

52:7-20 + 52:7-21

LEGISLATIVE HISTORY CHECKLIST

NJSA 52:7-20 & 52:7-21; 2A:168A-1 & 2A:168A-2 (Notary Public - prohibit person convicted of serious crime from becoming)

LAWS 1981 CHAPTER 487

Bill No. S1660

Sponsor(s) Weiss and Hamilton

Date Introduced Jan. 13, 1981

Committee: Assembly Commerce, Industry and Professions  
Senate State Gov't., Federal & Interstate Relations & Veterans Affairs

Amended during passage Yes according to Governor's recommendations ~~No~~ Amendments denoted by asterisks

Date of Passage: Assembly Dec. 7, 1981 Re-enacted 1-11-82  
Senate June 22, 1981 Re-enacted 1-4-82

Date of approval Jan. 12, 1982

Following statements are attached if available:

Sponsor statement	Yes	<del>No</del>	(Below)
Committee Statement: Assembly	Yes	<del>No</del>	
Senate	Yes	<del>No</del>	
Fiscal Note	<del>Yes</del>	No	
Veto Message	Yes	<del>No</del>	
Message on signing	<del>Yes</del>	No	

Following were printed:

Reports	<del>Yes</del>	No
Hearings	<del>Yes</del>	No

Sponsors' statement:

This bill supplements the "Notaries Public Act of 1979" to make ineligible for appointment as notary any person who has been convicted of an offense involving dishonesty or of a crime of the second degree or above, or an equivalent offense or crime in another jurisdiction.

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**SENATE, No. 1660**

**STATE OF NEW JERSEY**

INTRODUCED JANUARY 13, 1981

By Senators WEISS and HAMILTON

Referred to Committee on State Government, Federal and  
Interstate Relations and Veterans Affairs

**\*\*[A SUPPLEMENT to the "Notaries Public Act of 1979," approved  
February 27, 1980 (P. L. 1979, c. 460, C. 52:7-10 et seq.)]\*\***

**\*\*An Act concerning notaries public, amending P. L. 1968, c. 282  
and supplementing P. L. 1979, c. 460 (C. 52:7-10 et seq.).\*\***

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

1 1. No person shall be appointed a notary public if he has been  
2 convicted under the laws of this State of an offense involving dis-  
3 honesty or of a crime of the second degree or above **\*[**or under the  
4 laws of another state or of the United States of an offense or a  
5 crime which, if committed in this State, would be such an offense  
6 or crime**]** **\*\***, but nothing in this section shall be deemed to super-  
7 sede P. L. 1968, c. 282 (C. 2A:168A-1 et seq.)**\*\***.

1 **\*2. No person shall be appointed a notary public if he has been**  
2 *convicted under the laws of another state, or of the United States,*  
3 *of an offense or crime involving dishonesty or which, if committed*  
4 *in this State, would be a crime of the second degree or above* **\*\***, but  
5 *nothing in this section shall be deemed to supersede P. L. 1968, c.*  
6 *282 (C. 2A:168A-1 et seq.)\*\**.

1 **\*\*3. Section 1 of P. L. 1968, c. 282 (C. 2A:168A-1) is amended to**  
2 read as follows:

3 1. The Legislature finds and declares that it is in the public  
4 interest to assist the rehabilitation of convicted offenders by  
5 removing impediments and restrictions upon their ability to obtain  
6 employment or to participate in vocational or educational rehabili-  
7 tation programs based solely upon the existence of a criminal  
8 record.

9 Therefore, the Legislature finds and declares that notwithstand-  
10 ing the contrary provisions of any law or rule or regulation issued  
11 pursuant to law, a person shall not be disqualified or discriminated

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

12 against by any licensing authority because of any conviction for a  
 13 crime, unless [N. J. S. 2A:93-5] *N. J. S. 2C:51-2* is applicable or  
 14 unless the conviction relates adversely to the occupation, trade,  
 15 vocation, profession or business for which the license or certificate  
 16 is sought.

