

Title 30.
Chapter 6D.
Part G. (New)
Criminal History
Background Checks
§§1-10
C.30:6D-63
to
30:6D-72
§11
Note to §§1-10

P.L. 1999, CHAPTER 358, *approved January 14, 2000*
Assembly, No. 815 (*Second Reprint*)

1 **AN ACT** concerning criminal history background checks and
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. As used in this act:

8 a. "Commissioner" means the Commissioner of the Department of
9 Human Services.

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

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

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

19

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

30 b. An individual shall be disqualified from employment under this
31 act if that individual's criminal history record check reveals a record

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASC committee amendments adopted February 23, 1998.

² Assembly AAP committee amendments adopted March 2, 1998.

1 of conviction of any of the following crimes and offenses:

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

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

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

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

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

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

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

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

40

41 3. The commissioner is authorized to exchange fingerprint data
42 with and receive criminal history record information from the Federal
43 Bureau of Investigation and the Division of State Police for use in
44 making the determinations required by this act. No criminal history
45 record check shall be performed pursuant to this act unless the
46 applicant or employee shall have furnished his written consent to the

1 check. All applicants or current employees shall have their fingerprints
2 taken on standard fingerprint cards by a State or municipal law
3 enforcement agency or a personnel unit of the department.

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

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

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

18
19 5. The applicant or employee shall have 30 days from the date of
20 receipt of the written notice of disqualification to petition for a hearing
21 on the accuracy of the criminal history record information. In the case
22 of a community agency head, the petition shall be to the commissioner
23 and the commissioner shall make the determination. The
24 commissioner may refer any case arising hereunder to the Office of
25 Administrative Law for administrative proceedings pursuant to
26 P.L.1978, c.67 (C.52:14F-1 et seq.). In the case of a community
27 agency applicant or employee, the petition shall be to the agency head
28 and the community agency head shall make the determination. The
29 agency head shall provide notice that further appeal is to the New
30 Jersey Superior Court.

31
32 6. The commissioner shall maintain all criminal history record
33 information submitted under this act in accordance with rules and
34 regulations which the commissioner shall adopt to implement the
35 provisions of this act.

36
37 7. In accordance with this act, the commissioner and community
38 agency heads shall initiate a criminal history record background check
39 on all applicants and current employees.

40
41 8. The commissioner shall report to the Governor and the
42 Legislature no later than three years from the effective date of this act
43 on the effectiveness of the criminal history record background checks
44 in screening out prospective or current community agency heads and
45 agency employees who have criminal history records which render
46 them unfit for employment. The commissioner shall include in the

1 report any recommendations for modifying the provisions of this act.

2

3 9. In accordance with the “Administrative Procedure Act,”
4 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt
5 rules and regulations necessary to implement the provisions of this act.

6

7 10. The ¹~~Department of Human Services shall assume the cost of~~
8 ~~all~~ ²~~costs associated with the~~ ¹~~Department of Human Services shall~~
9 ~~assume the cost of all~~ ² criminal history record background checks
10 ¹~~required pursuant to the provisions~~ ²~~and any administrative costs~~
11 ~~associated with the implementation~~ ¹~~required pursuant to the~~
12 ~~provisions~~ ² of this act ²~~shall be assumed by the community~~
13 ~~agency~~ ¹ ².

14

15 11. Section 7 of this act shall take effect immediately and the
16 remainder of this act shall take effect on the 120th day after
17 enactment.

18

19

20

21

22 Requires criminal history record background checks for certain
23 individuals working with the developmentally disabled.

ASSEMBLY, No. 815

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Requires criminal history record background checks for certain individuals working with the developmentally disabled.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning criminal history background checks and
2 supplementing Title 30 of the Revised Statutes.

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

6
7 1. As used in this act:

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9 Human Services.

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

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

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

19

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

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

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

34 (a) Involving danger to the person, meaning those crimes and
35 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
36 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
37 N.J.S.2C:15-1 et seq.; or

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

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

45 (2) In any other state or jurisdiction, of conduct which, if
46 committed in New Jersey, would constitute any of the crimes or

1 disorderly persons offenses described in paragraph (1) of this
2 subsection.

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

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

10 e. Notwithstanding the provisions of subsection b. of this section
11 to the contrary, provisional employment of an individual is authorized
12 for a period not to exceed six months if that individual's State Bureau
13 of Identification criminal history record background check does not
14 contain any information that would disqualify the individual from such
15 employment and if the individual submits to the appointing authority
16 a sworn statement attesting that the individual has not been convicted
17 of any crime or disorderly persons offense as described in this act,
18 pending a determination that no criminal history record background
19 information which would disqualify the individual exists on file in the
20 Federal Bureau of Investigation, Identification Division. An individual
21 who is provisionally employed pursuant to this subsection shall
22 perform his duties under the direct supervision of a superior who acts
23 in a supervisory capacity over that individual until the determination
24 concerning the federal information is complete, where possible.

