

32:2-37

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2002 **CHAPTER:** 73
NJSA: 32:2-37 (Prohibits employment at airports)
BILL NO: A2359 (Substituted for S1507)
SPONSOR(S): Smith and others
DATE INTRODUCED: May 16, 2002
COMMITTEE: **ASSEMBLY:** Homeland Security and State Preparedness
SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2002
SENATE: June 27, 2002

DATE OF APPROVAL: August 15, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)
(Amendments during passage denoted by superscript numbers)

A2359

[SPONSORS STATEMENT](#): (Begins on page 12 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

[LEGISLATIVE FISCAL NOTE](#): Yes

S1507

[SPONSORS STATEMENT](#): (Begins on page 12 of original bill) Yes

Bill and Sponsors Statement identical to A2359

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

[LEGISLATIVE FISCAL NOTE](#): Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Law restricts employment of felons at airports," 8-16-2002 The Press, p.D5

Law mandates checks on airport workers," 8-16-2002 The Record, p.A12

"Screening enhanced for airport workers," 8-16-2002 Star Ledger, p24

"Bill limits ex-felons in airport jobs," 8-16-2002 Courier Post, p.5A

Title 32.
Chapter 2.
Article 12. (New)
Airport Security
§1
C.32:2-37
Title 6.
Chapter 1.
Article VI (New)
Airport Security
§2
C.6:1-100
§3
Note to §§1, 2

P.L. 2002, CHAPTER 73, *approved August 15, 2002*
Assembly Bill No. 2359 (*First Reprint*)

1 AN ACT concerning restrictions on employment at airports and
2 supplementing Title 6 and Title 32 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. a. As used in this section:

8 "Aircraft operator" means the holder of an operating certificate
9 issued by the Federal Aviation Administration or a permit issued by the
10 Civil Aeronautics Board or the federal Department of Transportation
11 who conducts scheduled passenger, public charter or private charter
12 flight operations in which passengers are emplaned from or deplaned
13 into a sterile area.

14 "Airport" means a commercial service airport facility¹, conducting
15 business pursuant to Title 14 of the Code of Federal Regulations Part
16 139,¹ located wholly within this State operating pursuant to an airport
17 security program approved by the Federal Aviation Administration.

18 "Airport operator" means the Port Authority of New York and New
19 Jersey.

20 "Employee" means any person who provides services in the sterile
21 area of an airport.

22 "Prior conviction" means a conviction under the laws of this State,
23 another state, or the United States of an offense substantially
24 equivalent to any crime listed in this section for which a sentence of
25 imprisonment in excess of one year could be imposed.

26 "Sterile area" means that portion of an airport that provides
27 passengers access to boarding aircraft and to which the access
28 generally is controlled through the screening of persons and property
29 in accordance with a security program approved by the Federal

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 AHS committee amendments adopted June 17, 2002.

1 Aviation Administration.

2 b. An airport operator shall not employ or permit to be employed
3 any employee who has a disqualifying conviction. An airport operator
4 shall not employ, or permit to be employed, an employee unless it has
5 determined, consistent with the standards of this section, that no
6 criminal history record background information exists on file in the
7 Federal Bureau of Investigation¹, Criminal Justice Information
8 Service¹ or the Division of State Police which would disqualify that
9 individual from being employed. This section shall apply to all
10 employees who are currently employed at or who are prospective
11 employees at an airport operated by an airport operator. This section
12 shall not apply to employees who are subject to fingerprint-based
13 criminal history record background checks mandated by federal law or
14 rules and regulations.

15 c. The airport operator shall require, for purposes of determining
16 employment eligibility, the fingerprinting of prospective or current
17 employees. The airport operator is authorized to receive criminal
18 history record background information from the Division of State
19 Police and the Federal Bureau of Investigation, ¹Criminal Justice
20 Information Service¹ consistent with the provisions of Public Law
21 ¹[92-534] 92-544¹, for use in determining employment eligibility.
22 The airport operator shall:

23 (1) promulgate rules and regulations for the use and safeguarding
24 of criminal history record background information received from the
25 Division of State Police and the Federal Bureau of Investigation¹,
26 Criminal Justice Information Service¹;

27 (2) develop a form to be used in connection with the submission of
28 fingerprints that contains the specific job title held or sought, and any
29 other information that may be relevant to consideration of the current
30 or prospective employee; and

31 (3) promulgate a form to be provided to all prospective and current
32 employees that shall inform the prospective or current employee that:
33 (a) the airport operator is required to request that employee's criminal
34 history record background information from the Division of State
35 Police and the Federal Bureau of Investigation, ¹Criminal Justice
36 Information Service¹ and review such information pursuant to this
37 section; (b) the prospective or current employee has the right to
38 obtain, review and seek correction of his criminal history record
39 background information; and (c) the prospective or current employee
40 shall have 14 days from the date of any written notice of
41 disqualification to challenge the accuracy of the criminal history record
42 background information.

43 d. The employee or prospective employee shall submit to the
44 airport operator the individual's name ¹[.] and¹ address and ¹shall
45 provide written consent to and cooperate in the securing of¹
46 fingerprints taken ¹[on standard fingerprint cards] in accordance with

1 applicable State and federal laws, rules, regulations and standards¹ by
2 a State or municipal law enforcement agency or the Port Authority of
3 New York and New Jersey police department or other person
4 designated by the Division of State Police, and any fees imposed by
5 the Division of State Police and the Federal Bureau of Investigation¹,
6 Criminal Justice Information Service¹. The airport operator is
7 authorized to exchange fingerprint data with and receive criminal
8 history record background information from the Federal Bureau of
9 Investigation¹, Criminal Justice Information Service¹ and the Division
10 of State Police for use in determining the eligibility for employment of
11 employees and prospective employees, consistent with the provisions
12 of Public Law ¹[92-534] 92-544¹. The airport operator shall
13 promptly transmit such fingerprints ¹[and],¹ the required fees ¹and
14 any other demographic information required by the Division of State
15 Police¹ to the Division of State Police and the Federal Bureau of
16 Investigation¹, Criminal Justice Information Service¹ for their full
17 search and processing. The Division of State Police is authorized to
18 submit the fingerprints and the appropriate fee to the Federal Bureau
19 of Investigation¹, Criminal Justice Information Service¹ for a national
20 criminal history record background check.

21 The Division of State Police shall forward the criminal history
22 record to the airport operator in a timely manner. ¹[As used in this
23 section, "criminal history record" shall mean a record of all convictions
24 of crimes and any pending criminal charges maintained on an individual
25 by the Division of State Police and the Federal Bureau of
26 Investigation.]¹

27 e. All criminal history records processed and sent to the airport
28 operator pursuant to this section shall be confidential pursuant to the
29 applicable federal and state laws, rules and regulations, and shall not
30 be published or in any way disclosed to persons other than an airport
31 operator, unless otherwise authorized by law. No cause of action
32 against an airport operator for damages shall exist for the
33 determination that a prospective or current employee has a
34 disqualifying criminal conviction, or for the lawful disclosure of a
35 disqualifying criminal conviction to an employer, when an airport
36 operator has reasonably and in good faith relied upon the accuracy and
37 completeness of criminal history record background information
38 furnished to it by the Division of State Police or the Federal Bureau of
39 Investigation¹, Criminal Justice Information Service¹. An airport
40 operator who acts upon or discloses information pertaining to a
41 disqualifying criminal conviction of a prospective or current employee
42 shall be presumed to be acting in good faith unless it is shown by clear
43 and convincing evidence that the airport operator acted with actual
44 malice toward the person who is the subject of the information.

45 No cause of action against an employer for damages shall exist for
46 acting upon information received from an airport operator that a

1 current employee has a disqualifying criminal conviction, when the
2 employer has reasonably and in good faith relied upon the
3 determination made by the airport operator that the current employee
4 has a disqualifying criminal conviction. An employer at the airport
5 who acts upon information pertaining to a disqualifying criminal
6 conviction of a current employee shall be presumed to be acting in
7 good faith unless it is shown by clear and convincing evidence that the
8 employer acted with actual malice toward the person who is the
9 subject of the information.

