

SENATE, No. 204

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator SINGER

1 AN ACT concerning criminal history record checks for public school  
2 employees, amending P.L.1986, c.116 and supplementing chapter  
3 39 of Title 18A of the New Jersey Statutes.

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

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8 1. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read  
9 as follows:

10 1. A facility, center, school, or school system under the supervision  
11 of the Department of Education and board of education which cares  
12 for, or is involved in the education of children under the age of 18  
13 shall not employ or contract for the services of any teaching staff  
14 member or substitute teacher, teacher aide, child study team member,  
15 school physician, school nurse, custodian, school maintenance worker,  
16 cafeteria worker, school law enforcement officer, school secretary or  
17 clerical worker or any other person serving in a position which  
18 involves regular contact with pupils except individuals serving as  
19 school bus drivers unless the employer has first determined consistent  
20 with the requirements and standards of this act, that no criminal  
21 history record information exists on file in the Federal Bureau of  
22 Investigation, Identification Division, or the State Bureau of  
23 Identification which would disqualify that individual from being  
24 employed or utilized in such capacity or position. An individual  
25 employed by a board of education or a school bus contractor holding  
26 a contract with a board of education, in the capacity of a school bus  
27 driver, shall be required to meet the criminal history record  
28 requirements pursuant to section 6 of P.L.1989, c.104  
29 (C.18A:39-19.1). This section shall not apply to any individual who  
30 provides services on a voluntary basis. An individual other than a  
31 school bus driver shall be disqualified from employment or service  
32 under this act if the individual's criminal history record check reveals

**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 a record of conviction of any of the following crimes and offenses:
- 2 a. In New Jersey, any crime or disorderly persons offense:
- 3 (1) bearing upon or involving sexual offense or child molestation
- 4 as set forth in N.J.S.2C:14-1 et seq.; or
- 5 (2) endangering the welfare of children or incompetents, as set
- 6 forth in N.J.S.2C:24-4 and N.J.S.2C:24-7; or
- 7 b. A crime or offense involving the manufacture, transportation,
- 8 sale, possession, or habitual use of a "controlled dangerous substance"
- 9 as defined in the "New Jersey Controlled Dangerous Substances Act,"
- 10 P.L.1970, c.226 (C.24:21-1 et seq.); or
- 11 c. (1) A crime or offense involving the use of force or the threat
- 12 of force to or upon a person or property including: armed robbery,
- 13 aggravated assault, kidnapping, arson, manslaughter and murder; or
- 14 (2) A simple assault involving the use of force which results in
- 15 bodily injury; or
- 16 d. In any other state or jurisdiction, a conviction involving conduct
- 17 which, if committed in New Jersey, would constitute any of the crimes
- 18 or disorderly persons offenses described in this section of this act.
- 19 e. Notwithstanding the provisions of this section, a individual shall
- 20 not be disqualified from employment or service under this act on the
- 21 basis of any conviction disclosed by a criminal record check performed
- 22 pursuant to this act if the individual has affirmatively demonstrated to
- 23 the Commissioner of Education clear and convincing evidence of his
- 24 or her rehabilitation. In determining whether an individual has
- 25 affirmatively demonstrated rehabilitation, the following factors shall be
- 26 considered:
- 27 (1) The nature and responsibility of the position which the
- 28 convicted individual would hold;
- 29 (2) The nature and seriousness of the offense;
- 30 (3) The circumstances under which the offense occurred;
- 31 (4) The date of the offense;
- 32 (5) The age of the individual when the offense was committed;
- 33 (6) Whether the offense was an isolated or repeated incident;
- 34 (7) Any social conditions which may have contributed to the
- 35 offense;
- 36 (8) Any evidence of rehabilitation, including good conduct in
- 37 prison or in the community, counseling or psychiatric treatment
- 38 received, acquisition of additional academic or vocational schooling,
- 39 successful participation in correctional work-release programs, or the
- 40 recommendation of persons who have had the individual under their
- 41 supervision.
- 42 f. Notwithstanding the provisions of subsection d. of
- 43 N.J.S.2C:51-2, or of any other law to the contrary, an individual who
- 44 has been convicted of a third degree offense, fourth degree offense,
- 45 disorderly persons offense or petty disorderly persons offense resulting
- 46 in the permanent disqualification from holding any office or position

1 of honor, trust or profit under this State or any of its administrative or  
2 political subdivisions may apply to the Commissioner of Education for  
3 eligibility for employment or service at a facility, center, school, or  
4 school system under the supervision of the Department of Education  
5 and board of education which cares for, or is involved in the education  
6 of children under the age of 18. An individual who applies for  
7 eligibility for employment or service under this subsection shall not be  
8 disqualified from employment or service if the individual  
9 affirmatively demonstrates to the Commissioner of Education clear  
10 and convincing evidence of rehabilitation. In determining whether an  
11 individual has affirmatively demonstrated rehabilitation, the  
12 commissioner shall consider the factors set forth in subsection e. of  
13 this section.

14 (cf: P.L.1989, c.156, s.1)

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16 2. (New section) Notwithstanding the provisions of subsection d.  
17 of N.J.S.2C:51-2 or of any other law to the contrary, an individual  
18 who has been convicted of a third degree offense, fourth degree  
19 offense, disorderly persons offense or petty disorderly persons offense  
20 resulting in the permanent disqualification from holding any office or  
21 position of honor, trust or profit under this State or any of its  
22 administrative or political subdivisions may apply to the Commissioner  
23 of Education for eligibility for employment or service with a board of  
24 education as a school bus driver. An individual who applies for  
25 eligibility for employment or service under this subsection shall not be  
26 disqualified from employment or service if the individual affirmatively  
27 demonstrates to the Commissioner of Education clear and convincing  
28 evidence of rehabilitation. In determining whether an individual has  
29 affirmatively demonstrated rehabilitation, the commissioner shall  
30 consider the factors set forth in subsection e. of P.L.1986, c.116  
31 (C.18A:6-7.1).

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33 3. This act shall take effect immediately.

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#### STATEMENT

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38 Pursuant to N.J.S.A.2C:51-2(d) an individual who has been  
39 convicted of an offense involving or touching on his public office,  
40 position or employment forfeits this position and is permanently  
41 disqualified from holding any office or position under this State or any  
42 of its administrative or political subdivisions. However, this bill  
43 provides that an individual who has been convicted of a third degree  
44 offense, fourth degree offense, disorderly persons offense or petty  
45 disorderly persons offense resulting in the permanent disqualification  
46 from holding public employment may apply to the Commissioner of

1 Education for employment within the State's system of public  
2 education including employment as a school bus driver. The bill  
3 provides that to be eligible for employment the applicant must  
4 affirmatively demonstrate with clear and convincing evidence to the  
5 commissioner that the applicant has been rehabilitated. In determining  
6 whether an individual has affirmatively demonstrated rehabilitation, the  
7 bill provides that the commissioner must consider the factors set forth  
8 in N.J.S.A.18A:6-7.1(e), which are the same factors applicable to any  
9 candidate who has been convicted of a disqualifying offense but who  
10 attempts to demonstrate rehabilitation to be eligible for employment  
11 under N.J.S.A.18A:6-7.1 et seq. and N.J.S.A.18A:39-19.1.

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17 Allows persons disqualified from public employment to apply for  
certain public employment.