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ASSEMBLY, No. 2550

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 1, 2000

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Amends law governing criminal history record background checks for individuals working with developmentally disabled in community agencies.

CURRENT VERSION OF TEXT

As introduced.



A2550 IMPREVEDUTO, FELICE

2

1 AN ACT concerning criminal history record background checks and
2 amending P.L.1999, c.358.

3

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

6

7 1. Section 1 of P.L.1999, c.358 (C.30:6D-63) is amended to read
8 as follows:

9 1. As used in this act:

10 a. "Commissioner" means the Commissioner of [the Department
11 of] Human Services.

12 b. "Community agency employee" means any individual 18 years
13 of age or older who is employed by a public or private agency under
14 contract with the department to provide services to department clients
15 who have developmental disabilities and includes all personnel working
16 or residing at an agency who may come into direct contact with
17 clients.

18 c. "Community agency head" means the person responsible for the
19 overall operation of the agency under contract with the department.

20 d. "Department" means the Department of Human Services.

21 e. "Community agency" means a public or private agency under
22 contract with the department to provide services to department clients
23 who have developmental disabilities.

24 (cf: P.L.1999, c.358, s.1)

25

26 2. Section 2 of P.L.1999, c.358 (C.30:6D-64) is amended to read
27 as follows:

28 2. a. The department shall not contract with any community agency
29 for the provision of services unless it has first been determined,
30 consistent with the requirement and standards of this act, that no
31 criminal history record information exists on file in the Federal Bureau
32 of Investigation, Identification Division, or in the State Bureau of
33 Identification in the Division of State Police, which would disqualify
34 the community agency head or the community agency employees from
35 such employment. The determination shall be made by the
36 commissioner with regard to the agency head and the determination
37 shall be made by the agency head with regard to all agency employees.

38 A criminal history record background check shall be conducted at
39 least once every two years for a community agency head and
40 community agency employees.

41 b. An individual shall be disqualified from employment under this
42 act if that individual's criminal history record check reveals a record of
43 conviction of any of the following crimes and offenses:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

2 (a) Involving danger to the person, meaning those crimes and
3 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
4 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
5 N.J.S.2C:15-1 et seq.; or

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

9 (c) A crime or offense involving the manufacture, transportation,
10 sale, possession, or habitual use of a controlled dangerous substance
11 as defined in the "New Jersey Controlled Dangerous Substances Act,"
12 P.L.1970, c.226 (C.24:21-1 et seq.).

13 (2) In any other state or jurisdiction, of conduct which, if
14 committed in New Jersey, would constitute any of the crimes or
15 disorderly persons offenses described in paragraph (1) of this
16 subsection.

17 c. If a prospective employee refuses to consent to, or cooperate
18 in, securing of a criminal history record background check, the person
19 shall not be considered for employment.

20 d. If a current employee refuses to consent to, or cooperate in, the
21 securing of a criminal history record background check, the person
22 shall be immediately removed from his position and the person's
23 employment shall be terminated.

24 e. Notwithstanding the provisions of subsection b. of this section
25 to the contrary, provisional employment of an individual is authorized
26 for a period not to exceed six months if [that individual's State
27 Bureau of Identification criminal history record background check
28 does not contain any information that would disqualify the individual
29 from such employment and if] the individual submits to the appointing
30 authority a sworn statement attesting that the individual has not been
31 convicted of any crime or disorderly persons offense as described in
32 this act, pending a determination that no criminal history record
33 background information which would disqualify the individual exists
34 on file in the State Bureau of Identification in the Division of State
35 Police or in the Federal Bureau of Investigation, Identification
36 Division. An individual who is provisionally employed pursuant to this
37 subsection shall perform his duties under the [direct] supervision of
38 a superior who acts in a supervisory capacity over that individual until
39 the determination concerning the [federal] State information is
40 complete, where possible.

41 f. Notwithstanding the provisions of subsection b. of this section
42 to the contrary, no individual shall be disqualified from employment on
43 the basis of any conviction disclosed by a criminal history record
44 background check performed pursuant to sections 2 through 7 of
45 P.L.1999, c.358 (C.30:6D-64 through 69) if the individual has
46 affirmatively demonstrated to the commissioner clear and convincing

1 evidence of the individual's rehabilitation. In determining whether an
2 individual has affirmatively demonstrated rehabilitation, the following
3 factors shall be considered:

4 (1) the nature and responsibility of the position which the
5 convicted individual would hold, has held or currently holds, as the
6 case may be;

7 (2) the nature and seriousness of the offense;

8 (3) the circumstances under which the offense occurred;

9 (4) the date of the offense;

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

11 (6) whether the offense was an isolated or repeated incident;

12 (7) any social conditions which may have contributed to the
13 offense; and

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

20 (cf: P.L.1999, c.358, s.2)

21

22 3. Section 3 of P.L.1999, c.358 (C.30:6D-65) is amended to read
23 as follows:

24 3. The commissioner is authorized to exchange fingerprint data
25 with and receive criminal history record information from the Federal
26 Bureau of Investigation and the Division of State Police for use in
27 making the determinations required by this act. No criminal history
28 record check shall be performed pursuant to this act unless the
29 applicant or employee shall have furnished his written consent to the
30 check. All applicants or current employees shall have their fingerprints
31 taken on standard fingerprint cards by a State or municipal law
32 enforcement agency [or] a personnel unit of the department or a
33 community agency designated by the department.