10 f. The airport operator shall review the criminal history record of
11 a current or prospective employee covered by this section to determine
12 whether that employee has a disqualifying criminal conviction in his
13 background. A disqualifying criminal conviction shall be evidenced by
14 a criminal history record background check which reveals a conviction
15 within the preceding 10 years of any of the following:

16 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
17 N.J.S.2C:11-5 or N.J.S.2C:11-6;

18 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
19 N.J.S.2C:12-3;

20 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
21 in violation of N.J.S.2C:13-2, interference with custody in violation of
22 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
23 luring or enticing a child in violation of section 1 of P.L.1993, c.291
24 (C.2C:13-6);

25 (4) any aggravated sexual assault or sexual assault in violation of
26 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
27 sexual contact in violation of N.J.S.2C:14-3;

28 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
29 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

30 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;

31 (7) any arson or related offense in violation of N.J.S.2C:17-1,
32 causing or risking widespread injury or damage in violation of
33 N.J.S.2C:17-2, any crime of criminal mischief in violation of
34 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
35 or identification numbers in violation of section 1 of P.L.1983, c.351
36 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);

37 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
38 criminal trespass in violation of N.J.S.2C:18-3;

39 (9) any crime of theft in violation of chapter 20 of Title 2C of the
40 New Jersey Statutes;

41 (10) any crime of forgery and fraudulent practices in violation of
42 chapter 21 of Title 2C of the New Jersey Statutes;

43 (11) any crime of bribery and corrupt influence in violation of
44 chapter 27 of Title 2C of the New Jersey Statutes;

45 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
46 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,

- 1 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 2 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 3 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
4 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 5 (15) any crime in violation of chapter 35 of Title 2C of the New
6 Jersey Statutes;
- 7 (16) any crime in violation of chapter 36 of Title 2C of the New
8 Jersey Statutes;
- 9 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
10 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
11 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
12 (C.2C:39-16);
- 13 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
14 al.);
- 15 (19) any crime in violation of sections 2 through 5 of the
16 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
17 (now before the Legislature as Assembly Bill No. 911(2R) of 2002);
- 18 (20) any of the following federal offenses: registration violations
19 involving aircraft not providing air transportation as defined in 49
20 U.S.C.s.46306; interference with air navigation as defined
21 in 49 U.S.C.s.46308; transporting hazardous material as defined in 49
22 U.S.C.s.46312; aircraft piracy as defined in 49 U.S.C.s.46502;
23 interference with flight crew members and attendants as defined in
24 49 U.S.C.s.46504; application of certain criminal laws to acts on
25 aircraft as defined in 49 U.S.C.s.46506; carrying a weapon or
26 explosive on an aircraft as defined in 49 U.S.C.s.46505; false
27 information and threats as defined in 49 U.S.C.s.46507; lighting
28 violations involving transporting controlled substances by aircraft not
29 providing air transportation as defined in 49 U.S.C.s.46315; entering
30 aircraft or airport area in violation of security requirements as defined
31 in 49 U.S.C.s.46314; destruction of aircraft or aircraft facilities as
32 defined in 18 U.S.C.s.32; espionage as defined in 18 U.S.C.ss.793,
33 794, 798, or 3077; treason, sedition and subversive activities as
34 defined in 18 U.S.C.ss.2381, 2384 and 2385; a violation of 50
35 U.S.C.s.783; violence at international airports as defined in 18
36 U.S.C.s.37; or conspiracy or solicitation as defined in 18 U.S.C.ss.
37 371 and 373; or
- 38 (21) an attempt or conspiracy to commit any of the offenses
39 specified in paragraphs (1) through (20) of this subsection.
- 40 g. Upon receipt of the criminal history record background
41 information from the Division of State Police and Federal Bureau of
42 Investigation¹, Criminal Justice Information Service¹ for a prospective
43 or current employee, the airport operator shall notify the prospective
44 or current employee, in writing, of the prospective or current
45 employee's qualification or disqualification for employment. If the
46 prospective or current employee is disqualified, the convictions that

1 constitute the basis for the disqualification shall be identified in the
2 written notice to the prospective or current employee. Unless
3 otherwise specified by law or regulation, the prospective or current
4 employee shall have 14 days from the date of the written notice of
5 disqualification to challenge the accuracy of the criminal history record
6 background information. If no challenge is filed or if the
7 determination of the accuracy of the criminal history record
8 background information upholds the disqualification, the airport
9 operator shall notify the employer that the prospective or current
10 employee has been disqualified from employment. When the airport
11 operator determines that employment in a position to which the
12 provisions of this section apply should be terminated pursuant to this
13 section, the current employee shall be afforded notice in writing and
14 the right to be heard and offer proof in opposition to such
15 determination in accordance with the rules and regulations
16 promulgated pursuant to subsection c. of this section.

17 h. The Division of State Police shall promptly notify the airport
18 operator in the event a prospective or current employee, who was the
19 subject of a criminal history record background check conducted
20 pursuant to subsection d. of this section, is convicted of a crime or
21 offense in this State after the date the background check was
22 performed. Upon receipt of such notification, the airport operator
23 shall make a determination regarding the eligibility for employment of
24 the prospective or current employee.

25 i. Every employee shall have a continuing obligation to promptly
26 notify the employee's employer and the airport operator of any
27 conviction of a crime punishable by more than one year in prison. The
28 failure to so notify the employer and airport operator shall be grounds
29 for immediate termination of employment.

30 j. This section shall apply to all prospective employees on the
31 effective date thereof. Airport operators shall require the criminal
32 history record background checks to be ¹[conducted] initiated¹ on all
33 current employees within 90 days of the effective date of this section.
34

35 2. a. As used in this section:

36 "Aircraft operator" means the holder of an operating certificate
37 issued by the Federal Aviation Administration or a permit issued by the
38 Civil Aeronautics Board or the federal Department of Transportation
39 who conducts scheduled passenger, public charter or private charter
40 flight operations in which passengers are emplaned from or deplaned
41 into a sterile area.

42 "Airport" means a commercial service airport facility ¹conducting
43 business pursuant to Title 14 of Code of Federal Regulations Part
44 139.¹ located wholly within this State operating pursuant to an airport
45 security program approved by the Federal Aviation Administration.

46 "Airport operator" means a State or local government unit, agency

1 or public authority that operates an airport that serves an aircraft
2 operator, except the Port Authority of New York and New Jersey.

3 "Employee" means any person who provides services in the sterile
4 area of an airport.

5 "Prior conviction" means a conviction under the laws of this State,
6 another state, or the United States of an offense substantially
7 equivalent to any crime listed in this section for which a sentence of
8 imprisonment in excess of one year could be imposed.

9 "Sterile area" means that portion of an airport that provides
10 passengers access to boarding aircraft and to which the access
11 generally is controlled through the screening of persons and property
12 in accordance with a security program approved by the Federal
13 Aviation Administration.

14 b. An airport operator shall not employ or permit to be employed
15 any employee who has a disqualifying conviction. An airport operator
16 shall not employ, or permit to be employed, an employee unless it has
17 determined, consistent with the standards of this section, that no
18 criminal history record background information exists on file in the
19 Federal Bureau of Investigation¹, Criminal Justice Information
20 Service¹ or the Division of State Police which would disqualify that
21 individual from being employed. This section shall apply to all
22 employees who are currently employed at or who are prospective
23 employees at an airport operated by an airport operator. This section
24 shall not apply to employees who are subject to fingerprint-based
25 criminal history record background checks mandated by federal law or
26 rules and regulations.

