

P.L. 1997, CHAPTER 71, *approved April 16, 1997*  
Senate, No. 1545

1 **AN ACT** concerning employees at certain State facilities and amending  
2 P.L.1988, c.45.

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

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7 1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read as  
8 follows:

9 2. a. A facility shall not employ any individual unless the  
10 Commissioner of the Department of Human Services has first  
11 determined, consistent with the requirements and standards of this act,  
12 that no criminal history record information exists on file in the Federal  
13 Bureau of Investigation, Identification Division, or in the State Bureau  
14 of Identification in the Division of State Police, which would disqualify  
15 that individual from being employed at the facility. A criminal history  
16 record background check shall be conducted at least once every two  
17 years for an individual employed at the facility. An individual shall be  
18 disqualified from employment under this act if that individual's criminal  
19 history record check reveals a record of conviction of any of the  
20 following crimes and offenses:

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

22 (a) Involving danger to the person, meaning those crimes and  
23 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,  
24 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  
25 N.J.S.2C:15-1 et seq.; or

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

29 (2) In any other state or jurisdiction, of conduct which, if  
30 committed in New Jersey, would constitute any of the crimes or  
31 disorderly persons offenses described in paragraph (1) of this  
32 subsection.

33 b. Notwithstanding the provisions of subsection a. of this section,  
34 no individual shall be disqualified from employment under this act on

**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.**

1 the basis of any conviction disclosed by a criminal history record check  
2 performed pursuant to this act if the individual has affirmatively  
3 demonstrated to the Commissioner of Human Services clear and  
4 convincing evidence of his rehabilitation. In determining whether an  
5 individual has affirmatively demonstrated rehabilitation, the following  
6 factors shall be considered:

7 (1) The nature and responsibility of the position which the  
8 convicted individual would hold;

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

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

11 (4) The date of the offense;

12 (5) The age of the individual when the offense was committed;

13 (6) Whether the offense was an isolated or repeated incident;

14 (7) Any social conditions which may have contributed to the  
15 offense; and

16 (8) Any evidence of rehabilitation, including good conduct in  
17 prison or in the community, counseling or psychiatric treatment  
18 received, acquisition of additional academic or vocational schooling,  
19 successful participation in correctional work-release programs, or the  
20 recommendation of persons who have had the individual under their  
21 supervision.

22 c. If a prospective employee of a facility refuses to consent to, or  
23 cooperate in, the securing of a criminal history record background  
24 check, the commissioner shall direct the principal administrator not to  
25 consider the person for employment at the facility. The prospective  
26 employee shall, however, retain any available right of review by the  
27 Merit System Board in the Department of Personnel.

28 d. If a current employee of a facility refuses to consent to, or  
29 cooperate in, the securing of a criminal history record background  
30 check, the commissioner shall direct the principal administrator to  
31 immediately remove the person from his position at the facility and to  
32 terminate the person's employment at the facility. The employee shall,  
33 however, retain any available right of review by the Merit System  
34 Board in the Department of Personnel.

35 e. Notwithstanding the provisions of subsection a. of this section  
36 to the contrary, a facility may provisionally employ an individual for  
37 a period not to exceed six months if that individual's State Bureau of  
38 Identification criminal history record background check does not  
39 contain any information that would disqualify the individual from  
40 employment at the facility and if the individual submits to the  
41 commissioner a sworn statement attesting that the individual has not  
42 been convicted of any crime or disorderly persons offense as described  
43 in this act, pending a determination that no criminal history record  
44 background information which would disqualify the individual exists  
45 on file in the Federal Bureau of Investigation, Identification Division.  
46 An individual who is provisionally employed pursuant to this

1 subsection shall perform his duties at the facility under the direct  
2 supervision of a superior who acts in a supervisory capacity over that  
3 individual until the determination concerning the federal information  
4 is complete.

5 (cf: P.L1993, c.1, s.1)

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7 2. This act shall take effect immediately.

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10 STATEMENT

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12 This bill requires employees at State facilities for the mentally ill  
13 and developmentally disabled to undergo criminal history record  
14 background checks at least every two years. Currently, employees at  
15 these facilities are only required to undergo the background checks  
16 prior to employment.

17 This bill is one of several legislative initiatives recommended in the  
18 final report of the Senate Task Force on Greystone Park Psychiatric  
19 Hospital issued in June, 1996.

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24 Requires criminal history background checks to be conducted at least  
25 every two years for employees at State facilities for mentally ill and  
26 developmentally disabled persons.