34 (cf: P.L.1999, c.358, s.3)

35

36 4. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill amends the 1999 law governing criminal history record
42 background checks of community agency heads and community agency
43 employees who are employed by agencies under contract with the
44 Department of Human Services to provide services to department
45 clients with developmental disabilities. Specifically, the bill adds a
46 provision that would permit an individual, otherwise disqualified from

1 employment because of a conviction disclosed by a background
2 check, to be able to qualify for employment if the individual has
3 affirmatively demonstrated to the Commissioner of Human Services
4 clear and convincing evidence of the individual's rehabilitation. A
5 similar provision exists in the law governing criminal history record
6 background checks of employees at State institutions or facilities for
7 the mentally ill and developmentally disabled, N.J.S.A.30:4-3.4 et seq.

8 In determining whether an individual has affirmatively demonstrated
9 rehabilitation to the commissioner, the following factors shall be
10 considered:

- 11 C the nature and responsibility of the position which the
12 convicted individual would hold, has held or currently holds, as
13 the case may be;
- 14 C the nature and seriousness of the offense;
- 15 C the circumstances under which the offense occurred;
- 16 C the date of the offense;
- 17 C the age of the individual when the offense was committed;
- 18 C whether the offense was an isolated or repeated incident;
- 19 C any social conditions which may have contributed to the
20 offense; and
- 21 C any evidence of rehabilitation, including good conduct in prison
22 or in the community, counseling or psychiatric treatment
23 received, acquisition of additional academic or vocational
24 schooling, successful participation in correctional work-release
25 programs, or the recommendation of those who have had the
26 individual under their supervision.

27 The bill also provides for six months of provisional employment if
28 the individual submits a sworn statement attesting that he has not been
29 convicted of any crime or disorderly persons offense, pending a
30 determination of the criminal history record background information
31 on file in the State Bureau of Identification or in the Federal Bureau
32 of Investigation, Identification Division. Under current law, the six
33 months of provisional employment is permitted if the State Bureau of
34 Identification criminal history record background check does not
35 contain information that would disqualify the individual from
36 employment, pending a determination from the Federal Bureau of
37 Investigation, Identification Division.

38 In addition, the bill provides for supervision of a provisionally
39 employed individual until the determination concerning the State
40 information is complete, and removes the requirement under current
41 law for direct supervision of a provisionally employed individual until
42 the determination concerning the federal information is complete.

43 The bill also provides that applicants or current employees shall
44 have their fingerprints taken on standard fingerprint cards by a
45 community agency designated by the department, in addition to a State
46 or municipal law enforcement agency or a personnel unit of the

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6

1 department.

2 Lastly, the bill requires a criminal history record background check
3 to be conducted at least once every two years for community agency
4 heads and employees, as is required for State developmental centers
5 and psychiatric hospitals.

ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2550

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2000

The Assembly Senior Issues and Community Services Committee reports favorably and with committee amendments Assembly Bill No. 2550.

As amended by the committee, this bill amends the 1999 law governing criminal history record background checks of community agency heads and community agency employees who are employed by agencies under contract with the Department of Human Services to provide services to department clients with developmental disabilities. Specifically, the bill adds a provision that would permit an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, to be able to qualify for employment if the individual has affirmatively demonstrated to the community agency head, or the community agency board of directors if the disqualified individual is the community agency head, clear and convincing evidence of the individual's rehabilitation. A similar provision exists in the law governing criminal history record background checks of employees at State institutions or facilities for the mentally ill and developmentally disabled, N.J.S.A.30:4-3.4 et seq.

In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- C the nature and responsibility of the position which the convicted individual would hold, has held or currently holds, as the case may be;
- C the nature and seriousness of the offense;
- C the circumstances under which the offense occurred;
- C the date of the offense;
- C the age of the individual when the offense was committed;
- C whether the offense was an isolated or repeated incident;
- C any social conditions which may have contributed to the offense; and

- C any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

The bill also provides for six months of provisional employment if the individual submits a sworn statement attesting that he has not been convicted of any crime or disorderly persons offense, pending a determination of the criminal history record background information on file in the State Bureau of Identification or in the Federal Bureau of Investigation, Identification Division. Under current law, the six months of provisional employment is permitted if the State Bureau of Identification criminal history record background check does not contain information that would disqualify the individual from employment, pending a determination from the Federal Bureau of Investigation, Identification Division.

In addition, the bill provides for supervision of a provisionally employed individual until the determination concerning the federal and State information is complete, and removes the requirement under current law for direct supervision of a provisionally employed individual until the determination concerning the federal information is complete.

The bill also provides that applicants or current employees shall have their fingerprints taken on standard fingerprint cards by a community agency designated by the department, in addition to a State or municipal law enforcement agency or a personnel unit of the department.

The bill requires a criminal history record background check to be conducted at least once every two years for community agency heads and employees, as is required for employees of State developmental centers and psychiatric hospitals. However, the bill provides that in lieu of conducting criminal history record background checks every two years, the department may determine whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that person from employment by an alternative means, including, but not limited to, a match of a person's Social Security number or other identifying information with records of criminal proceedings in this and other states. If the department elects to implement an alternative means, the department shall report to the Governor and the Legislature, prior to its implementation, on the projected costs and procedures to be followed with respect to its implementation and setting forth the rationale therefor.

The committee adopted amendments to provide that if the individual disqualified from employment because of a conviction is a community agency head, or if the individual providing evidence of rehabilitation is a community agency head, the community agency

board of directors, instead of the Commissioner of Human Services, would make the determination that no disqualifying 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, or that an individual has affirmatively demonstrated rehabilitation. The amendments would also provide that in lieu of conducting criminal history record background checks every two years, the department may determine whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that person from employment by an alternative means. In addition, the Division of State Police would be required to promptly notify the department in the event an individual who was the subject of a criminal history record background check is convicted of a crime or offense in this State after the date that the criminal history record background check was performed. The community agency head, or community agency board if the individual is the community agency head, would make a determination regarding the continued employment of the individual. In the case of a community agency head, the community agency board, instead of the commissioner, would notify the person in writing of qualification or disqualification for employment.