27 c. Each airport operator shall require, for purposes of determining
28 employment eligibility, the fingerprinting of prospective or current
29 employees. The airport operator is authorized to receive criminal
30 history record background information from the Division of State
31 Police and the Federal Bureau of Investigation, ¹Criminal Justice
32 Information Service¹ consistent with the provisions of Public Law
33 ¹[92-534] 92-544¹, for use in determining employment eligibility.
34 Each airport operator shall:

35 (1) promulgate rules and regulations for the use and safeguarding
36 of criminal history record background information received from the
37 Division of State Police and the Federal Bureau of Investigation¹,
38 Criminal Justice Information Service¹;

39 (2) develop a form to be used in connection with the submission of
40 fingerprints that contains the specific job title held or sought, and any
41 other information that may be relevant to consideration of the current
42 or prospective employee; and

43 (3) promulgate a form to be provided to all prospective and current
44 employees that shall inform the prospective or current employee that:
45 (a) the airport operator is required to request that employee's criminal
46 history record background information from the Division of State

1 Police and the Federal Bureau of Investigation, ¹Criminal Justice
2 Information Service¹ and review such information pursuant to this
3 section; (b) the prospective or current employee has the right to
4 obtain, review and seek correction of his criminal history record
5 background information; and (c) the prospective or current employee
6 shall have 14 days from the date of any written notice of
7 disqualification to challenge the accuracy of the criminal history record
8 background information.

9 d. The employee or prospective employee shall submit to the
10 airport operator the individual's name ¹[.] and¹ address and ¹shall
11 provide written consent to and cooperate in the securing of¹
12 fingerprints taken ¹[on standard fingerprint cards] in accordance with
13 applicable State and federal laws, rules, regulations and standards¹ by
14 a State or municipal law enforcement agency or other person
15 designated by the Division of State Police, and any fees imposed by
16 the Division of State Police and the Federal Bureau of Investigation¹,
17 Criminal Justice Information Service¹. The airport operator is
18 authorized to exchange fingerprint data with and receive criminal
19 history record background information from the Federal Bureau of
20 Investigation¹, Criminal Justice Information Service¹ and the Division
21 of State Police for use in determining the eligibility for employment of
22 employees and prospective employees, consistent with the provisions
23 of Public Law ¹[92-534] 92-544¹. The airport operator shall
24 promptly transmit such fingerprints and the required fees to the
25 Division of State Police and the Federal Bureau of Investigation¹,
26 Criminal Justice Information Service¹ for their full search and
27 processing. The Division of State Police is authorized to submit the
28 fingerprints and the appropriate fee to the Federal Bureau of
29 Investigation¹, Criminal Justice Information Service¹ for a national
30 criminal history record background check.

31 The Division of State Police shall forward the criminal history
32 record to the airport operator in a timely manner. ¹[As used in this
33 section, "criminal history record" shall mean a record of all convictions
34 of crimes and any pending criminal charges maintained on an individual
35 by the Division of State Police and the Federal Bureau of
36 Investigation.]¹

37 e. All criminal history records processed and sent to the airport
38 operator pursuant to this section shall be confidential pursuant to the
39 applicable federal and state laws, rules and regulations, and shall not
40 be published or in any way disclosed to persons other than an airport
41 operator, unless otherwise authorized by law. No cause of action
42 against an airport operator for damages shall exist for the
43 determination that a prospective or current employee has a
44 disqualifying criminal conviction, or for the lawful disclosure of a
45 disqualifying criminal conviction to an employer, when an airport
46 operator has reasonably and in good faith relied upon the accuracy and

1 completeness of criminal history record background information
2 furnished to it by the Division of State Police or the Federal Bureau of
3 Investigation¹, Criminal Justice Information Service¹. An airport
4 operator who acts upon or discloses information pertaining to a
5 disqualifying criminal conviction of a prospective or current employee
6 shall be presumed to be acting in good faith unless it is shown by clear
7 and convincing evidence that the airport operator acted with actual
8 malice toward the person who is the subject of the information.

9 No cause of action against an employer for damages shall exist for
10 acting upon information received from an airport operator that a
11 current employee has a disqualifying criminal conviction, when the
12 employer has reasonably and in good faith relied upon the
13 determination made by the airport operator that the current employee
14 has a disqualifying criminal conviction. An employer at the airport
15 who acts upon information pertaining to a disqualifying criminal
16 conviction of a current employee shall be presumed to be acting in
17 good faith unless it is shown by clear and convincing evidence that the
18 employer acted with actual malice toward the person who is the
19 subject of the information.

20 f. The airport operator shall review the criminal history record of
21 a current or prospective employee covered by this section to determine
22 whether that employee has a disqualifying criminal conviction in his
23 background. A disqualifying criminal conviction shall be evidenced by
24 a criminal history record background check which reveals a conviction
25 within the preceding 10 years of any of the following:

26 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
27 N.J.S.2C:11-5 or N.J.S.2C:11-6;

28 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
29 N.J.S.2C:12-3;

30 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
31 in violation of N.J.S.2C:13-2, interference with custody in violation of
32 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
33 luring or enticing a child in violation of section 1 of P.L.1993, c.291
34 (C.2C:13-6);

35 (4) any aggravated sexual assault or sexual assault in violation of
36 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
37 sexual contact in violation of N.J.S.2C:14-3;

38 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
39 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

40 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;

41 (7) any arson or related offense in violation of N.J.S.2C:17-1,
42 causing or risking widespread injury or damage in violation of
43 N.J.S.2C:17-2, any crime of criminal mischief in violation of
44 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
45 or identification numbers in violation of section 1 of P.L.1983, c.351
46 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);

- 1 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
2 criminal trespass in violation of N.J.S.2C:18-3;
- 3 (9) any crime of theft in violation of chapter 20 of Title 2C of the
4 New Jersey Statutes;
- 5 (10) any crime of forgery and fraudulent practices in violation of
6 chapter 21 of Title 2C of the New Jersey Statutes;
- 7 (11) any crime of bribery and corrupt influence in violation of
8 chapter 27 of Title 2C of the New Jersey Statutes;
- 9 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
10 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
11 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 12 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 13 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
14 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 15 (15) any crime in violation of chapter 35 of Title 2C of the New
16 Jersey Statutes;
- 17 (16) any crime in violation of chapter 36 of Title 2C of the New
18 Jersey Statutes;
- 19 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
20 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
21 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
22 (C.2C:39-16);
- 23 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
24 al.);
- 25 (19) any crime in violation of sections 2 through 5 of the
26 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
27 (now before the Legislature as Assembly Bill No. 911(2R) of 2002;
- 28 (20) any of the following federal offenses: registration violations
29 involving aircraft not providing air transportation as defined in
30 49 U.S.C.s.46306; interference with air navigation as defined in
31 49 U.S.C.s.46308; transporting hazardous material as defined in
32 49 U.S.C.s.46312; aircraft piracy as defined in 49 U.S.C.s.46502;
33 interference with flight crew members and attendants as defined in
34 49 U.S.C.s.46504; application of certain criminal laws to acts on
35 aircraft as defined in 49 U.S.C.s.46506; carrying a weapon or
36 explosive on an aircraft as defined in 49 U.S.C.s.46505; false
37 information and threats as defined in 49 U.S.C.s.46507; lighting
38 violations involving transporting controlled substances by aircraft not
39 providing air transportation as defined in 49 U.S.C.s.46315; entering
40 aircraft or airport area in violation of security requirements as defined
41 in 49 U.S.C.s.46314; destruction of aircraft or aircraft facilities as
42 defined in 18 U.S.C.s.32; espionage as defined in 18 U.S.C.ss.793,
43 794, 798, or 3077; treason, sedition and subversive activities as
44 defined in 18 U.S.C.ss.2381, 2384 and 2385; a violation of
45 50 U.S.C.s.783; violence at international airports as defined in
46 18 U.S.C.s.37; or conspiracy or solicitation as defined in 18 U.S.C.ss.

1 371 and 373; or

2 (21) an attempt or conspiracy to commit any of the offenses
3 specified in paragraphs (1) through (20) of this subsection.

4 g. Upon receipt of the criminal history record background
5 information from the Division of State Police and Federal Bureau of
6 Investigation¹, Criminal Justice Information Service¹ for a prospective
7 or current employee, the airport operator shall notify the prospective
8 or current employee, in writing, of the prospective or current
9 employee's qualification or disqualification for employment. If the
10 prospective or current employee is disqualified, the convictions that
11 constitute the basis for the disqualification shall be identified in the
12 written notice to the prospective or current employee. Unless
13 otherwise specified by law or regulation, the prospective or current
14 employee shall have 14 days from the date of the written notice of
15 disqualification to challenge the accuracy of the criminal history record
16 background information. If no challenge is filed or if the
17 determination of the accuracy of the criminal history record
18 background information upholds the disqualification, the airport
19 operator shall notify the employer that the prospective or current
20 employee has been disqualified from employment. When the airport
21 operator determines that employment in a position to which the
22 provisions of this section apply should be terminated pursuant to this
23 section, the current employee shall be afforded notice in writing and
24 the right to be heard and offer proof in opposition to such
25 determination in accordance with the rules and regulations
26 promulgated pursuant to subsection c. of this section.

