

CHAPTER 265

AN ACT concerning criminal history record background checks for prospective employees of certain housing authorities, and supplementing Chapter 12A of Title 40A of the New Jersey Statutes.

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

C.40A:12A-22.1 Definitions relative to criminal history background checks for local housing authority employees.

1. As used in this act:

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

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

"Superintendent" means the Superintendent of State Police.

C.40A:12A-22.2 Criminal history background checks on applicants for employment with local housing authorities.

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

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

(a) Involving danger to the person pursuant to

N.J.S.2C:11-1 et seq., 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 N.J.S.2C:15-1 et seq.; or

(b) Against the family, children or incompetents, pursuant to N.J.S.2C:24-1 et seq.; or

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

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

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

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

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

(6) Whether the offense was repeated;

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

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

C.40A:12A-22.3 Information submitted by applicant; consent; cost.

3. An applicant shall submit to the authority his or her name, address, and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. An applicant who refuses to consent to, or cooperate in, the securing of a criminal history record background check shall not be considered for employment by the authority. The authority is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation, Identification Section and the Division of State Police, Bureau of Identification for use in making the determinations provided for in section 2 of P.L.1997, c.265 (C.40A:12A-22.2). No criminal history record check shall be performed pursuant to this act

unless the applicant shall have furnished his or her written consent to such check. The applicant shall bear the cost for the criminal history record check.

C.40A:12A-22.4 Notification to applicant; appeal; maintenance of information.

4. a. Upon receipt of an applicant's criminal history record information, an authority shall notify the applicant, in writing, as to whether he is qualified or disqualified for employment pursuant to this act. If the applicant is disqualified for employment, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.

b. An applicant to a housing authority which is subject to the provisions of Title 11A of the New Jersey Statutes shall have 20 days from the date of written notice of disqualification to file an appeal with the Department of Personnel for a review on the accuracy of the criminal history record information or to establish his or her rehabilitation under subsection b. of section 2 of P.L.1997, c.265 (C.40A:12A-22.2) pursuant to regulations promulgated by the Merit System Board .

c. The Department of Personnel or an authority shall not maintain an applicant's criminal history record information or evidence of rehabilitation submitted under this section for more than six months from the date the applicant is hired or the date of the final disposition of the applicant's disqualification, as the case may be.

This section shall not prohibit the Department of Personnel from maintaining a copy of the decision on the applicant's appeal, or the entire record in the case of a judicial appeal.

5. This act shall take effect on the first day of the seventh month after enactment.

Approved December 22, 1997.