The committee deleted language in the bill which permitted an appeal of a determination by the commissioner to the Office of Administrative Law. The committee amendments would require a community agency board to provide notice to the agency head that an appeal of a determination is to be made to the New Jersey Superior Court.

The amendments would also provide that the community agency boards, instead of the commissioner, would maintain all criminal history record information submitted under the bill.

These committee amendments make this bill identical to Senate Bill No. 1385 (1R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2550

STATE OF NEW JERSEY

DATED: JUNE 22, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2550 (1R).

Assembly Bill No. 2550 (1R) amends the 1999 law governing criminal history record background checks of community agency heads and community agency employees who are employed by agencies under contract with the Department of Human Services to provide services to department clients with developmental disabilities. Specifically, the bill adds a provision that would permit an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, to be able to qualify for employment if the individual has affirmatively demonstrated to the community agency head, or the community agency board of directors if the disqualified individual is the community agency head, clear and convincing evidence of the individual's rehabilitation. A similar provision exists in the law governing criminal history record background checks of employees at State institutions or facilities for the mentally ill and developmentally disabled, N.J.S.A.30:4-3.4 et seq.

The bill also provides for six months of provisional employment if the individual submits a sworn statement attesting that he has not been convicted of any crime or disorderly persons offense, pending a determination of the criminal history record background information on file in the State Bureau of Identification or in the Federal Bureau of Investigation, Identification Division.

In addition, the bill provides for supervision of a provisionally employed individual until the determination concerning the federal and State information is complete, and removes the requirement under current law for direct supervision of a provisionally employed individual until the determination concerning the federal information is complete.

The bill also provides that applicants or current employees shall have their fingerprints taken on standard fingerprint cards by a community agency designated by the department, in addition to a State or municipal law enforcement agency or a personnel unit of the department.

The bill requires a criminal history record background check to be conducted at least once every two years for community agency heads and employees, as is required for employees of State developmental centers and psychiatric hospitals. However, the bill provides that in lieu of conducting criminal history record background checks every two years, the department may determine whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that person from employment by an alternative means, including, but not limited to, a match of a person's Social Security number or other identifying information with records of criminal proceedings in this and other states.

FISCAL IMPACT:

No fiscal information was made available to the committee. The bill requires a criminal history record background check at least once every two years. Information furnished on a similar bill had the cost of a background check at \$63. The number of individuals subject to a background check under the bill is not known.

[First Reprint]

ASSEMBLY, No. 2550

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 1, 2000

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

Co-Sponsored by:

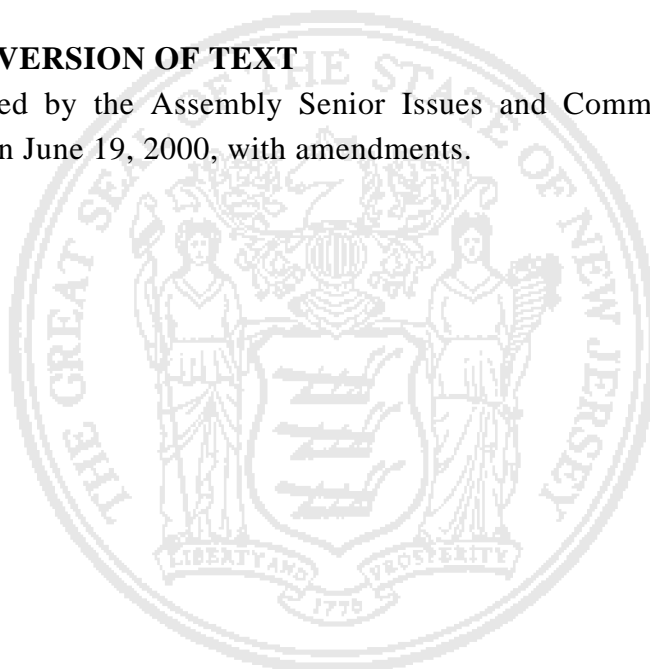
**Assemblywoman Watson Coleman, Senators Bassano, Cafiero,
Matheussen and Vitale**

SYNOPSIS

Amends law governing criminal history record background checks for individuals working with developmentally disabled in community agencies.

CURRENT VERSION OF TEXT

As reported by the Assembly Senior Issues and Community Services Committee on June 19, 2000, with amendments.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning criminal history record background checks and
2 amending P.L.1999, c.358.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1999, c.358 (C.30:6D-63) is amended to read
8 as follows:

9 1. As used in this act:

10 a. "Commissioner" means the Commissioner of [the Department
11 of] Human Services.

12 b. "Community agency employee" means any individual 18 years
13 of age or older who is employed by a public or private agency under
14 contract with the department to provide services to department clients
15 who have developmental disabilities and includes all personnel working
16 or residing at an agency who may come into direct contact with
17 clients.

18 c. "Community agency head" means the person responsible for the
19 overall operation of the agency under contract with the department.

20 d. "Department" means the Department of Human Services.

21 e. "Community agency" means a public or private agency under
22 contract with the department to provide services to department clients
23 who have developmental disabilities.

24 ¹f. "Community agency board" means the board of directors of a
25 community agency.¹

26 (cf: P.L.1999, c.358, s.1)

27

28 2. Section 2 of P.L.1999, c.358 (C.30:6D-64) is amended to read
29 as follows:

30 2. a. The department shall not contract with any community
31 agency for the provision of services unless it has first been determined,
32 consistent with the requirement and standards of this act, that no
33 criminal history record information exists on file in the Federal Bureau
34 of Investigation, Identification Division, or in the State Bureau of
35 Identification in the Division of State Police, which would disqualify
36 the community agency head or the community agency employees from
37 such employment. The determination shall be made by the
38 ¹[**commissioner**] community agency board¹ with regard to the agency
39 head and the determination shall be made by the agency head with
40 regard to all agency employees.