27 h. The Division of State Police shall promptly notify the airport
28 operator in the event a prospective or current employee, who was the
29 subject of a criminal history record background check conducted
30 pursuant to subsection d. of this section, is convicted of a crime or
31 offense in this State after the date the background check was
32 performed. Upon receipt of such notification, the airport operator
33 shall make a determination regarding the eligibility for employment of
34 the prospective or current employee.

35 i. Every employee shall have a continuing obligation to promptly
36 notify the employee's employer and the airport operator of any
37 conviction of a crime punishable by more than one year in prison. The
38 failure to so notify the employer and airport operator shall be grounds
39 for immediate termination of employment.

40 j. This section shall apply to all prospective employees on the
41 effective date thereof. Airport operators shall require the criminal
42 history record background checks to be ¹~~conducted~~ initiated¹ on all
43 current employees within 90 days of the effective date of this section.
44

45 3. Section 1 of this act shall take effect upon the enactment into
46 law by the State of New York of legislation having an identical effect

1 with this section, but if the State of New York shall have already
2 enacted such legislation, section 1 shall take effect immediately, and
3 section 2 shall take effect on the 90th day after enactment of this act.
4 Airport operators and the Division of State Police shall take such
5 anticipatory administrative action in advance as shall be necessary for
6 the implementation of this act.

7

8

9

10

11 Prohibits employment at certain airports of individuals convicted of
12 certain crimes.

ASSEMBLY, No. 2359

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 16, 2002

Sponsored by:

Assemblyman ROBERT J. SMITH

District 4 (Camden and Gloucester)

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman GARY L. GUEAR, SR.

District 14 (Mercer and Middlesex)

SYNOPSIS

Prohibits employment at certain airports of individuals convicted of certain crimes.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning restrictions on employment at airports and
2 supplementing Title 6 and Title 32 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. a. As used in this section:

8 "Aircraft operator" means the holder of an operating certificate
9 issued by the Federal Aviation Administration or a permit issued by the
10 Civil Aeronautics Board or the federal Department of Transportation
11 who conducts scheduled passenger, public charter or private charter
12 flight operations in which passengers are emplaned from or deplaned
13 into a sterile area.

14 "Airport" means a commercial service airport facility located wholly
15 within this State operating pursuant to an airport security program
16 approved by the Federal Aviation Administration.

17 "Airport operator" means the Port Authority of New York and New
18 Jersey.

19 "Employee" means any person who provides services in the sterile
20 area of an airport.

21 "Prior conviction" means a conviction under the laws of this State,
22 another state, or the United States of an offense substantially
23 equivalent to any crime listed in this section for which a sentence of
24 imprisonment in excess of one year could be imposed.

25 "Sterile area" means that portion of an airport that provides
26 passengers access to boarding aircraft and to which the access
27 generally is controlled through the screening of persons and property
28 in accordance with a security program approved by the Federal
29 Aviation Administration.

30 b. An airport operator shall not employ or permit to be employed
31 any employee who has a disqualifying conviction. An airport operator
32 shall not employ, or permit to be employed, an employee unless it has
33 determined, consistent with the standards of this section, that no
34 criminal history record background information exists on file in the
35 Federal Bureau of Investigation or the Division of State Police which
36 would disqualify that individual from being employed. This section
37 shall apply to all employees who are currently employed at or who are
38 prospective employees at an airport operated by an airport operator.
39 This section shall not apply to employees who are subject to
40 fingerprint-based criminal history record background checks mandated
41 by federal law or rules and regulations.

42 c. The airport operator shall require, for purposes of determining
43 employment eligibility, the fingerprinting of prospective or current
44 employees. The airport operator is authorized to receive criminal
45 history record background information from the Division of State
46 Police and the Federal Bureau of Investigation, consistent with the

1 provisions of Public Law 92-534, for use in determining employment
2 eligibility. The airport operator shall:

3 (1) promulgate rules and regulations for the use and safeguarding
4 of criminal history record background information received from the
5 Division of State Police and the Federal Bureau of Investigation;

6 (2) develop a form to be used in connection with the submission of
7 fingerprints that contains the specific job title held or sought, and any
8 other information that may be relevant to consideration of the current
9 or prospective employee; and

10 (3) promulgate a form to be provided to all prospective and current
11 employees that shall inform the prospective or current employee that:

12 (a) the airport operator is required to request that employee's criminal
13 history record background information from the Division of State
14 Police and the Federal Bureau of Investigation, and review such
15 information pursuant to this section; (b) the prospective or current
16 employee has the right to obtain, review and seek correction of his
17 criminal history record background information; and (c) the
18 prospective or current employee shall have 14 days from the date of
19 any written notice of disqualification to challenge the accuracy of the
20 criminal history record background information.

21 d. The employee or prospective employee shall submit to the
22 airport operator the individual's name, address and fingerprints taken
23 on standard fingerprint cards by a State or municipal law enforcement
24 agency or the Port Authority of New York and New Jersey police
25 department or other person designated by the Division of State Police,
26 and any fees imposed by the Division of State Police and the Federal
27 Bureau of Investigation. The airport operator is authorized to
28 exchange fingerprint data with and receive criminal history record
29 background information from the Federal Bureau of Investigation and
30 the Division of State Police for use in determining the eligibility for
31 employment of employees and prospective employees, consistent with
32 the provisions of Public Law 92-534. The airport operator shall
33 promptly transmit such fingerprints and the required fees to the
34 Division of State Police and the Federal Bureau of Investigation for
35 their full search and processing. The Division of State Police is
36 authorized to submit the fingerprints and the appropriate fee to the
37 Federal Bureau of Investigation for a national criminal history record
38 background check.

39 The Division of State Police shall forward the criminal history
40 record to the airport operator in a timely manner. As used in this
41 section, "criminal history record" shall mean a record of all convictions
42 of crimes and any pending criminal charges maintained on an individual
43 by the Division of State Police and the Federal Bureau of
44 Investigation.

45 e. All criminal history records processed and sent to the airport
46 operator pursuant to this section shall be confidential pursuant to the

1 applicable federal and state laws, rules and regulations, and shall not
2 be published or in any way disclosed to persons other than an airport
3 operator, unless otherwise authorized by law. No cause of action
4 against an airport operator for damages shall exist for the
5 determination that a prospective or current employee has a
6 disqualifying criminal conviction, or for the lawful disclosure of a
7 disqualifying criminal conviction to an employer, when an airport
8 operator has reasonably and in good faith relied upon the accuracy and
9 completeness of criminal history record background information
10 furnished to it by the Division of State Police or the Federal Bureau of
11 Investigation. An airport operator who acts upon or discloses
12 information pertaining to a disqualifying criminal conviction of a
13 prospective or current employee shall be presumed to be acting in
14 good faith unless it is shown by clear and convincing evidence that the
15 airport operator acted with actual malice toward the person who is the
16 subject of the information.

17 No cause of action against an employer for damages shall exist for
18 acting upon information received from an airport operator that a
19 current employee has a disqualifying criminal conviction, when the
20 employer has reasonably and in good faith relied upon the
21 determination made by the airport operator that the current employee
22 has a disqualifying criminal conviction. An employer at the airport
23 who acts upon information pertaining to a disqualifying criminal
24 conviction of a current employee shall be presumed to be acting in
25 good faith unless it is shown by clear and convincing evidence that the
26 employer acted with actual malice toward the person who is the
27 subject of the information.