25

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

35

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

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

43 b. In the case of a community agency applicant or employee, the
44 community agency head shall notify the person of his qualification or
45 disqualification for employment under this act. If the applicant or
46 employee is disqualified, the conviction or convictions which

1 constitute the basis for the disqualification shall be identified in the
2 written notice.

3
4 5. The applicant or employee shall have 30 days from the date of
5 receipt of the written notice of disqualification to petition for a hearing
6 on the accuracy of the criminal history record information. In the case
7 of a community agency head, the petition shall be to the commissioner
8 and the commissioner shall make the determination. The
9 commissioner may refer any case arising hereunder to the Office of
10 Administrative Law for administrative proceedings pursuant to
11 P.L.1978, c.67 (C.52:14F-1 et seq.). In the case of a community
12 agency applicant or employee, the petition shall be to the agency head
13 and the community agency head shall make the determination. The
14 agency head shall provide notice that further appeal is to the New
15 Jersey Superior Court.

16
17 6. The commissioner shall maintain all criminal history record
18 information submitted under this act in accordance with rules and
19 regulations which the commissioner shall adopt to implement the
20 provisions of this act.

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

25
26 8. The commissioner shall report to the Governor and the
27 Legislature no later than three years from the effective date of this act
28 on the effectiveness of the criminal history record background checks
29 in screening out prospective or current community agency heads and
30 agency employees who have criminal history records which render
31 them unfit for employment. The commissioner shall include in the
32 report any recommendations for modifying the provisions of this act.

33
34 9. In accordance with the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt
36 rules and regulations necessary to implement the provisions of this act.

37
38 10. The Department of Human Services shall assume the cost of all
39 criminal history record background checks required pursuant to the
40 provisions of this act.

41
42 11. Section 7 of this act shall take effect immediately and the
43 remainder of this act shall take effect on the 120th day after
44 enactment.

1 STATEMENT

2

3 This bill requires criminal history record background checks for all
4 current and prospective employees of public and private
5 community-based agencies that contract with the Department of
6 Human Services to provide services for developmentally disabled
7 persons. The criminal history background checks would be required
8 for all personnel working or residing at an agency who may come into
9 direct contact with clients.

10 The bill bars persons who have been convicted of certain disorderly
11 persons offenses or crimes from employment with these community-
12 based agencies. These crimes include serious drug offenses as well as
13 homicide, assault, kidnapping or robbery.

14 The Department of Human Services will assume the costs of the
15 criminal history record background checks.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 815

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 815 (1R) with committee amendments.

Assembly Bill No. 815 (1R), as amended, requires criminal history record background checks for all current and prospective employees of public and private community-based agencies that contract with the Department of Human Services to provide services for developmentally disabled persons. The criminal history record background checks are required for all personnel working or residing at an agency who may come into direct contact with clients.

The bill bars persons who have been convicted of certain disorderly persons offenses or crimes from employment with these community based agencies. These crimes include serious drug offenses as well as homicide, assault, kidnaping or robbery. The costs associated with the criminal history record background checks and will be assumed by the Department of Human Services.

FISCAL IMPACT:

The costs associated with the criminal history background checks will be assumed by the department. These background checks cost approximately \$50 each. Costs may be reduced if background check information which may already be in the possession of the department is used first, assuming the background information is relatively current.

COMMITTEE AMENDMENTS:

The amendments require the Department of Human Services, rather than the community agency, to assume the costs of the criminal history record background checks.

ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 815

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1998

The Assembly Senior Issues and Community Services Committee favorably reports Assembly Bill No. 815 with committee amendments.

As amended by committee, this bill requires criminal history record background checks for all current and prospective employees of public and private community-based agencies that contract with the Department of Human Services to provide services for developmentally disabled persons. The criminal history record background checks would be required for all personnel working or residing at an agency who may come into direct contact with clients.

The bill bars persons who have been convicted of certain disorderly persons offenses or crimes from employment with these community-based agencies. These crimes include serious drug offenses as well as homicide, assault, kidnapping or robbery.

The costs associated with the criminal history record background checks and any administrative costs associated with the implementation of the bill will be assumed by the community agency.

The amendments require the community agency, rather than the Department of Human Services to assume the costs of the criminal history record background checks and any administrative costs associated with the implementation of the bill.

This bill was prefiled for introduction in the 1998-1999 session pending technical review. As reported, the bill includes changes required by technical review which has been performed.

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND
HUMAN SERVICES COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 815

STATE OF NEW JERSEY

DATED: MAY 6, 1999

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably Assembly Bill No. 815(2R).

This bill requires criminal history record background checks for all current and prospective employees of public and private community-based agencies that contract with the Department of Human Services to provide services for developmentally disabled persons. The criminal history record background checks are required for all personnel working or residing at an agency who may come into direct contact with clients.

The bill bars persons who have been convicted of certain disorderly persons offenses or crimes from employment with these community based agencies. These crimes include serious drug offenses as well as homicide, assault, kidnaping or robbery.