41 A criminal history record background check shall be conducted at

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASC committee amendments adopted June 19, 2000.

1 least once every two years for a community agency head and
2 community agency employees¹; except that the department, in lieu of
3 conducting criminal history record background checks every two
4 years, may determine whether an individual has been convicted of a
5 crime or disorderly persons offense which would disqualify that person
6 from employment by an alternative means, including, but not limited
7 to, a match of a person's Social Security number or other identifying
8 information with records of criminal proceedings in this and other
9 states. If the department elects to implement an alternative means of
10 determining whether an individual has been convicted of a crime or
11 disorderly persons offense which would disqualify that individual from
12 employment, the department shall report to the Governor and the
13 Legislature prior to its implementation on the projected costs and
14 procedures to be followed with respect to its implementation and
15 setting forth the rationale therefor¹.

16 b. An individual shall be disqualified from employment under this
17 act if that individual's criminal history record check reveals a record of
18 conviction of any of the following crimes and offenses:

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

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

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

27 (c) A crime or offense involving the manufacture, transportation,
28 sale, possession, or habitual use of a controlled dangerous substance
29 as defined in the "New Jersey Controlled Dangerous Substances Act,"
30 P.L.1970, c.226 (C.24:21-1 et seq.).

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

35 c. If a prospective employee refuses to consent to, or cooperate in,
36 securing of a criminal history record background check, the person
37 shall not be considered for employment.

38 d. If a current employee refuses to consent to, or cooperate in, the
39 securing of a criminal history record background check, the person
40 shall be immediately removed from his position and the person's
41 employment shall be terminated.

42 e. Notwithstanding the provisions of subsection b. of this section
43 to the contrary, provisional employment of an individual is authorized
44 for a period not to exceed six months if [that individual's State Bureau
45 of Identification criminal history record background check does not
46 contain any information that would disqualify the individual from such

1 employment and if] the individual submits to the appointing authority
2 a sworn statement attesting that the individual has not been convicted
3 of any crime or disorderly persons offense as described in this act,
4 pending a determination that no criminal history record background
5 information which would disqualify the individual exists on file in the
6 State Bureau of Identification in the Division of State Police or in the
7 Federal Bureau of Investigation, Identification Division. An individual
8 who is provisionally employed pursuant to this subsection shall
9 perform his duties under the [direct] supervision of a superior who
10 acts in a supervisory capacity over that individual until the
11 determination concerning the [federal] ¹federal and¹ State
12 information is complete, where possible.

13 f. Notwithstanding the provisions of subsection b. of this section
14 to the contrary, no individual shall be disqualified from employment on
15 the basis of any conviction disclosed by a criminal history record
16 background check performed pursuant to sections 2 through 7 of
17 P.L.1999, c.358 (C.30:6D-64 through 69) if the individual has
18 affirmatively demonstrated to the ¹[commissioner] community agency
19 head, or the community agency board if the individual is the
20 community agency head,¹ clear and convincing evidence of the
21 individual's rehabilitation. In determining whether an individual has
22 affirmatively demonstrated rehabilitation, the following factors shall be
23 considered:

24 (1) the nature and responsibility of the position which the
25 convicted individual would hold, has held or currently holds, as the
26 case may be;

27 (2) the nature and seriousness of the offense;

28 (3) the circumstances under which the offense occurred;

29 (4) the date of the offense;

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

31 (6) whether the offense was an isolated or repeated incident;

32 (7) any social conditions which may have contributed to the
33 offense; and

34 (8) any evidence of rehabilitation, including good conduct in prison
35 or in the community, counseling or psychiatric treatment received,
36 acquisition of additional academic or vocational schooling, successful
37 participation in correctional work-release programs, or the
38 recommendation of those who have had the individual under their
39 supervision.

40 (cf: P.L.1999, c.358, s.2)

41

42 3. Section 3 of P.L.1999, c.358 (C.30:6D-65) is amended to read
43 as follows:

44 3. The commissioner is authorized to exchange fingerprint data
45 with and receive criminal history record information from the Federal
46 Bureau of Investigation and the Division of State Police for use in

1 making the determinations required by this act. ¹The Division of State
2 Police shall also promptly notify the department in the event an
3 individual who was the subject of a criminal history record background
4 check conducted pursuant to sections 2 through 7 of P.L.1999, c.358
5 (C.30:6D-64 through 69), is convicted of a crime or offense in this
6 State after the date that the criminal history record background check
7 was performed. Upon receipt of such notification, the community
8 agency head, or community agency board if the individual is the
9 community agency head, shall make a determination regarding the
10 employment of the individual.¹ No criminal history record check shall
11 be performed pursuant to this act unless the applicant or employee
12 shall have furnished his written consent to the check. All applicants
13 or current employees shall have their fingerprints taken on standard
14 fingerprint cards by a State or municipal law enforcement agency
15 [or], a personnel unit of the department or a community agency
16 designated by the department.