28 f. The airport operator shall review the criminal history record of
29 a current or prospective employee covered by this section to determine
30 whether that employee has a disqualifying criminal conviction in his
31 background. A disqualifying criminal conviction shall be evidenced by
32 a criminal history record background check which reveals a conviction
33 within the preceding 10 years of any of the following:

34 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
35 N.J.S.2C:11-5 or N.J.S.2C:11-6;

36 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
37 N.J.S.2C:12-3;

38 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
39 in violation of N.J.S.2C:13-2, interference with custody in violation of
40 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
41 luring or enticing a child in violation of section 1 of P.L.1993, c.291
42 (C.2C:13-6);

43 (4) any aggravated sexual assault or sexual assault in violation of
44 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
45 sexual contact in violation of N.J.S.2C:14-3;

- 1 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
2 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);
- 3 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;
- 4 (7) any arson or related offense in violation of N.J.S.2C:17-1,
5 causing or risking widespread injury or damage in violation of
6 N.J.S.2C:17-2, any crime of criminal mischief in violation of
7 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
8 or identification numbers in violation of section 1 of P.L.1983, c.351
9 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);
- 10 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
11 criminal trespass in violation of N.J.S.2C:18-3;
- 12 (9) any crime of theft in violation of chapter 20 of Title 2C of the
13 New Jersey Statutes;
- 14 (10) any crime of forgery and fraudulent practices in violation of
15 chapter 21 of Title 2C of the New Jersey Statutes;
- 16 (11) any crime of bribery and corrupt influence in violation of
17 chapter 27 of Title 2C of the New Jersey Statutes;
- 18 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
19 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
20 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 21 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 22 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
23 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 24 (15) any crime in violation of chapter 35 of Title 2C of the New
25 Jersey Statutes;
- 26 (16) any crime in violation of chapter 36 of Title 2C of the New
27 Jersey Statutes;
- 28 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
29 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
30 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
31 (C.2C:39-16);
- 32 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
33 al.);
- 34 (19) any crime in violation of sections 2 through 5 of the
35 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
36 (now before the Legislature as Assembly Bill No. 911(2R) of 2002);
- 37 (20) any of the following federal offenses: registration violations
38 involving aircraft not providing air transportation as defined in
39 49 U.S.C. s.46306; interference with air navigation as defined in
40 49 U.S.C. s.46308; transporting hazardous material as defined in
41 49 U.S.C. s.46312; aircraft piracy as defined in 49 U.S.C. s.46502;
42 interference with flight crew members and attendants as defined in
43 49 U.S.C. s.46504; application of certain criminal laws to acts on
44 aircraft as defined in 49 U.S.C. s.46506; carrying a weapon or
45 explosive on an aircraft as defined in 49 U.S.C. s.46505; false
46 information and threats as defined in 49 U.S.C. s.46507; lighting

1 violations involving transporting controlled substances by aircraft not
2 providing air transportation as defined in 49 U.S.C. s.46315; entering
3 aircraft or airport area in violation of security requirements as defined
4 in 49 U.S.C. s.46314; destruction of aircraft or aircraft facilities as
5 defined in 18 U.S.C. s.32; espionage as defined in 18 U.S.C. ss.793,
6 794, 798, or 3077; treason, sedition and subversive activities as
7 defined in 18 U.S.C. ss.2381, 2384 and 2385; a violation of 50 U.S.C.
8 s.783; violence at international airports as defined in 18 U.S.C. s.37;
9 or conspiracy or solicitation as defined in 18 U.S.C. ss. 371 and 373;
10 or

11 (21) an attempt or conspiracy to commit any of the offenses
12 specified in paragraphs (1) through (20) of this subsection.

13 g. Upon receipt of the criminal history record background
14 information from the Division of State Police and Federal Bureau of
15 Investigation for a prospective or current employee, the airport
16 operator shall notify the prospective or current employee, in writing,
17 of the prospective or current employee's qualification or
18 disqualification for employment. If the prospective or current
19 employee is disqualified, the convictions that constitute the basis for
20 the disqualification shall be identified in the written notice to the
21 prospective or current employee. Unless otherwise specified by law
22 or regulation, the prospective or current employee shall have 14 days
23 from the date of the written notice of disqualification to challenge the
24 accuracy of the criminal history record background information. If no
25 challenge is filed or if the determination of the accuracy of the criminal
26 history record background information upholds the disqualification,
27 the airport operator shall notify the employer that the prospective or
28 current employee has been disqualified from employment. When the
29 airport operator determines that employment in a position to which the
30 provisions of this section apply should be terminated pursuant to this
31 section, the current employee shall be afforded notice in writing and
32 the right to be heard and offer proof in opposition to such
33 determination in accordance with the rules and regulations
34 promulgated pursuant to subsection c. of this section.

35 h. The Division of State Police shall promptly notify the airport
36 operator in the event a prospective or current employee, who was the
37 subject of a criminal history record background check conducted
38 pursuant to subsection d. of this section, is convicted of a crime or
39 offense in this State after the date the background check was
40 performed. Upon receipt of such notification, the airport operator
41 shall make a determination regarding the eligibility for employment of
42 the prospective or current employee.

43 i. Every employee shall have a continuing obligation to promptly
44 notify the employee's employer and the airport operator of any
45 conviction of a crime punishable by more than one year in prison. The
46 failure to so notify the employer and airport operator shall be grounds

1 for immediate termination of employment.

2 j. This section shall apply to all prospective employees on the
3 effective date thereof. Airport operators shall require the criminal
4 history record background checks to be conducted on all current
5 employees within 90 days of the effective date of this section.

6

7 2. a. As used in this section:

8 "Aircraft operator" means the holder of an operating certificate
9 issued by the Federal Aviation Administration or a permit issued by the
10 Civil Aeronautics Board or the federal Department of Transportation
11 who conducts scheduled passenger, public charter or private charter
12 flight operations in which passengers are emplaned from or deplaned
13 into a sterile area.

14 "Airport" means a commercial service airport facility located wholly
15 within this State operating pursuant to an airport security program
16 approved by the Federal Aviation Administration.

17 "Airport operator" means a State or local government unit, agency
18 or public authority that operates an airport that serves an aircraft
19 operator, except the Port Authority of New York and New Jersey.

20 "Employee" means any person who provides services in the sterile
21 area of an airport.

22 "Prior conviction" means a conviction under the laws of this State,
23 another state, or the United States of an offense substantially
24 equivalent to any crime listed in this section for which a sentence of
25 imprisonment in excess of one year could be imposed.

26 "Sterile area" means that portion of an airport that provides
27 passengers access to boarding aircraft and to which the access
28 generally is controlled through the screening of persons and property
29 in accordance with a security program approved by the Federal
30 Aviation Administration.

31 b. An airport operator shall not employ or permit to be employed
32 any employee who has a disqualifying conviction. An airport operator
33 shall not employ, or permit to be employed, an employee unless it has
34 determined, consistent with the standards of this section, that no
35 criminal history record background information exists on file in the
36 Federal Bureau of Investigation or the Division of State Police which
37 would disqualify that individual from being employed. This section
38 shall apply to all employees who are currently employed at or who are
39 prospective employees at an airport operated by an airport operator.
40 This section shall not apply to employees who are subject to
41 fingerprint-based criminal history record background checks mandated
42 by federal law or rules and regulations.

43 c. Each airport operator shall require, for purposes of determining
44 employment eligibility, the fingerprinting of prospective or current
45 employees. The airport operator is authorized to receive criminal
46 history record background information from the Division of State

1 Police and the Federal Bureau of Investigation, consistent with the
2 provisions of Public Law 92-534, for use in determining employment
3 eligibility. Each airport operator shall:

4 (1) promulgate rules and regulations for the use and safeguarding
5 of criminal history record background information received from the
6 Division of State Police and the Federal Bureau of Investigation;

7 (2) develop a form to be used in connection with the submission of
8 fingerprints that contains the specific job title held or sought, and any
9 other information that may be relevant to consideration of the current
10 or prospective employee; and

11 (3) promulgate a form to be provided to all prospective and current
12 employees that shall inform the prospective or current employee that:

13 (a) the airport operator is required to request that employee's criminal
14 history record background information from the Division of State
15 Police and the Federal Bureau of Investigation, and review such
16 information pursuant to this section; (b) the prospective or current
17 employee has the right to obtain, review and seek correction of his
18 criminal history record background information; and (c) the
19 prospective or current employee shall have 14 days from the date of
20 any written notice of disqualification to challenge the accuracy of the
21 criminal history record background information.