The Department of Human Services shall assume the cost of all criminal history record background checks. These background checks cost approximately \$50 each. Costs may be reduced if background check information which may already be in the possession of the department is used first, assuming the background information is relatively current. The department and the Office of Management and Budget have estimated the cost as follows:

Year	Gross	State	Federal
First	\$360,000	\$213,000	\$147,000
Second	\$68,400	\$40,470	\$27,930
Third	\$68,400	\$40,470	\$27,930

The estimate assumes that 7,200 persons will be subject to a criminal history records background check. However, certain personnel such as nurses, social workers, etc. who may come into direct contact with clients are not included in the 7,200 employee figure.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 815

STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 815 (2R).

This bill prohibits persons who have been convicted of certain crimes or disorderly persons offenses from employment with any public or private community agency that provides services for developmentally disabled persons under contract with the Department of Human Services. The offenses covered by the legislation include serious drug offenses, as well as homicide, assault, kidnapping or other form of criminal restraint or coercion, sexual offense, robbery, or offense against the family, children or incompetents.

In addition, the bill prohibits the department from contracting with a community agency to provide services unless the department first determines 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 that would disqualify the head or any employees of the agency from such employment. If a prospective employee refuses to cooperate in the securing of a criminal history record background check, the person shall not be considered for employment. If a current employee refuses such cooperation, the person's employment shall be terminated.

FISCAL IMPACT

The bill provides that the Department of Human Services shall assume the cost of the criminal history record background checks. These background checks cost approximately \$50 each. Costs may be reduced if background check information already in the possession of the department is used first, assuming the background information is relatively current. The department and the Office of Management and Budget have estimated the cost as follows:

Year	Gross	State	Federal
First	\$360,000	\$213,000	\$147,000
Second	\$68,400	\$40,470	\$27,930
Third	\$68,400	\$40,470	\$27,930

The estimate assumes that 7,200 persons will be subject to a criminal history records background check. However, certain personnel such as nurses, social workers, etc. who may come into direct contact with clients are not included in the 7,200 employee figure.

[Corrected Copy]

FISCAL NOTE

[Second Reprint]

ASSEMBLY, No. 815

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: MAY 21, 1999

BILL SUMMARY

Assembly Bill No. 815 (2R) of 1998 requires criminal history record background checks for all current and prospective employees, who may come into direct contact with clients, of public and private community-based agencies that contract with the Department of Human Services (DHS) to provide services for developmentally disabled persons. Persons who have been convicted of certain disorderly persons offenses or crimes such as serious drug offenses, homicide, assault, kidnapping or robbery would be prohibited from employment in these agencies.

The costs of the background checks would be assumed by the Department of Human Services.

AGENCY COMMENTS

DHS and the Office of Management and Budget have estimated the cost as follows:

Year	Gross	State	Federal
First	\$360,000	\$213,000	\$147,000
Second	\$68,400	\$40,470	\$27,930
Third	\$68,400	\$40,470	\$27,930

The estimate assumes that 7,200 persons will be subject to a criminal history records background check. However, certain personnel such as nurses, social workers, etc. who may come into direct contact with clients are not included in the 7,200 employee figure. The estimated cost of a criminal background check per employee is \$50.00.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Department of Human Services shall assume the cost of all criminal history record background checks.

As the number of personnel subject to a criminal history record background check is not precisely known, DHS' estimates are uncertain. It may be more appropriate to estimate the potential cost at \$50,000 for every 1,000 persons for whom a criminal history record background check is conducted.

The DHS estimate indicating the net cost to the State would be 59% of the total cost of conducting criminal history record background checks is reasonable, but the actual percentage may be higher or lower than 59%

Background check costs could be reduced by coordinating this effort with background checks conducted by DHS for employees of State institutions and the Department of Health and Senior Services to identify persons for whom a recent background check was conducted.

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

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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

RELEASE: January 14, 2000

Governor Christie Whitman today signed legislation that requires criminal history record background checks for certain individuals working with the developmentally disabled.

“We need to protect our most vulnerable residents from being in preventable situations where they might come in contact with individuals who have criminal records,” said Gov. Whitman. “This piece of legislation also offers reassurance to family members and other care givers that their loved ones are being well taken care of while at any public or private community agency under contract with the state.”

Caring for a developmentally disabled individual is enough of a responsibility without having to additionally worry about this. The bill is one more step in making New Jersey a better place to live, work and raise a family by offering this piece of mind to our citizens,” continued Gov. Whitman.

The bill requires the Department of Human Services (DHS) to initiate criminal history record background checks on current employees or applicants for employment of any public or private community-based agency, with which DHS contracts to provide services for developmentally disabled persons. Individuals may be disqualified from employment if a background check shows a conviction for certain listed crimes or disorderly persons offenses.

In addition, DHS is authorized to exchange fingerprint data with and receive criminal history record information from the appropriate divisions of the Federal Bureau of Investigation and the New Jersey State Police. The DHS commissioner must also report to the Governor and the Legislature no later than three years from the effective date of this act on the effectiveness of the criminal history background checks in screening out persons with criminal history records which render them unfit for employment.

The bill, **A-815**, was sponsored by Assembly Members Anthony Impreveduto (D-Bergen/Hudson) and Nicholas R. Felice (R-Bergen/Passaic).