section 6 of P.L.1997, c.100 (C.26:2H-87) is amended to read  
21 as follows:

22 6. Any ~~[employer subject to the provisions of sections 1 through~~  
23 ~~5 of P.L.1997, c.100 (C.26:2H-82 through C.26:2H-86) who fails to~~  
24 ~~comply with those provisions or any] person submitting a false sworn~~  
25 ~~statement pursuant to section 3 of P.L.1997, c.100 (C.26:2H-84) shall~~  
26 ~~be subject to a fine of not more than \$1,000, which may be assessed~~  
27 ~~by the Commissioner of Health and Senior Services.~~

28 (cf: P.L.1997,c.100,s.6)

29

30 6. Section 7 of P.L.1997, c.100 (C.45:11-24.3) is amended to read  
31 as follows:

32 7. a. ~~[A home health care agency, nurses' registry, employment~~  
33 ~~agency, or temporary help agency which is licensed or regulated by]~~  
34 ~~The New Jersey Board of Nursing in the Division of Consumer Affairs~~  
35 ~~in the Department of Law and Public Safety[,]~~ shall not ~~[hire a home~~  
36 ~~health aide or other health care employee to serve in a position which~~  
37 ~~involves regular contact with a patient or client who is 60 years of age~~  
38 ~~or older,] issue a homemaker-home health aide certification to any~~  
39 ~~applicant, except on a conditional basis as provided for in subsection~~  
40 ~~d. of section 8 of P.L.1997, c.100 (C.45:11-24.4), unless the [director]~~  
41 ~~board first determines, consistent with the requirements of sections 7~~  
42 ~~through 13 of P.L.1997, c.100 ([C.26:2H-82 et al.] C.45:11-24.3~~  
43 ~~through 24.9), that no criminal history record information exists on file~~  
44 ~~in the Federal Bureau of Investigation, Identification Division, or in~~  
45 ~~the State Bureau of Identification in the Division of State Police,~~

1 which would disqualify that person from being [employed or utilized  
2 in such capacity or position] certified. A person shall be disqualified  
3 from [employment under P.L.1997, c.100 (C.26:2H-82 et al.)]  
4 certification if that person's criminal history record background check  
5 reveals a record of conviction of any of the following crimes and  
6 offenses:

- 7 (1) In New Jersey, any crime or disorderly persons offense:  
8 (a) involving danger to the person, meaning those crimes and  
9 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,  
10 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or  
11 N.J.S.2C:15-1 et seq.; or  
12 (b) against the family, children or incompetents, meaning those  
13 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et  
14 seq.; or  
15 (c) involving theft as set forth in chapter 20 of Title 2C of the  
16 New Jersey Statutes; or  
17 (d) involving any controlled dangerous substance or controlled  
18 substance analog as set forth in chapter 35 of Title 2C of the New  
19 Jersey Statutes except paragraph (4) of subsection a. of  
20 N.J.S.2C:35-10.

21 (2) In any other state or jurisdiction, of conduct which, if  
22 committed in New Jersey, would constitute any of the crimes or  
23 disorderly persons offenses described in paragraph (1) of this  
24 subsection.

25 b. Notwithstanding the provisions of subsection a. of this section,  
26 no person shall be disqualified from [employment under P.L.1997,  
27 c.100 (C.26:2H-82 et al.)] certification on the basis of any conviction  
28 disclosed by a criminal history record background check performed  
29 pursuant to sections 7 through 13 and section 14 of P.L.1997, c.100  
30 ([C.26:2H-82 et al.] C.45:11-24.3 through 24.9 and C.53:1-20.9a) if  
31 the person has affirmatively demonstrated to the [Director of] New  
32 Jersey Board of Nursing in the Division of Consumer Affairs clear and  
33 convincing evidence of the person's rehabilitation. In determining  
34 whether a person has affirmatively demonstrated rehabilitation, the  
35 following factors shall be considered:

- 36 (1) the nature and responsibility of the position which the  
37 convicted person would hold or has held, as the case may be;  
38 (2) the nature and seriousness of the offense;  
39 (3) the circumstances under which the offense occurred;  
40 (4) the date of the offense;  
41 (5) the age of the person when the offense was committed;  
42 (6) whether the offense was an isolated or repeated incident;  
43 (7) any social conditions which may have contributed to the  
44 offense; and  
45 (8) any evidence of rehabilitation, including good conduct in

1 prison or in the community, counseling or psychiatric treatment  
2 received, acquisition of additional academic or vocational schooling,  
3 successful participation in correctional work-release programs, or the  
4 recommendation of those who have had the person under their  
5 supervision.

6 c. If a person subject to the provisions of sections 7 through 13 of  
7 P.L.1997, c.100 ([C.26:2H-82 et al.] C.45:11-24.3 through 24.9)  
8 refuses to consent to, or cooperate in, the securing of a criminal  
9 history record background check, the [director] New Jersey Board of  
10 Nursing shall [direct the home health care agency, nurses' registry,  
11 employment agency, or temporary help agency not to consider the  
12 person for employment] not issue a homemaker-home health aide  
13 certification and shall notify the applicant, and the applicant's employer  
14 if the applicant is conditionally employed as provided in subsection d.  
15 of section 8 of P.L.1997, c.100 (C.45:11-24.4) or the applicant's  
16 prospective employer if known, of that denial.

17 (cf: P.L.1977, c.100, s.7)

18

19 7. Section 8 of P.L.1997, c.100 (C.45:11-24.4) is amended to read  
20 as follows:

21 8. a. [A home health aide or other health care employee who is  
22 an] An applicant for [employment with a home health care agency,  
23 nurses' registry, employment agency, or temporary help agency which  
24 is licensed or regulated by the Division of Consumer Affairs]  
25 homemaker-home health aide certification shall submit to the [Director  
26 of the Division of Consumer Affairs] New Jersey Board of Nursing the  
27 applicant's name, address and fingerprints taken on standard  
28 fingerprint cards by [the] a State or municipal law enforcement  
29 agency. The [director] board is authorized to exchange fingerprint  
30 data with and receive criminal history record information from the  
31 Federal Bureau of Investigation and the Division of State Police for  
32 use in making the determinations required by sections 7 through 13 of  
33 P.L.1997, c.100 ([C.26:2H-82 et al.] C.45:11-24.3 through 24.9).

34 b. Upon receipt of the criminal history record information for a  
35 person from the Federal Bureau of Investigation or the Division of  
36 State Police, the [director] New Jersey Board of Nursing shall  
37 immediately notify, in writing, the applicant, and the applicant's  
38 employer if the applicant is conditionally employed as provided in  
39 subsection d. of this section or the applicant's prospective employer [,  
40 in writing,] if known, of the person's qualification or disqualification  
41 for [employment] homemaker-home health aide certification under  
42 sections 7 through 13 of P.L.1997, c.100 ([C.26:2H-82 et al.]  
43 C.45:11-24.3 through 24.9). If the applicant is disqualified, the  
44 conviction or convictions which constitute the basis for the  
45 disqualification shall be identified in the notice to the applicant, but

1 shall not be identified in the notice to the applicant's employer or  
2 prospective employer.

3 c. The applicant shall have 30 days from the date of the written  
4 notice of disqualification to petition the [director] New Jersey Board  
5 of Nursing for a hearing on the accuracy of the applicant's criminal  
6 history record information or to establish the applicant's rehabilitation  
7 under subsection b. of section 7 of P.L.1997, c.100 (C.45:11-24.3).  
8 The [director] board shall notify the applicant's employer or  
9 prospective employer of the applicant's petition for a hearing within  
10 five days following the receipt of the petition from the applicant.  
11 Upon the issuance of a final decision upon a petition to the board  
12 pursuant to this subsection, the board shall notify the applicant and the  
13 applicant's employer or prospective employer as to whether the  
14 applicant remains disqualified from certification under sections 7  
15 through 13 of P.L.1997, c.100 (C.45:11-24.3 through 24.9).