22 d. The employee or prospective employee shall submit to the
23 airport operator the individual's name, address and fingerprints taken
24 on standard fingerprint cards by a State or municipal law enforcement
25 agency or other person designated by the Division of State Police, and
26 any fees imposed by the Division of State Police and the Federal
27 Bureau of Investigation. The airport operator is authorized to
28 exchange fingerprint data with and receive criminal history record
29 background information from the Federal Bureau of Investigation and
30 the Division of State Police for use in determining the eligibility for
31 employment of employees and prospective employees, consistent with
32 the provisions of Public Law 92-534. The airport operator shall
33 promptly transmit such fingerprints and the required fees to the
34 Division of State Police and the Federal Bureau of Investigation for
35 their full search and processing. The Division of State Police is
36 authorized to submit the fingerprints and the appropriate fee to the
37 Federal Bureau of Investigation for a national criminal history record
38 background check.

39 The Division of State Police shall forward the criminal history
40 record to the airport operator in a timely manner. As used in this
41 section, "criminal history record" shall mean a record of all convictions
42 of crimes and any pending criminal charges maintained on an individual
43 by the Division of State Police and the Federal Bureau of
44 Investigation.

45 e. All criminal history records processed and sent to the airport
46 operator pursuant to this section shall be confidential pursuant to the

1 applicable federal and state laws, rules and regulations, and shall not
2 be published or in any way disclosed to persons other than an airport
3 operator, unless otherwise authorized by law. No cause of action
4 against an airport operator for damages shall exist for the
5 determination that a prospective or current employee has a
6 disqualifying criminal conviction, or for the lawful disclosure of a
7 disqualifying criminal conviction to an employer, when an airport
8 operator has reasonably and in good faith relied upon the accuracy and
9 completeness of criminal history record background information
10 furnished to it by the Division of State Police or the Federal Bureau of
11 Investigation. An airport operator who acts upon or discloses
12 information pertaining to a disqualifying criminal conviction of a
13 prospective or current employee shall be presumed to be acting in
14 good faith unless it is shown by clear and convincing evidence that the
15 airport operator acted with actual malice toward the person who is the
16 subject of the information.

17 No cause of action against an employer for damages shall exist for
18 acting upon information received from an airport operator that a
19 current employee has a disqualifying criminal conviction, when the
20 employer has reasonably and in good faith relied upon the
21 determination made by the airport operator that the current employee
22 has a disqualifying criminal conviction. An employer at the airport
23 who acts upon information pertaining to a disqualifying criminal
24 conviction of a current employee shall be presumed to be acting in
25 good faith unless it is shown by clear and convincing evidence that the
26 employer acted with actual malice toward the person who is the
27 subject of the information.

28 f. The airport operator shall review the criminal history record of
29 a current or prospective employee covered by this section to determine
30 whether that employee has a disqualifying criminal conviction in his
31 background. A disqualifying criminal conviction shall be evidenced by
32 a criminal history record background check which reveals a conviction
33 within the preceding 10 years of any of the following:

34 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
35 N.J.S.2C:11-5 or N.J.S.2C:11-6;

36 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
37 N.J.S.2C:12-3;

38 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
39 in violation of N.J.S.2C:13-2, interference with custody in violation of
40 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
41 luring or enticing a child in violation of section 1 of P.L.1993, c.291
42 (C.2C:13-6);

43 (4) any aggravated sexual assault or sexual assault in violation of
44 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
45 sexual contact in violation of N.J.S.2C:14-3;

- 1 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
2 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);
- 3 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;
- 4 (7) any arson or related offense in violation of N.J.S.2C:17-1,
5 causing or risking widespread injury or damage in violation of
6 N.J.S.2C:17-2, any crime of criminal mischief in violation of
7 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
8 or identification numbers in violation of section 1 of P.L.1983, c.351
9 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);
- 10 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
11 criminal trespass in violation of N.J.S.2C:18-3;
- 12 (9) any crime of theft in violation of chapter 20 of Title 2C of the
13 New Jersey Statutes;
- 14 (10) any crime of forgery and fraudulent practices in violation of
15 chapter 21 of Title 2C of the New Jersey Statutes;
- 16 (11) any crime of bribery and corrupt influence in violation of
17 chapter 27 of Title 2C of the New Jersey Statutes;
- 18 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
19 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
20 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 21 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 22 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
23 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 24 (15) any crime in violation of chapter 35 of Title 2C of the New
25 Jersey Statutes;
- 26 (16) any crime in violation of chapter 36 of Title 2C of the New
27 Jersey Statutes;
- 28 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
29 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
30 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
31 (C.2C:39-16);
- 32 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
33 al.);
- 34 (19) any crime in violation of sections 2 through 5 of the
35 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
36 (now before the Legislature as Assembly Bill No. 911(2R) of 2002;
- 37 (20) any of the following federal offenses: registration violations
38 involving aircraft not providing air transportation as defined in
39 49 U.S.C. s.46306; interference with air navigation as defined in
40 49 U.S.C. s.46308; transporting hazardous material as defined in
41 49 U.S.C. s.46312; aircraft piracy as defined in 49 U.S.C. s.46502;
42 interference with flight crew members and attendants as defined in
43 49 U.S.C. s.46504; application of certain criminal laws to acts on
44 aircraft as defined in 49 U.S.C. s.46506; carrying a weapon or
45 explosive on an aircraft as defined in 49 U.S.C. s.46505; false
46 information and threats as defined in 49 U.S.C. s.46507; lighting

1 violations involving transporting controlled substances by aircraft not
2 providing air transportation as defined in 49 U.S.C. s.46315; entering
3 aircraft or airport area in violation of security requirements as defined
4 in 49 U.S.C. s.46314; destruction of aircraft or aircraft facilities as
5 defined in 18 U.S.C. s.32; espionage as defined in 18 U.S.C. ss.793,
6 794, 798, or 3077; treason, sedition and subversive activities as
7 defined in 18 U.S.C. ss.2381, 2384 and 2385; a violation of 50 U.S.C.
8 s.783; violence at international airports as defined in 18 U.S.C. s.37;
9 or conspiracy or solicitation as defined in 18 U.S.C. ss. 371 and 373;
10 or

11 (21) an attempt or conspiracy to commit any of the offenses
12 specified in paragraphs (1) through (20) of this subsection.

13 g. Upon receipt of the criminal history record background
14 information from the Division of State Police and Federal Bureau of
15 Investigation for a prospective or current employee, the airport
16 operator shall notify the prospective or current employee, in writing,
17 of the prospective or current employee's qualification or
18 disqualification for employment. If the prospective or current
19 employee is disqualified, the convictions that constitute the basis for
20 the disqualification shall be identified in the written notice to the
21 prospective or current employee. Unless otherwise specified by law
22 or regulation, the prospective or current employee shall have 14 days
23 from the date of the written notice of disqualification to challenge the
24 accuracy of the criminal history record background information. If no
25 challenge is filed or if the determination of the accuracy of the criminal
26 history record background information upholds the disqualification,
27 the airport operator shall notify the employer that the prospective or
28 current employee has been disqualified from employment. When the
29 airport operator determines that employment in a position to which the
30 provisions of this section apply should be terminated pursuant to this
31 section, the current employee shall be afforded notice in writing and
32 the right to be heard and offer proof in opposition to such
33 determination in accordance with the rules and regulations
34 promulgated pursuant to subsection c. of this section.

35 h. The Division of State Police shall promptly notify the airport
36 operator in the event a prospective or current employee, who was the
37 subject of a criminal history record background check conducted
38 pursuant to subsection d. of this section, is convicted of a crime or
39 offense in this State after the date the background check was
40 performed. Upon receipt of such notification, the airport operator
41 shall make a determination regarding the eligibility for employment of
42 the prospective or current employee.

43 i. Every employee shall have a continuing obligation to promptly
44 notify the employee's employer and the airport operator of any
45 conviction of a crime punishable by more than one year in prison. The
46 failure to so notify the employer and airport operator shall be grounds

1 for immediate termination of employment.