1 4. Section 2 of P. L. 1968, c. 282 (C. 2A:168A-2) is amended to  
 2 read as follows:

3 2. Notwithstanding the contrary provisions of any law or rule or  
 4 regulation issued pursuant to law, no State, county or municipal  
 5 department, board, officer or agency, hereinafter referred to as  
 6 "licensing authority" authorized to pass upon the qualifications of  
 7 any applicant for a license or certificate of authority or qualification  
 8 to engage in the practice of a profession or business or for admis-  
 9 sion to an examination to qualify for such a license or certificate  
 10 may disqualify or discriminate against an applicant for a license or  
 11 certificate or an application for admission to a qualifying examina-  
 12 tion on the grounds that the applicant has been convicted of a crime,  
 13 or adjudged a disorderly person, except that a licensing authority  
 14 may disqualify or discriminate against an applicant for a license or  
 15 certificate if [N. J. S. 2A:93-5] *N. J. S. 2C:51-2* is applicable or if a  
 16 conviction for a crime relates adversely to the occupation, trade,  
 17 vocation, profession or business for which the license or certificate  
 18 is sought. In determining that a conviction for a crime relates  
 19 adversely to the occupation, trade, vocation, profession or business,  
 20 the licensing authority shall explain in writing how the following  
 21 factors, or any other factors, relate to the license or certificate  
 22 sought:

23 a. The nature and duties of the occupation, trade, vocation, pro-  
 24 fession or business, a license or certificate for which the person is  
 25 applying;

26 b. Nature and seriousness of the crime;

27 c. Circumstances under which the crime occurred;

28 d. Date of the crime;

29 e. Age of the person when the crime was committed;

30 f. Whether the crime was an isolated or repeated incident;

31 g. Social conditions which may have contributed to the crime;

32 h. Any evidence of rehabilitation, including good conduct in  
 33 prison or in the community, counseling or psychiatric treatment  
 34 received, acquisition of additional academic or vocational schooling,  
 35 successful participation in correctional work-release programs, or  
 36 the recommendation of persons who have or have had the applicant  
 37 under their supervision.\*\*

1 \***[2.]** \* **[\*3.\*]** \*\* **\*5.\*\*** This act shall take effect immediately.

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ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 1660**

[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: NOVEMBER 30, 1981

This bill prohibits the Secretary of State from appointing as a notary public any person who has been convicted in New Jersey of a crime of dishonesty or of a crime of the second degree or above, or who has been convicted of a similar crime in another state or under federal law.

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SENATE STATE GOVERNMENT, FEDERAL AND  
INTERSTATE RELATIONS AND VETERANS AFFAIRS  
COMMITTEE

STATEMENT TO

**SENATE, No. 1660**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 8, 1981

The purpose of the bill is to establish a statutory base for guidelines to be utilized by the Secretary of State for the appointment of notaries public.

The bill provides that no person shall be appointed a notary public if he has been convicted in New Jersey of a crime of dishonesty, such as forgery, or of a crime of the second degree or above.

Conviction of a crime of the third or fourth degree would not, in and of itself, preclude the appointment of a person as notary public.

Under the New Jersey Code of Criminal Justice (Title 2C) a crime of the third degree calls for a sentence of 3 to 5 years and a fine not to exceed \$7,500.00. A crime of the fourth degree calls for a maximum sentence of 18 months and a fine not to exceed \$7,500.00.

The bill further provides that no person be appointed a notary public if he has been convicted of equivalent crimes in another state or under the laws of the United States.

**PROPOSED AMENDMENT**

The committee adopted an amendment, with the sponsor's approval, designed to clarify the language of the bill.

SENATE BILL NO. 1660 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 1660 (OCR) with my objections and recommendations for amendment.

This bill would prohibit the appointment of a person as a notary public if he has been convicted of an offense involving dishonesty or a crime of the second degree or above, or an equivalent offense in another jurisdiction.