16 d. [A home health care agency, nurses' registry, employment  
17 agency, or temporary help agency] An applicant may [employ a home  
18 health aide or other health care employee] be issued conditional  
19 certification and may be employed as a homemaker-home health aide  
20 conditionally for a period not to exceed 180 days, pending completion  
21 of a criminal history record background check required under sections  
22 7 through 13 of P.L.1997, c.100 ([C.26:2H-82 et al.] C.45:11-24.3  
23 through 24.9), if the person submits to the [director] New Jersey  
24 Board of Nursing a sworn statement attesting that the person has not  
25 been convicted of any crime or disorderly persons offense as described  
26 in section 7 of P.L.1997, c.100 (C.45:11-24.3). A person who submits  
27 a false sworn statement shall be disqualified from [employment by any  
28 facility as defined in section 1 of P.L.1997, c.100 (C.26:2H-82),  
29 agency or registry,] certification as a homemaker-home health aide and  
30 shall not have an opportunity to establish rehabilitation pursuant to  
31 subsection b. of section 7 of P.L.1997, c.100 (C.45:11-24.3). A  
32 conditionally employed person who disputes the accuracy of the  
33 criminal history record information and who files a petition requesting  
34 a hearing pursuant to subsection c. of this section may remain  
35 employed by the [employing agency or registry] employer until the  
36 [director] board rules on the applicant's petition but, pending the  
37 [director's] board's ruling, the [employing agency or registry]  
38 employer shall not permit the applicant to have unsupervised contact  
39 with patients or clients who are 60 years of age or older.

40 [A person who is to be employed in any substitute capacity or  
41 position, who is rehired annually, shall only be required to undergo a  
42 criminal history record check upon initial employment. A home health  
43 aide or other health care employee who has been qualified for  
44 employment as a result of a criminal history record background check  
45 pursuant to P.L.1997, c.100 (C.26:2H-82 et al.) may use that



1 qualification to obtain employment with a simultaneous or subsequent  
2 employer without having to undergo another check required by  
3 P.L.1997, c.100 (C.26:2H-82 et al.) for a period of 12 months from  
4 the date of the initial notice of qualification from the director. The  
5 aide or employee may request and the director shall send a notice of  
6 qualification upon request to simultaneous or subsequent employers  
7 within 12 months following the date of the initial qualification notice.]  
8 (cf: P.L.1997, c.100, s.8)

9  
10 8. Section 9 of P.L.1997, c.100 (C.45:11-24.5) is amended to read  
11 as follows:

12 9. [The] A home health [care] agency[, nurses' registry,  
13 employment agency, or temporary help agency] or a health care  
14 service firm, as defined in regulations of the Division of Consumer  
15 Affairs, may assume the cost of [all] the criminal history record  
16 background [checks] check conducted on [prospective employees] an  
17 applicant for homemaker-home health aide certification pursuant to  
18 sections 7 through 13 and section 14 of P.L.1997, c.100 (C.26:2H-82  
19 et al.) C.45:11-24.3 through 24.9 and C.53:1-20.9a); or it may require  
20 the [prospective employee] applicant to pay the cost of the criminal  
21 history record background [checks] check.

22 (cf: P.L.1997, c.100, s.9)

23  
24 9. Section 10 of P.L.1997, c.100 (C.45:11-24.6) is amended to  
25 read as follows:

26 10. The Division of Consumer Affairs shall require that the New  
27 Jersey Board of Nursing issue biennial recertifications to homemaker-  
28 home health aides only upon receiving documented proof from a home  
29 health [care] agency or health care service firm that the homemaker-  
30 home health aide is currently employed and regularly supervised by a  
31 registered professional nurse.