2 j. This section shall apply to all prospective employees on the
3 effective date thereof. Airport operators shall require the criminal
4 history record background checks to be conducted on all current
5 employees within 90 days of the effective date of this section.

6

7 3. Section 1 of this act shall take effect upon the enactment into
8 law by the State of New York of legislation having an identical effect
9 with this section, but if the State of New York shall have already
10 enacted such legislation, section 1 shall take effect immediately, and
11 section 2 shall take effect on the 90th day after enactment of this act.
12 Airport operators and the Division of State Police shall take such
13 anticipatory administrative action in advance as shall be necessary for
14 the implementation of this act.

15

16

17

STATEMENT

18

19 This bill would strengthen airport security by requiring all current
20 and prospective employees who have access to those areas of airports
21 covered by the bill to which access generally is controlled through the
22 screening of persons and property, to undergo a criminal history
23 record background check. The bill would also prohibit employment
24 of those individuals who have been convicted of certain enumerated
25 crimes. The bill imposes a continuing obligation on the Division of
26 State Police and employees to notify the airport operator of a
27 conviction of a current or prospective employee that was not
28 previously reported.

29 This bill is intended to take effect upon the enactment into law by
30 the State of New York of legislation having an identical effect. By this
31 legislation, the Legislatures of New Jersey and New York intend to
32 establish uniform procedures to strengthen airport security at those
33 airports operated by the Port Authority of New York and New Jersey
34 and those regulated by the Federal Aviation Administration.

[Corrected Copy]

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2359

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2002

The Assembly Homeland Security and State Preparedness Committee reports favorably and with committee amendments Assembly Bill No. 2359.

The bill, as amended, would require certain current and prospective employees at certain airports in the State to undergo criminal history record background checks and would prohibit their employment if they have a disqualifying conviction revealed by such checks. Employees falling under the provisions of this bill would be those providing services in the "sterile area" of the airport, which area is defined as that portion of an airport that provides passengers access to boarding aircraft and to which the access generally is controlled through the screening of persons and property in accordance with a security program approved by the Federal Aviation Administration (FAA). Employees who are subject to fingerprint based criminal history record background checks mandated by federal law or rules or regulations would not be subject to the provisions set forth in this bill.

Airports covered by this bill are those commercial service airport facilities conducting business pursuant to Title 14 of the Code of Federal Regulations, Part 139 located wholly within New Jersey operating pursuant to an airport security program approved by the FAA and operated either by the Port Authority of New York and New Jersey or a State or local government unit, agency or public authority that operates an airport that serves an aircraft operator. The airports that would currently be affected by the provisions of the bill are Newark International Airport, Trenton-Mercer Airport and Atlantic City International Airport.

This bill would permit an airport operator to receive criminal history record background information concerning current and prospective employees from the Division of State Police and the

Federal Bureau of Investigation, Criminal Justice Information Service in order to determine employment eligibility. The airport operator would review the criminal history background record to determine if the employee had a disqualifying conviction within the preceding 10 years. The current or prospective employee would be notified in writing of the employee's qualification or disqualification for employment. A challenge to the accuracy of the background information is provided for, as is a hearing in case of a terminated employee.

Every employee would have a continuing obligation to promptly notify their employer and the airport operator of a conviction of a crime punishable by more than one year in prison. Also, the State Police would promptly notify the airport operator in the event a prospective or current employee, who was the subject of a background check, is convicted of a crime or offense in New Jersey after the completion of the background check.

The disqualifying crimes enumerated in the bill deal with certain violations of New Jersey's criminal code, such as arson, carjacking and bribery, or violations of federal law, such as interference with air navigation or espionage. In enumerating the disqualifying crimes, the bill intends to be equivalent to the existing federal statutes and regulations concerning criminal background checks for employees working within a security identification display area (SIDA). See 49 U.S.C.A. §44936; 49 C.F.R. §1542.209 (airport security); 49 C.F.R. §1544.229 (aircraft operator security). Such areas are not accessible to the general public, and include direct access to airplanes, loading docks, cargo ramps and runways. Therefore, the effect of the bill would be to extend the requirement of background checks beyond the SIDAs, and into the broader, "sterile area" of the airports.

The provisions of the bill applicable to the airports operated by the Port Authority of New York and New Jersey (section 1), a bi-state agency, would only take effect upon the enactment of companion legislation by the State of New York. The provisions applicable to airport operators other than the Port Authority of New York and New Jersey (section 2) would take effect on the 90th day after enactment of the bill into law.

Due to the potential for future federal statutes and regulations on the issue of airport security, it is recommended that the Attorney General of New Jersey monitor and report to the Governor and this committee any changes to the federal statutes and regulations pertaining to the provisions of this bill once enacted. If it appears necessary or appropriate, the State could amend or repeal this legislation, and also make a determination as to the feasibility of continuing legislative efforts on this issue.

COMMITTEE AMENDMENTS:

The amendments to the bill clarify the definition of airport by referencing the applicable provisions of the Code of Federal

Regulations.

The amendments further specify that the Criminal Justice Information Service, a branch of the FBI, would be involved in the performance of background checks.

Regarding the procedure for obtaining fingerprints of current and prospective employees, the amendments would require written consent of the individual in the securing of the fingerprints, and ensure that this was done in accordance with applicable State and federal laws, rules, regulations and standards.

Finally, the amendments provide that the checks are to be initiated, rather than conducted, on current employees within 90 days of the relevant effective dates.

FISCAL NOTE
[First Reprint]
ASSEMBLY, No. 2359
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JULY 3, 2002

SUMMARY

Synopsis: Prohibits employment at certain airports of individuals convicted of certain crimes.

Type of Impact: Administrative costs borne by fees charged to employees.

Agencies Affected: Division of State Police.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$64,330	\$67,547	\$70,924
State Revenue	\$64,330	\$67,547	\$70,924

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! Requires current or prospective employees at certain commercial airports to undergo and pass criminal history record background checks.
- ! Any fees imposed by the Division of State Police and the Federal Bureau of Investigation for background checks are to be borne by the employees.
- ! Imposes a continuing obligation on the Division of State Police and employees to notify the airport operator of convictions occurring after the background check.

BILL DESCRIPTION

Assembly Bill No. 2359 (1R) of 2002 requires certain current and prospective employees at certain airports in the State to undergo criminal history record background checks and prohibits their employment if they have a disqualifying conviction revealed by such checks. Airports covered by this bill are Newark International Airport, Trenton-Mercer Airport and Atlantic City International Airport.

Criminal history record background checks would be conducted by submitting an employee or prospective employees fingerprints to the Division of State Police. The division would search its criminal records and request a national record check through the Federal Bureau of Investigation. Disqualifying crimes include violations of the New Jersey criminal code and

certain violations of federal law.

The State Police are required to notify the airport operators in the event a prospective or current employee, who was the subject of a background check, is convicted of a crime or offense after the completion of the background check.

Any fees imposed by the Division of State Police and the Federal Bureau of Investigation for background checks are to be borne by the employees.

Employees required to receive background checks under federal law are not subject to provisions of this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Law and Public Safety's estimate of the cost to administer a similar bill introduced in the current session is \$64,330 for the first year. Included in this estimate are salary costs of \$29,200 for a fingerprint technician and \$22,600 for a clerk typist, and fringe benefit costs of \$12,500. After adjusting for inflation of 5 percent per year, the division estimates the second and third year costs of this bill at \$67,515 and \$70,891, respectively.

According to the department, approximately 850 current employees of airport operators, in addition to the number of prospective employees, will be subjected to criminal history record background checks under the terms of this bill.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the Executive estimate. However, OLS notes that the fee imposed by the bill on current and prospective employees of airport operators should defray any State costs. The current fee for a State and federal background check is approximately \$50.