17 (cf: P.L.1999, c.358, s.3)

18

19 ^{14.} Section 4 of P.L. 1999, c.358 (C.30:6D-66) is amended to read
20 as follows:

21 4. Upon receipt of the criminal history record information from the
22 Federal Bureau of Investigation and the Division of State Police,
23 written notice shall be provided to the applicant or employee as
24 follows:

25 a. In the case of a community agency head, the
26 [commissioner]community agency board shall notify the person in
27 writing of his qualification or disqualification for employment under
28 this act; and

29 b. In the case of a community agency applicant or employee, the
30 community agency head shall notify the person of his qualification or
31 disqualification for employment under this act. If the applicant or
32 employee is disqualified, the conviction or convictions which
33 constitute the basis for the disqualification shall be identified in the
34 written notice.¹

35 (cf: P.L.1999, c.358, s.4)

36

37 ^{15.} Section 5 of P.L.1999, c. 358 (C.30:6D-67) is amended to read
38 as follows:

39 5. The applicant or employee shall have 30 days from the date of
40 receipt of the written notice of disqualification to petition for a hearing
41 on the accuracy of the criminal history record information. In the case
42 of a community agency head, the petition shall be to the
43 [commissioner] community agency board and the [commissioner]
44 agency board shall make the determination. [The commissioner may
45 refer any case arising hereunder to the Office of Administrative Law
46 for administrative proceedings pursuant to P.L.1978, c.67 (C.52:14F-1

1 et seq.).] The community agency board shall provide notice to the
2 community agency head that appeal of the determination is to the New
3 Jersey Superior Court. In the case of a community agency applicant
4 or employee, the petition shall be to the community agency head and
5 the [community] agency head shall make the determination. The
6 community agency head shall provide notice that further appeal is to
7 the New Jersey Superior Court.¹

8 (cf: P.L.1999, c.358, s.5)

9

10 ¹6. Section 6 of P.L.1999, c.358 (C.30:6D-68) is amended to read
11 as follows:

12 6. The [commissioner] community agency board shall maintain all
13 criminal history record information submitted under this act in
14 accordance with rules and regulations which the commissioner shall
15 adopt to implement the provisions of this act.¹

16 (cf: P.L.1999, c.358, s.6)

17

18 ¹7. Section 7 of P.L.1999, c.358 (C.30:6D-69) is amended to read
19 as follows:

20 In accordance with this act, the [commissioner] community agency
21 boards and community agency heads shall initiate a criminal history
22 record background check on all applicants and current employees.¹

23 (cf: P.L.1999, c.358, s.7)

24

25 ¹[4.] 8.¹ This act shall take effect immediately.

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
ASSEMBLY, No. 2550
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 13, 2000

SUMMARY

Synopsis: Amends law governing criminal history record background checks for individuals working with developmentally disabled in community agencies.

Type of Impact: General Fund

Agencies Affected: Department of Human Services (DHS).

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate

BILL DESCRIPTION

Assembly Bill No. 2550 (1R) of 2000 amends the law governing criminal history record background checks of community agency heads and community agency employees who are employed by agencies under contract with DHS to provide services to clients with developmental disabilities. Specifically, the bill adds a provision that would permit an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, to be able to qualify for employment under certain circumstances. Further, the legislation requires that a criminal history record background check be conducted at least once every two years. DHS may use an alternative procedure of conducting a follow-up criminal history record background check; however, if DHS uses an alternative method, it must report to the Governor and the Legislature prior to implementation on: (a) the projected cost, (b) the procedures to be followed and (c) the rationale for using an alternative procedure.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

P.L.1999, c.358 (C.30:6D-63) prohibited DHS from contracting with a community agency to provide services to the developmentally disabled unless DHS first determined that no criminal history record information exists on file with the Federal Bureau of Investigation or the State Bureau of Identification in the Division of State Police. Assembly Bill No. 2550 (1R) of 2000 amends certain aspects of P.L. 1999, c.358. The most significant amendment is that DHS may elect an alternative means of conducting the two-year follow-up criminal history record background check.

It is not known what, if any, alternative method DHS may use to determine whether an individual has been convicted of a crime or disorderly persons offense. Such an alternative method might reduce the \$49 cost of conducting a criminal history record background check. DHS would be required to present cost information on any alternative to the Governor and Legislature prior to its implementation.

Section: *Human Services*

Analyst: *Jay Hershberg*
Principal Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

P.L. 2000, CHAPTER 97, *approved August 29, 2000*
Assembly, No. 2550 (*First Reprint*)

1 AN ACT concerning criminal history record background checks and
2 amending P.L.1999, c.358.

3

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

6

7 1. Section 1 of P.L.1999, c.358 (C.30:6D-63) is amended to read
8 as follows:

9 1. As used in this act:

10 a. "Commissioner" means the Commissioner of [the Department
11 of] Human Services.

12 b. "Community agency employee" means any individual 18 years
13 of age or older who is employed by a public or private agency under
14 contract with the department to provide services to department clients
15 who have developmental disabilities and includes all personnel working
16 or residing at an agency who may come into direct contact with
17 clients.

18 c. "Community agency head" means the person responsible for the
19 overall operation of the agency under contract with the department.

20 d. "Department" means the Department of Human Services.

21 e. "Community agency" means a public or private agency under
22 contract with the department to provide services to department clients
23 who have developmental disabilities.

24 ¹"Community agency board" means the board of directors of a
25 community agency.¹

26 (cf: P.L.1999, c.358, s.1)

27

28 2. Section 2 of P.L.1999, c.358 (C.30:6D-64) is amended to read
29 as follows:

30 2. a. The department shall not contract with any community
31 agency for the provision of services unless it has first been determined,
32 consistent with the requirement and standards of this act, that no
33 criminal history record information exists on file in the Federal Bureau
34 of Investigation, Identification Division, or in the State Bureau of
35 Identification in the Division of State Police, which would disqualify
36 the community agency head or the community agency employees from
37 such employment. The determination shall be made by the
38 ¹[commissioner] community agency board¹ with regard to the agency
39 head and the determination shall be made by the agency head with
40 regard to all agency employees.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASC committee amendments adopted June 19, 2000.

