

P.L. 1997, CHAPTER 265, *approved December 22, 1997*
Senate No. 51 (*Third Reprint*)

1 **AN ACT** concerning criminal history record background checks for
2 prospective employees of certain housing authorities, ³and³
3 supplementing Chapter ¹[14A of Title 55] 12A of Title 40A¹ ³[and
4 Chapter 1 of Title 53 of the Revised Statutes and making an
5 appropriation therefor] of the New Jersey Statutes³.
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. As used in this act:

11 ¹["Authority" means a local housing authority under the supervision
12 of the Commissioner of Community Affairs.

13 "Commissioner" means the Commissioner of Community Affairs.]¹

14 "Applicant" means a person 18 years of age or older who is being
15 considered for employment for at least seven hours a week by an
16 authority.

17 ¹"Authority" means a local housing authority ²created pursuant to
18 the Local Redevelopment and Housing Law, P.L.1992, c.79
19 (40A:12A-1 et seq.)².

20 "Superintendent" means the Superintendent of State Police.¹
21

22 2. a. An authority may perform criminal history background
23 checks on applicants for employment, according to the provisions of
24 this act. An authority which elects to comply with this act shall not
25 hire an applicant unless it determines that no criminal record
26 information exists on file in the Federal Bureau of Investigation,
27 Identification Division, or in the State Bureau of Identification in the
28 Division of State Police which would disqualify the individual from
29 being employed pursuant to the provisions of this act. An applicant
30 shall be disqualified from employment if the criminal history record

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted February 5, 1996.

² Assembly AHO committee amendments adopted May 2, 1996.

³ Assembly floor amendments adopted September 26, 1996.

1 check reveals his conviction:

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

3 (a) Involving danger to the person pursuant to

4 N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq.,

5 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

6 (b) Against the family, children or incompetents, pursuant to

7 N.J.S.2C:24-1 et seq.; or

8 (2) In any other state or jurisdiction, for conduct which, if
9 committed in New Jersey, would constitute any of the crimes or
10 offenses included in paragraph (1) of this subsection.

11 b. Notwithstanding the provisions of subsection a. of this section
12 to the contrary, an applicant shall not be disqualified from
13 consideration for employment under this act on the basis of any
14 conviction disclosed by a criminal history record check if the individual
15 has affirmatively demonstrated to the authority clear and convincing
16 evidence of his rehabilitation. In determining whether an individual
17 has affirmatively demonstrated rehabilitation, an authority shall
18 consider:

19 (1) The nature and responsibility of the applicant's prospective
20 position;

21 (2) The nature and seriousness of the offense;

22 (3) The circumstances under which the offense occurred;

23 (4) The date of the offense;

24 (5) The age of the applicant when the offense was committed;

25 (6) Whether the offense was repeated;

26 (7) Social conditions which may have contributed to the offense;
27 and

28 (8) Any evidence of rehabilitation, including good conduct in
29 prison or in the community, counseling or psychiatric treatment
30 received, acquisition of additional academic or vocational education,
31 successful participation in correctional work-release programs, or the
32 recommendation of persons who have supervised the applicant.

33

34 3. An applicant shall submit to the authority his ²or her² name,
35 address, ²and² fingerprints ²[, and his written consent for the
36 background check to be performed] taken on standard fingerprint
37 cards by a State or municipal law enforcement agency². ²[The

38 authority shall submit this documentation to the ¹[commissioner]
39 superintendent¹, who shall coordinate the criminal history background
40 check.]² An applicant who refuses to consent to, or cooperate in, the

41 securing of a criminal history record background check shall not be
42 considered for employment by the authority. The ¹[commissioner]

43 ²[superintendent¹] authority² is authorized to exchange fingerprint data
44 with and receive criminal history record information from the Federal

45 Bureau of Investigation, Identification Section ¹[and the Division of
46 State Police, Bureau of Identification]¹ ²and the Division of State

