

SENATE, No. 51

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator O'CONNOR

1 AN ACT concerning criminal history record background checks for
2 prospective employees of certain housing authorities,
3 supplementing Chapter 12A of Title 40A and Chapter 1 of Title 53
4 of the Revised Statutes and making an appropriation therefor.

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

8
9 1. As used in this act:

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

12 "Commissioner" means the Commissioner of Community Affairs.

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

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

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

28 (a) Involving danger to the person pursuant to

29 N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq.,
30 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

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

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

36 b. Notwithstanding the provisions of subsection a. of this section
37 to the contrary, an applicant shall not be disqualified from

1 consideration for employment under this act on the basis of any
2 conviction disclosed by a criminal history record check if the individual
3 has affirmatively demonstrated to the authority clear and convincing
4 evidence of his rehabilitation. In determining whether an individual
5 has affirmatively demonstrated rehabilitation, an authority shall
6 consider:

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

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 applicant when the offense was committed;

13 (6) Whether the offense was repeated;

14 (7) Social conditions which may have contributed to the offense;
15 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 education,
19 successful participation in correctional work-release programs, or the
20 recommendation of persons who have supervised the applicant.

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22 3. An applicant shall submit to the authority his name, address,
23 fingerprints, and his written consent for the background check to be
24 performed. The authority shall submit this documentation to the
25 commissioner, who shall coordinate the criminal history background
26 check. An applicant who refuses to consent to, or cooperate in, the
27 securing of a criminal history record background check shall not be
28 considered for employment by the authority. The commissioner is
29 authorized to exchange fingerprint data with and receive criminal
30 history record information from the Federal Bureau of Investigation,
31 Identification Section and the Division of State Police, Bureau of
32 Identification for use in making the determinations provided for in
33 section 2 of P.L. , c. (C.) (now pending before the Legislature
34 as this bill).

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36 4. The Department of Community Affairs shall act as a
37 clearinghouse for the collection and dissemination of information
38 obtained as a result of conducting a criminal history record
39 background check pursuant to this act. The department shall promptly
40 advise an authority of the information received concerning an
41 applicant.

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43 5. The department shall assume the cost of all criminal history
44 record background checks conducted on authority applicants.

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46 6. a. Upon receipt of an applicant's criminal history record

1 information, an authority shall notify the applicant, in writing, as to
2 whether he is qualified or disqualified for employment pursuant to this
3 act. If the applicant is disqualified for employment, the conviction or
4 convictions which constitute the basis for the disqualification shall be
5 identified in the written notice.

6 b. The applicant shall have 30 days from the date of written notice
7 of disqualification to petition the commissioner for a hearing on the
8 accuracy of the criminal history record information or to establish his
9 rehabilitation under subsection b. of section 2 of P.L. , c. (C.)
10 (now pending before the Legislature as this bill). The commissioner
11 shall by regulation establish a process for the hearing and adjudication
12 of applicant appeals. The commissioner may refer any case arising
13 hereunder to the Office of Administrative Law for administrative
14 proceedings pursuant to P.L.1978, c.67 (C.52:14F-1 et seq.).

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

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

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25 8. The Division of State Police in the Department of Law and
26 Public Safety, upon the request of the commissioner, shall conduct a
27 criminal history record background check which includes a name and
28 fingerprint identification check of an applicant in order to ascertain
29 whether the person has a record of criminal history, pursuant to
30 P.L. , c. (C.) (now pending before the Legislature as this bill).
31 The division shall conduct the background check only upon receipt of
32 the applicant's written consent to conduct the background check.

33 For the purpose of conducting the criminal history record
34 background check, the division shall examine its own files and arrange
35 for a similar examination by federal authorities. The division shall
36 forward the information obtained as a result of conducting the check
37 to the commissioner.

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39 9. There is appropriated \$95,000 from the General Fund to the
40 Department of Community Affairs to effectuate the purposes of this
41 act.

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43 10. This act shall take effect on the first day of the seventh month
44 after enactment, except that section 7 shall take effect immediately.

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- 3 Allows criminal history record background checks for prospective
- 4 employees of certain public housing authorities; appropriates
- 5 \$95,000.