1 A criminal history record background check shall be conducted at
2 least once every two years for a community agency head and
3 community agency employees¹; except that the department, in lieu of
4 conducting criminal history record background checks every two
5 years, may determine whether an individual has been convicted of a
6 crime or disorderly persons offense which would disqualify that person
7 from employment by an alternative means, including, but not limited
8 to, a match of a person's Social Security number or other identifying
9 information with records of criminal proceedings in this and other
10 states. If the department elects to implement an alternative means of
11 determining whether an individual has been convicted of a crime or
12 disorderly persons offense which would disqualify that individual from
13 employment, the department shall report to the Governor and the
14 Legislature prior to its implementation on the projected costs and
15 procedures to be followed with respect to its implementation and
16 setting forth the rationale therefor¹.

17 b. An individual shall be disqualified from employment under this
18 act if that individual's criminal history record check reveals a record of
19 conviction of any of the following crimes and offenses:

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

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

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

28 (c) A crime or offense involving the manufacture, transportation,
29 sale, possession, or habitual use of a controlled dangerous substance
30 as defined in the "New Jersey Controlled Dangerous Substances Act,"
31 P.L.1970, c.226 (C.24:21-1 et seq.).

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

36 c. If a prospective employee refuses to consent to, or cooperate in,
37 securing of a criminal history record background check, the person
38 shall not be considered for employment.

39 d. If a current employee refuses to consent to, or cooperate in, the
40 securing of a criminal history record background check, the person
41 shall be immediately removed from his position and the person's
42 employment shall be terminated.

43 e. Notwithstanding the provisions of subsection b. of this section
44 to the contrary, provisional employment of an individual is authorized
45 for a period not to exceed six months if [that individual's State Bureau
46 of Identification criminal history record background check does not

1 contain any information that would disqualify the individual from such
2 employment and if] the individual submits to the appointing authority
3 a sworn statement attesting that the individual has not been convicted
4 of any crime or disorderly persons offense as described in this act,
5 pending a determination that no criminal history record background
6 information which would disqualify the individual exists on file in the
7 State Bureau of Identification in the Division of State Police or in the
8 Federal Bureau of Investigation, Identification Division. An individual
9 who is provisionally employed pursuant to this subsection shall
10 perform his duties under the [direct] supervision of a superior who
11 acts in a supervisory capacity over that individual until the
12 determination concerning the [federal] ¹federal and¹ State
13 information is complete, where possible.

14 f. Notwithstanding the provisions of subsection b. of this section
15 to the contrary, no individual shall be disqualified from employment on
16 the basis of any conviction disclosed by a criminal history record
17 background check performed pursuant to sections 2 through 7 of
18 P.L.1999, c.358 (C.30:6D-64 through 69) if the individual has
19 affirmatively demonstrated to the ¹[commissioner] community agency
20 head, or the community agency board if the individual is the
21 community agency head,¹ clear and convincing evidence of the
22 individual's rehabilitation. In determining whether an individual has
23 affirmatively demonstrated rehabilitation, the following factors shall be
24 considered:

25 (1) the nature and responsibility of the position which the
26 convicted individual would hold, has held or currently holds, as the
27 case may be;

28 (2) the nature and seriousness of the offense;

29 (3) the circumstances under which the offense occurred;

30 (4) the date of the offense;

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

32 (6) whether the offense was an isolated or repeated incident;

33 (7) any social conditions which may have contributed to the
34 offense; and

35 (8) any evidence of rehabilitation, including good conduct in prison
36 or in the community, counseling or psychiatric treatment received,
37 acquisition of additional academic or vocational schooling, successful
38 participation in correctional work-release programs, or the
39 recommendation of those who have had the individual under their
40 supervision.

41 (cf: P.L.1999, c.358, s.2)

42

43 3. Section 3 of P.L.1999, c.358 (C.30:6D-65) is amended to read
44 as follows:

45 3. The commissioner is authorized to exchange fingerprint data
46 with and receive criminal history record information from the Federal

1 Bureau of Investigation and the Division of State Police for use in
2 making the determinations required by this act. ¹The Division of State
3 Police shall also promptly notify the department in the event an
4 individual who was the subject of a criminal history record background
5 check conducted pursuant to sections 2 through 7 of P.L.1999, c.358
6 (C.30:6D-64 through 69), is convicted of a crime or offense in this
7 State after the date that the criminal history record background check
8 was performed. Upon receipt of such notification, the community
9 agency head, or community agency board if the individual is the
10 community agency head, shall make a determination regarding the
11 employment of the individual.¹ No criminal history record check shall
12 be performed pursuant to this act unless the applicant or employee
13 shall have furnished his written consent to the check. All applicants
14 or current employees shall have their fingerprints taken on standard
15 fingerprint cards by a State or municipal law enforcement agency
16 [or], a personnel unit of the department or a community agency
17 designated by the department.
18 (cf: P.L.1999, c.358, s.3)

19
20 ^{14.} Section 4 of P.L. 1999, c.358 (C.30:6D-66) is amended to read
21 as follows:

22 4. Upon receipt of the criminal history record information from the
23 Federal Bureau of Investigation and the Division of State Police,
24 written notice shall be provided to the applicant or employee as
25 follows:

26 a. In the case of a community agency head, the
27 [commissioner]community agency board shall notify the person in
28 writing of his qualification or disqualification for employment under
29 this act; and

30 b. In the case of a community agency applicant or employee, the
31 community agency head shall notify the person of his qualification or
32 disqualification for employment under this act. If the applicant or
33 employee is disqualified, the conviction or convictions which
34 constitute the basis for the disqualification shall be identified in the
35 written notice.¹

36 (cf: P.L.1999, c.358, s.4)

37
38 ^{15.} Section 5 of P.L.1999, c. 358 (C.30:6D-67) is amended to read
39 as follows:

40 5. The applicant or employee shall have 30 days from the date of
41 receipt of the written notice of disqualification to petition for a hearing
42 on the accuracy of the criminal history record information. In the case
43 of a community agency head, the petition shall be to the
44 [commissioner] community agency board and the [commissioner]
45 agency board shall make the determination. [The commissioner may
46 refer any case arising hereunder to the Office of Administrative Law

1 for administrative proceedings pursuant to P.L.1978, c.67 (C.52:14F-1
2 et seq.).] The community agency board shall provide notice to the
3 community agency head that appeal of the determination is to the New
4 Jersey Superior Court. In the case of a community agency applicant
5 or employee, the petition shall be to the community agency head and
6 the [community] agency head shall make the determination. The
7 community agency head shall provide notice that further appeal is to
8 the New Jersey Superior Court.¹

9 (cf: P.L.1999, c.358, s.5)

10
11 ¹6. Section 6 of P.L.1999, c.358 (C.30:6D-68) is amended to read
12 as follows:

13 6. The [commissioner] community agency board shall maintain all
14 criminal history record information submitted under this act in
15 accordance with rules and regulations which the commissioner shall
16 adopt to implement the provisions of this act.¹

17 (cf: P.L.1999, c.358, s.6)

18
19 ¹7. Section 7 of P.L.1999, c.358 (C.30:6D-69) is amended to read
20 as follows:

21 In accordance with this act, the [commissioner] community agency
22 boards and community agency heads shall initiate a criminal history
23 record background check on all applicants and current employees.¹

24 (cf: P.L.1999, c.358, s.7)

25
26 ¹[4.] §.¹ This act shall take effect immediately.

27
28
29
30
31 Amends law governing criminal history record background checks for
32 individuals working with developmentally disabled in community
33 agencies.

CHAPTER 97

AN ACT concerning criminal history record background checks and amending P.L.1999, c.358.

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

1. Section 1 of P.L.1999, c.358 (C.30:6D-63) is amended to read as follows:

C.30:6D-63 Definitions relative to criminal history background checks for community agency employees.

1. As used in this act:
 - a. "Commissioner" means the Commissioner of Human Services.
 - b. "Community agency employee" means any individual 18 years of age or older who is employed by a public or private agency under contract with the department to provide services to department clients who have developmental disabilities and includes all personnel working or residing at an agency who may come into direct contact with clients.
 - c. "Community agency head" means the person responsible for the overall operation of the agency under contract with the department.
 - d. "Department" means the Department of Human Services.
 - e. "Community agency" means a public or private agency under contract with the department to provide services to department clients who have developmental disabilities.
 - f. "Community agency board" means the board of directors of a community agency.

2. Section 2 of P.L.1999, c.358 (C.30:6D-64) is amended to read as follows:

C.30:6D-64 Contract with community agency.

2. a. The department shall not contract with any community agency for the provision of services unless it has first been determined, consistent with the requirement and standards of this act, that no criminal history 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 community agency head or the community agency employees from such employment. The determination shall be made by the community agency board with regard to the agency head and the determination shall be made by the agency head with regard to all agency employees.

A criminal history record background check shall be conducted at least once every two years for a community agency head and community agency employees; except that the department, in lieu of conducting criminal history record background checks every two years, may determine whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that person from employment by an alternative means, including, but not limited to, a match of a person's Social Security number or other identifying information with records of criminal proceedings in this and other states. If the department elects to implement an alternative means of determining whether an individual has been convicted of a crime or disorderly persons offense which would disqualify that individual from employment, the department shall report to the Governor and the Legislature prior to its implementation on the projected costs and procedures to be followed with respect to its implementation and setting forth the rationale therefor.

b. An individual shall be disqualified from employment under this act if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

- (1) In New Jersey, any crime or disorderly persons offense:
 - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in 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, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or
 - (c) A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).
- (2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would

constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

c. If a prospective employee refuses to consent to, or cooperate in, securing of a criminal history record background check, the person shall not be considered for employment.

d. If a current employee refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately removed from his position and the person's employment shall be terminated.

e. Notwithstanding the provisions of subsection b. of this section to the contrary, provisional employment of an individual is authorized for a period not to exceed six months if the individual submits to the appointing authority a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the State Bureau of Identification in the Division of State Police or in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties under the supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal and State information is complete, where possible.

f. Notwithstanding the provisions of subsection b. of this section to the contrary, no individual shall be disqualified from employment on the basis of any conviction disclosed by a criminal history record background check performed pursuant to sections 2 through 7 of P.L.1999, c.358 (C.30:6D-64 through 69) if the individual has affirmatively demonstrated to the community agency head, or the community agency board if the individual is the community agency head, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted individual would hold, has held or currently holds, as the case may be;

(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 individual when the offense was committed;

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

(7) any 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 schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

3. Section 3 of P.L.1999, c.358 (C.30:6D-65) is amended to read as follows:

C.30:6D-65 Authorization to exchange data.

3. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. The Division of State Police shall also promptly notify the department in the event an individual who was the subject of a criminal history record background check conducted pursuant to sections 2 through 7 of P.L.1999, c.358 (C.30:6D-64 through 69), is convicted of a crime or offense in this State after the date that the criminal history record background check was performed. Upon receipt of such notification, the community agency head, or community agency board if the individual is the community agency head, shall make a determination regarding the employment of the individual. No criminal history record check shall be performed pursuant to this act unless the applicant or employee shall have furnished his written consent to the check. All applicants or current employees shall have their fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency, a personnel unit of the department or a community agency designated by the department.

4. Section 4 of P.L. 1999, c.358 (C.30:6D-66) is amended to read as follows:

C.30:6D-66 Written notice to applicant, employee of record information.