1 Police, Bureau of Identification² for use in making the determinations
2 provided for in section 2 of P.L. , c. (C.) (now pending before
3 the Legislature as this bill). ²No criminal history record check shall be
4 performed pursuant to this act unless the applicant shall have furnished
5 his or her written consent to such check. The applicant shall bear the
6 cost for the criminal history record check.²

7 ²[4. The ¹[Department of Community Affairs]Division of State
8 Police¹ shall act as a clearinghouse for the collection and dissemination
9 of information obtained as a result of conducting a criminal history
10 record background check pursuant to this act. The ¹[department]
11 division¹ shall promptly advise an authority of the information received
12 concerning an applicant.]²

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14 ²[5. The ¹[department] division¹ shall assume the cost of all
15 criminal history record background checks conducted on authority
16 applicants.]²

17
18 ²[6.]^{4.2} a. Upon receipt of an applicant's criminal history record
19 information, an authority shall notify the applicant, in writing, as to
20 whether he is qualified or disqualified for employment pursuant to this
21 act. If the applicant is disqualified for employment, the conviction or
22 convictions which constitute the basis for the disqualification shall be
23 identified in the written notice.

24 b. ¹[The] An¹ applicant ²[¹ of] to² a housing authority which is
25 subject to the provisions of Title 11A of the New Jersey Statutes¹ shall
26 have ²[30]20² days from the date of written notice of disqualification
27 to ¹[petition the commissioner] file an appeal with the Department of
28 Personnel¹ for a ²[hearing] review² on the accuracy of the criminal
29 history record information or to establish his ²or her² rehabilitation
30 under subsection b. of section 2 of P.L. , c. (C.) (now pending
31 before the Legislature as this bill) ¹[. The commissioner shall by
32 regulation establish a process for the hearing and adjudication of
33 applicant appeals. The commissioner may refer any case arising
34 hereunder to the Office of Administrative Law for administrative
35 proceedings pursuant to P.L.1978, c.67 (C.52:14F-1 et seq.).]
36 pursuant to regulations promulgated by the ²[Commissioner of
37 Personnel] Merit System Board² .¹

38 c. The ¹[commissioner] Department of Personnel¹ or an authority
39 shall not maintain an applicant's criminal history record information or
40 evidence of rehabilitation submitted under this section for more than
41 six months from the date the applicant is hired or the date of the final
42 disposition of the applicant's disqualification, as the case may be.

43 ²This section shall not prohibit the Department of Personnel from

1 maintaining a copy of the decision on the applicant's appeal, or the
2 entire record in the case of a judicial appeal.²

3
4 ¹[7. The commissioner, pursuant to the "Administrative Procedure
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
6 regulations to effectuate the purposes of this act.]¹

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8 ¹[8.] ²[7. ¹The Division of State Police in the Department of Law
9 and Public Safety, upon the request of ¹[the commissioner] an
10 authority¹, shall conduct a criminal history record background check
11 which includes a name and fingerprint identification check of an
12 applicant in order to ascertain whether the person has a record of
13 criminal history, pursuant to P.L. , c. (C.) (now pending before
14 the Legislature as this bill). The division shall conduct the background
15 check only upon receipt of the applicant's written consent to conduct
16 the background check.

17 For the purpose of conducting the criminal history record
18 background check, the division shall examine its own files and arrange
19 for a similar examination by federal authorities. The division shall
20 forward the information obtained as a result of conducting the check
21 to the ¹[commissioner] authority¹.]²

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23 ¹[9.] ²[8. ¹There is appropriated \$95,000 from the General Fund
24 to the ¹[Department of Community Affairs] Division of State Police¹
25 to effectuate the purposes of this act.]²

26
27 ¹[10.] ²[9. ¹5. ²This act shall take effect on the first day of the
28 seventh month after enactment ¹[, except that section 7 shall take
29 effect immediately]¹.

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34 Allows criminal history record background checks for prospective
35 employees of certain public housing authorities.