

SENATE, No. 1937

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator BASSANO

1 AN ACT concerning criminal history record background checks for  
2 prospective planning and zoning board appointees, and  
3 supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).  
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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. A governing body may, by ordinance, require as a condition of  
9 appointment as a Class IV member of a planning board pursuant to  
10 section 14 of P.L.1975, c.291 (C.40:55D-23) or as an alternate  
11 member pursuant to section 13 of P.L.1979, c.216 (C.40:55D-23.1),  
12 the submission of the results of a criminal history record background  
13 check, including a name and fingerprint identification check, based on  
14 information on file in the Federal Bureau of Investigation,  
15 Identification Division or in the State Bureau of Identification in the  
16 Division of State Police.

17 The ordinance shall set forth clearly the circumstances under which  
18 a person's criminal history record background check would disqualify  
19 that person from serving on the planning board; however, any criteria  
20 for disqualification shall be based on a clear and compelling  
21 relationship between the crime or offense included on that person's  
22 record and the responsibilities that person will undertake as a member  
23 of the planning board.

24 A governing body which requires a criminal history record  
25 background check as a condition for appointment pursuant to this  
26 section shall absorb any costs associated with the performance of the  
27 check and shall provide for those costs within the municipal budget.

28 If a prospective appointee refuses to consent to, or cooperate in,  
29 securing of a criminal history record background check, the person  
30 shall not be considered for appointment as a Class IV planning board  
31 member or an alternate member, as the case may be.  
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33 2. Upon receipt of the criminal history record information from the  
34 Federal Bureau of Investigation and the Division of State Police,  
35 written notice shall be provided to the prospective planning board  
36 appointee as to that person's qualification or disqualification for  
37 appointment according to the criteria set forth in the ordinance

1 adopted pursuant to section 1 of P.L. , c. (C. ) (pending before  
2 the Legislature as this bill). If the prospective appointee is  
3 disqualified, the conviction or convictions which constitute the basis  
4 for the disqualification shall be identified in the written notice.

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6 3. A prospective planning board appointee shall have 30 days from  
7 the date of receipt of the written notice of disqualification pursuant to  
8 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
9 this bill) to petition the governing body for a hearing on the accuracy  
10 of the criminal history record information.

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12 4. A governing body may, by ordinance, require as a condition of  
13 appointment as a regular or alternate member of a zoning board of  
14 adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69),  
15 the submission of the results of a criminal history record background  
16 check, including a name and fingerprint identification check, based on  
17 information on file in the Federal Bureau of Investigation,  
18 Identification Division or in the State Bureau of Identification in the  
19 Division of State Police.

20 The ordinance shall set forth clearly the circumstances under which  
21 a person's criminal history record background check would disqualify  
22 that person from serving on the zoning board; however, any criteria  
23 for disqualification shall be based on a clear and compelling  
24 relationship between the crime or offense included on that person's  
25 record and the responsibilities that person will undertake as a member  
26 of the zoning board.

27 A governing body which requires a criminal history record check as  
28 a condition for appointment pursuant to this section shall absorb any  
29 costs associated with the performance of the check and shall provide  
30 for those costs within the municipal budget.

31 If a prospective appointee refuses to consent to, or cooperate in,  
32 securing of a criminal history record background check, the person  
33 shall not be considered for appointment as a zoning board member.

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35 5. Upon receipt of the criminal history record information from the  
36 Federal Bureau of Investigation and the Division of State Police,  
37 written notice shall be provided to the prospective zoning board  
38 appointee as to that person's qualification or disqualification for  
39 appointment according to the criteria set forth in the ordinance  
40 adopted pursuant to section 4 of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill). If the prospective appointee is  
42 disqualified, the conviction or convictions which constitute the basis  
43 for the disqualification shall be identified in the written notice.

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45 6. A prospective zoning board appointee shall have 30 days from  
46 the date of receipt of the written notice of disqualification pursuant to

1 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill) to petition the governing body for a hearing on the accuracy  
3 of the criminal history record information.

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5 7. This act shall take effect immediately.

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8 STATEMENT

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10 This bill would authorize any municipal governing body to require  
11 that prospective appointees to planning or zoning boards undergo a  
12 criminal history background check, at municipal expense, as a  
13 condition of appointment. The requirement would extend both to  
14 regular and alternate members of both boards. Refusal to submit to a  
15 background check would make one ineligible for appointment.

16 Any governing body which requires a criminal history background  
17 check would have to include within the same ordinance the  
18 circumstances under which a person's criminal history record check  
19 would disqualify that person from serving on the planning board;  
20 however, the governing body would be required to base those criteria  
21 for disqualification on a clear and compelling relationship between the  
22 crime or offense included on that person's record and the  
23 responsibilities that person will undertake as a member of the planning  
24 or zoning board.

25 In order to preserve a person's rights in case the background check  
26 reveals information which is inaccurate or misleading and that might  
27 otherwise disqualify a person from being appointed according to the  
28 criteria set forth in the municipal ordinance requiring the background  
29 check, the bill requires a governing body to divulge the results of the  
30 background check to the prospective appointee. If that person is  
31 disqualified from board appointment, the conviction or convictions  
32 which constitute the basis for the disqualification shall be identified in  
33 the written notice.

34 A prospective planning or zoning board appointee shall have 30  
35 days from the date of receipt of the written notice of disqualification  
36 to petition the governing body for a hearing on the accuracy of the  
37 criminal history record information.

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42 Authorizes criminal background checks as condition of planning or  
43 zoning board appointment.