4. Upon receipt of the criminal history record information from the Federal Bureau of Investigation and the Division of State Police, written notice shall be provided to the applicant or employee as follows:

a. In the case of a community agency head, the community agency board shall notify the person in writing of his qualification or disqualification for employment under this act; and

b. In the case of a community agency applicant or employee, the community agency head shall notify the person of his qualification or disqualification for employment under this act. If the applicant or employee is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.

5. Section 5 of P.L.1999, c. 358 (C.30:6D-67) is amended to read as follows:

C.30:6D-67 Petition for hearing.

5. The applicant or employee shall have 30 days from the date of receipt of the written notice of disqualification to petition for a hearing on the accuracy of the criminal history record information. In the case of a community agency head, the petition shall be to the community agency board and the agency board shall make the determination. The community agency board shall provide notice to the community agency head that appeal of the determination is to the New Jersey Superior Court. In the case of a community agency applicant or employee, the petition shall be to the community agency head and the agency head shall make the determination. The community agency head shall provide notice that further appeal is to the New Jersey Superior Court.

6. Section 6 of P.L.1999, c.358 (C.30:6D-68) is amended to read as follows:

C.30:6D-68 Maintenance of information.

6. The community agency board shall maintain all criminal history record information submitted under this act in accordance with rules and regulations which the commissioner shall adopt to implement the provisions of this act.

7. Section 7 of P.L.1999, c.358 (C.30:6D-69) is amended to read as follows:

C.30:6D-69 Initiation of background check.

In accordance with this act, the community agency boards and community agency heads shall initiate a criminal history record background check on all applicants and current employees.

8. This act shall take effect immediately.

Approved August 29, 2000.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Laura Otterbourg
609-777-2600

RELEASE: August 29, 2000

Governor Christie Whitman today signed the following pieces of legislation:

A-1292, sponsored by Assemblyman Guy F. Talarico (R-Bergen) and Senator Anthony R. Bucco (R-Morris), confers specific authority upon the State courts to establish special needs trusts to assist disabled individuals and ensures that Medicaid eligibility is not affected by assets in the trust. The bill does not prevent the establishment of such trusts outside the courts. The bill also insures that upon the disabled person's death, funds remaining in the trust are repaid to the State in an amount equal to the medical assistance that was paid on behalf of the disabled person.

This bill was drafted in response to changes in federal law regarding special needs trusts, which are established to assist disabled individuals by paying for health-related items or services after Medicaid benefits have been exhausted.

A-2550, sponsored by Assembly Members Anthony Impreveduto (D-Bergen/Hudson) and Nicholas R. Felice (R-Bergen/ Passaic), amends the law governing criminal history record background checks for individuals working with the developmentally disabled in community agencies by adding a rehabilitation provision. The Governor had signed the law on January 14, 2000.

The bill provides that an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, can qualify for employment if the individual affirmatively demonstrates to the agency director that he or she was rehabilitated. If the individual with the conviction were the agency director, then the agency's board would make the determination.

Also, the bill requires a criminal history record background check to be conducted at least once every two years for agency directors and their employees (as is required for State institutions and facilities for the mentally ill and developmentally disabled).

A-2578, sponsored by Assembly Members Charlotte Vandervalk (R-Bergen) and Francis J. Blee (R-Atlantic) and Senators Jack Sinagra (R-Middlesex) and Robert W. Singer (R-Burlington/Monmouth/Ocean), enables the New Jersey Health Care Facilities Financing Authority (HCFFA) to refinance outstanding bond indebtedness of hospitals that cease acute care operations or transition to alternative services. The Appropriations Act for the current 2001 Budget set aside up to \$8 million for this purpose.

This bill was drafted in response to recommendations made by the New Jersey Hospital Advisory Commission at the end of 1999 which found that the State's hospital industry faced a serious financial crisis because of an excessive number of underutilized beds.

S-904, sponsored by Senators Diane B. Allen (R-Burlington/Camden) and Joseph A. Palaia (R-Monmouth) and Assembly Members James W. Holzapfel (R-Monmouth/Ocean) and Joel M. Weingarten (R-Essex/Union) clarifies procedures with regard to the payment of filing fees by inmates in connection with appeals from administrative determinations. This bill clarifies legislative intent regarding the payment of partial filing fees by indigent inmates by requiring inmates to pay a partial filing fee to appeal administrative rulings.

S-1116, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and John H. Adler (D-Camden) and Assembly Members John C. Gibson (R-Cape May/Atlantic/Cumberland) and Larry Chatzidakis (R-Atlantic/Burlington/Camden), excludes federal and other public or private financial aid received by New Jersey for open space or farmland preservation purposes from the \$200 million annual appropriations cap for projects approved by the Garden State Preservation Trust. This bill amends the Garden State Preservation Trust Act.

S-1320, sponsored by Senators Joseph A. Palaia (R-Monmouth) and Robert W. Sinagra (R-Middlesex) Assembly Members Clare M. Farragher (R-Monmouth) and Joseph R. Malone, III (R-Burlington/Monmouth/Ocean), appropriates funds to the Department of Environmental Protection for environmental infrastructure projects. Specifically, the bill appropriates federal Clean Water Funds to the DEP for zero-interest loans to local governments and privately owned water companies for up to 50 percent of the eligible project costs for the approved projects. The bill also authorizes DEP to issue a federal hardship grant to Swedesboro Borough in the amount of \$415,000 for a clean water project. The bill, along with S-1321, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.

S-1321, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Norman M. Robertson (R-Essex/Passaic) and Assembly Members Tom Smith (R-Monmouth) and Joseph V. Doria, Jr. (D-Hudson), authorizes the New Jersey Environmental Infrastructure Trust to make up to \$100 million in loans for environmental infrastructure projects. In addition, the bill authorizes the Trust to use unspent balances (in excess of \$44 million) from previously approved projects to finance loans for projects on the FY2001 Priority Project List. The bill, along with S-1320, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.