I note that the Criminal Code already provides that a person holding public office -- as does a notary, Comm'l Union Ins. Co. v. Burt Thomas-Aitken Constr. Co., 49 N.J. 389, 392-393 (1967) -- must forfeit his office if convicted of an offense involving dishonesty or a crime of the third degree or higher. N.J.S. 2C:51-2(b). The Code also provides that if the public officer's offense involved or touched on his public office, then he shall be forever disqualified from holding public office in the future. N.J.S. 2C:51-2(c). This bill would add a pre-appointment disqualification of applicants for the position of notary public.

Although potential notaries should be subject to a standard of trustworthiness, the law should not unnecessarily bar rehabilitated offenders. The Rehabilitated Convicted Offenders Act prohibits discrimination against "any applicant for a license or certificate of authority or disqualification to engage in the practice of a profession or business" unless the case is covered by N.J.S. 2A:93-5, the predecessor of the Criminal Code provision dealing with forfeiture of public office, or unless the conviction relates adversely to the occupation for which the license or certificate is sought. N.J.S.A. 2A:168-1 and -2. Senate Bill No. 1660 (OCR) should not be construed impliedly to repeal the Rehabilitated Convicted Offenders Act.

Accordingly, I herewith return Senate Bill No. 1660 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Title, lines 1 and 2: Omit lines 1 and 2 and insert: "An Act concerning notaries public, amending P.L. 1968, c. 282 and supplementing P.L. 1979, c. 460 (C.52:7-10 et seq.)."

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

-2-

Page 1, section 1, line 6: After "crime]\*" insert ", but nothing in this section shall be deemed to supersede P.L. 1968, c. 282 (C. 2A:168A-1 et seq.)".

Page 1, section 2, line 4: After "above" insert ", but nothing in this section shall be deemed to supersede P.L. 1968, c. 282 (C. 2A:168A-1 et seq.)".

Page 1, after section 2, after line 4: Insert new sections as follows:

"3. Section 1 of P.L. 1968, c. 282 (C. 2A:168A-1) is amended to read as follows:

1. The Legislature finds and declares that it is in the public interest to assist the rehabilitation of convicted offenders by removing impediments and restrictions upon their ability to obtain employment or to participate in vocational or educational rehabilitation programs based solely upon the existence of a criminal record.

Therefore, the Legislature finds and declares that notwithstanding the contrary provisions of any law or rule or regulation issued pursuant to law, a person shall not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless [N.J.S. 2A:93-5] N.J.S. 2C:51-2 is applicable or unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought."

"4. Section 2 of P.L. 1968, c. 282 (C. 2A:168A-2) is amended to read as follows:

2. Notwithstanding the contrary provisions of any law or rule or regulation issued pursuant to law, no State, county or municipal department, board, officer or agency, hereinafter referred to as "licensing authority" authorized to pass upon the qualifications of any applicant for a license or certificate of authority or qualification to engage in the practice of a profession or business or for admission to an examination to qualify for such a license or certificate may disqualify or discriminate against an applicant for a license or certificate or an application for admission to a qualifying examination on the grounds that the applicant has been convicted of a crime, or adjudged a disorderly person, except that a licensing

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

-3-

authority may disqualify or discriminate against an applicant for a license or certificate if [N.J.S. 2A:93-5] N.J.S. 2C:51-2 is applicable or if a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought. In determining that a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business, the licensing authority shall explain in writing how the following factors, or any other factors, relate to the license or certificate sought:

- a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;
- b. Nature and seriousness of the crime;
- c. Circumstances under which the crime occurred;
- d. Date of the crime;
- e. Age of the person when the crime was committed;
- f. Whether the crime was an isolated or repeated incident;
- g. Social conditions which may have contributed to the crime;
- h. 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 persons who have or have had the applicant under their supervision."

Page 1, section 3, line 1: Omit "3" and insert "5".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

Chief of Staff, Secretary