32 (cf: P.L.1997, c.100, s.10)

33  
34 10. Section 11 of P.L.1997, c.100 (C.45:11-24.7) is amended to  
35 read as follows:

36 11. The Division of Consumer Affairs shall require that a New  
37 Jersey Board of Nursing certificate issued to a homemaker-home  
38 health aide contain the following statement: "Valid only if certified  
39 homemaker-home health aide is employed by a home [care services]  
40 health agency or health care service firm and is performing delegated  
41 nursing regimen or nursing tasks delegated through the authority of a  
42 duly licensed registered professional nurse."

43 (cf: P.L.1997, c.100, s.11)

44  
45 11. Section 12 of P.L.1997, c.100 (C.45:11-24.8) is amended to

1 read as follows:

2 12. In accordance with the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.), the [Director of] New Jersey  
4 Board of Nursing in the Division of Consumer Affairs shall adopt rules  
5 and regulations necessary to implement the provisions of sections 7  
6 through 9 and section 13 of P.L.1997, c.100 (C.45:11-24.3 through  
7 24.5 and C.45:11-24.9).

8 (cf: P.L.1997, c.100, s.12)

9

10 12. Section 13 of P.L.1997, c.100 (C.45:11-24.9) is amended to  
11 read as follows:

12 13. Any [employer subject to the provisions of sections 7 through  
13 9 and section 12 of P.L.1997, c.100 (C.45:11-24.3 through  
14 C.45:11-24.5 and C.45:11-24.8) who fails to comply with those  
15 provisions or any] person submitting a false sworn statement pursuant  
16 to section 8 of P.L.1997, c.100 (C.45:11-24.4) shall be subject to a  
17 fine of not more than \$1,000, which may be assessed by the New  
18 Jersey Board of Nursing.

19 (cf: P.L.1997,c.100,s.13)

20

21 13. Section 14 of P.L.1997, c.100 (C.53:1-20.9a) is amended to  
22 read as follows:

23 14. [The] In accordance with the provisions of sections 2 through  
24 6 and sections 7 through 13 of P.L.1997, c.100 (C.26:2H-83 through  
25 87; C.45:11-24.3 through 24.9), the Division of State Police in the  
26 Department of Law and Public Safety shall conduct a criminal history  
27 record background check, including a name and fingerprint  
28 identification check, of each [prospective employee of a facility as  
29 defined in section 1 of P.L.1997, c.100 (C.26:2H-82) or of a home  
30 health care agency, nurses' registry, employment agency, or temporary  
31 help agency licensed or regulated by the Director of ] applicant for  
32 nurse aide or personal care assistant certification submitted to the  
33 Department of Health and Senior Services and of each applicant for  
34 homemaker-home health aide certification submitted to the New Jersey  
35 Board of Nursing in the Division of Consumer Affairs. [The  
36 requirement of a criminal history record background check shall apply  
37 only to a prospective employee who is or would be serving in a  
38 position which involves regular contact with a patient, resident or  
39 client as the case may be, who is 60 years of age or older.]

40 For the purpose of conducting the criminal history record  
41 background check, the Division of State Police shall examine its own  
42 files and arrange for a similar examination by federal authorities. The  
43 division shall immediately forward the information obtained as a result  
44 of conducting the check to the Commissioner of Health and Senior  
45 Services, in the case of [a facility] an applicant for nurse aide or

1 personal care assistant certification, and to the [Director of] New  
2 Jersey Board of Nursing in the Division of Consumer Affairs in the  
3 Department of Law and Public Safety, in the case of [a home health  
4 care agency, nurses' registry, employment agency, or temporary help  
5 agency] an applicant for homemaker-home health aide certification.  
6 (cf: P.L.1997, c.100, s.14)

7

8 14. Section 1 of P.L.1997, c.100 (C.26:2H-82) is repealed.

9

10 15. This act shall take effect<sup>1</sup>[on the first day of the sixth month  
11 after enactment]immediately<sup>1</sup>.

12

13

14

15

16 \_\_\_\_\_  
17 Requires criminal background checks for nurse aide, personal care  
assistant, and homemaker-home health aide certification applicants.