Section: *Law and Public Safety*

Analyst: *Kristen A. Fischer*
Associate Fiscal Analyst

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

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

SENATE, No. 1507

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 13, 2002

Sponsored by:

Senator JOSEPH CONIGLIO

District 38 (Bergen)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

SYNOPSIS

Prohibits employment at certain airports of individuals convicted of certain crimes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/7/2002)

1 AN ACT concerning restrictions on employment at airports and
2 supplementing Title 6 and Title 32 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. a. As used in this section:

8 "Aircraft operator" means the holder of an operating certificate
9 issued by the Federal Aviation Administration or a permit issued by the
10 Civil Aeronautics Board or the federal Department of Transportation
11 who conducts scheduled passenger, public charter or private charter
12 flight operations in which passengers are emplaned from or deplaned
13 into a sterile area.

14 "Airport" means a commercial service airport facility located wholly
15 within this State operating pursuant to an airport security program
16 approved by the Federal Aviation Administration.

17 "Airport operator" means the Port Authority of New York and New
18 Jersey.

19 "Employee" means any person who provides services in the sterile
20 area of an airport.

21 "Prior conviction" means a conviction under the laws of this State,
22 another state, or the United States of an offense substantially
23 equivalent to any crime listed in this section for which a sentence of
24 imprisonment in excess of one year could be imposed.

25 "Sterile area" means that portion of an airport that provides
26 passengers access to boarding aircraft and to which the access
27 generally is controlled through the screening of persons and property
28 in accordance with a security program approved by the Federal
29 Aviation Administration.

30 b. An airport operator shall not employ or permit to be employed
31 any employee who has a disqualifying conviction. An airport operator
32 shall not employ, or permit to be employed, an employee unless it has
33 determined, consistent with the standards of this section, that no
34 criminal history record background information exists on file in the
35 Federal Bureau of Investigation or the Division of State Police which
36 would disqualify that individual from being employed. This section
37 shall apply to all employees who are currently employed at or who are
38 prospective employees at an airport operated by an airport operator.
39 This section shall not apply to employees who are subject to
40 fingerprint-based criminal history record background checks mandated
41 by federal law or rules and regulations.

42 c. The airport operator shall require, for purposes of determining
43 employment eligibility, the fingerprinting of prospective or current
44 employees. The airport operator is authorized to receive criminal
45 history record background information from the Division of State
46 Police and the Federal Bureau of Investigation, consistent with the

1 provisions of Public Law 92-534, for use in determining employment
2 eligibility. The airport operator shall:

3 (1) promulgate rules and regulations for the use and safeguarding
4 of criminal history record background information received from the
5 Division of State Police and the Federal Bureau of Investigation;

6 (2) develop a form to be used in connection with the submission of
7 fingerprints that contains the specific job title held or sought, and any
8 other information that may be relevant to consideration of the current
9 or prospective employee; and

10 (3) promulgate a form to be provided to all prospective and current
11 employees that shall inform the prospective or current employee that:

12 (a) the airport operator is required to request that employee's criminal
13 history record background information from the Division of State
14 Police and the Federal Bureau of Investigation, and review such
15 information pursuant to this section; (b) the prospective or current
16 employee has the right to obtain, review and seek correction of his
17 criminal history record background information; and (c) the
18 prospective or current employee shall have 14 days from the date of
19 any written notice of disqualification to challenge the accuracy of the
20 criminal history record background information.

21 d. The employee or prospective employee shall submit to the
22 airport operator the individual's name, address and fingerprints taken
23 on standard fingerprint cards by a State or municipal law enforcement
24 agency or the Port Authority of New York and New Jersey police
25 department or other person designated by the Division of State Police,
26 and any fees imposed by the Division of State Police and the Federal
27 Bureau of Investigation. The airport operator is authorized to
28 exchange fingerprint data with and receive criminal history record
29 background information from the Federal Bureau of Investigation and
30 the Division of State Police for use in determining the eligibility for
31 employment of employees and prospective employees, consistent with
32 the provisions of Public Law 92-534. The airport operator shall
33 promptly transmit such fingerprints and the required fees to the
34 Division of State Police and the Federal Bureau of Investigation for
35 their full search and processing. The Division of State Police is
36 authorized to submit the fingerprints and the appropriate fee to the
37 Federal Bureau of Investigation for a national criminal history record
38 background check.

39 The Division of State Police shall forward the criminal history
40 record to the airport operator in a timely manner. As used in this
41 section, "criminal history record" shall mean a record of all convictions
42 of crimes and any pending criminal charges maintained on an individual
43 by the Division of State Police and the Federal Bureau of
44 Investigation.

45 e. All criminal history records processed and sent to the airport
46 operator pursuant to this section shall be confidential pursuant to the

1 applicable federal and state laws, rules and regulations, and shall not
2 be published or in any way disclosed to persons other than an airport
3 operator, unless otherwise authorized by law. No cause of action
4 against an airport operator for damages shall exist for the
5 determination that a prospective or current employee has a
6 disqualifying criminal conviction, or for the lawful disclosure of a
7 disqualifying criminal conviction to an employer, when an airport
8 operator has reasonably and in good faith relied upon the accuracy and
9 completeness of criminal history record background information
10 furnished to it by the Division of State Police or the Federal Bureau of
11 Investigation. An airport operator who acts upon or discloses
12 information pertaining to a disqualifying criminal conviction of a
13 prospective or current employee shall be presumed to be acting in
14 good faith unless it is shown by clear and convincing evidence that the
15 airport operator acted with actual malice toward the person who is the
16 subject of the information.

17 No cause of action against an employer for damages shall exist for
18 acting upon information received from an airport operator that a
19 current employee has a disqualifying criminal conviction, when the
20 employer has reasonably and in good faith relied upon the
21 determination made by the airport operator that the current employee
22 has a disqualifying criminal conviction. An employer at the airport
23 who acts upon information pertaining to a disqualifying criminal
24 conviction of a current employee shall be presumed to be acting in
25 good faith unless it is shown by clear and convincing evidence that the
26 employer acted with actual malice toward the person who is the
27 subject of the information.

28 f. The airport operator shall review the criminal history record of
29 a current or prospective employee covered by this section to determine
30 whether that employee has a disqualifying criminal conviction in his
31 background. A disqualifying criminal conviction shall be evidenced by
32 a criminal history record background check which reveals a conviction
33 within the preceding 10 years of any of the following:

34 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
35 N.J.S.2C:11-5 or N.J.S.2C:11-6;

36 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
37 N.J.S.2C:12-3;

38 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
39 in violation of N.J.S.2C:13-2, interference with custody in violation of
40 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
41 luring or enticing a child in violation of section 1 of P.L.1993, c.291
42 (C.2C:13-6);

43 (4) any aggravated sexual assault or sexual assault in violation of
44 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
45 sexual contact in violation of N.J.S.2C:14-3;

- 1 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
2 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);
- 3 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;
- 4 (7) any arson or related offense in violation of N.J.S.2C:17-1,
5 causing or risking widespread injury or damage in violation of
6 N.J.S.2C:17-2, any crime of criminal mischief in violation of
7 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
8 or identification numbers in violation of section 1 of P.L.1983, c.351
9 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);
- 10 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
11 criminal trespass in violation of N.J.S.2C:18-3;
- 12 (9) any crime of theft in violation of chapter 20 of Title 2C of the
13 New Jersey Statutes;
- 14 (10) any crime of forgery and fraudulent practices in violation of
15 chapter 21 of Title 2C of the New Jersey Statutes;
- 16 (11) any crime of bribery and corrupt influence in violation of
17 chapter 27 of Title 2C of the New Jersey Statutes;
- 18 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
19 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
20 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 21 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 22 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
23 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 24 (15) any crime in violation of chapter 35 of Title 2C of the New
25 Jersey Statutes;
- 26 (16) any crime in violation of chapter 36 of Title 2C of the New
27 Jersey Statutes;
- 28 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
29 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
30 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
31 (C.2C:39-16);
- 32 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
33 al.);
- 34 (19) any crime in violation of sections 2 through 5 of the
35 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
36 (now before the Legislature as Assembly Bill No. 911(2R) of 2002);
- 37 (20) any of the following federal offenses: registration violations
38 involving aircraft not providing air transportation as defined in 49
39 U.S.C. s.46306; interference with air navigation as defined in 49
40 U.S.C. s.46308; transporting hazardous material as defined in 49
41 U.S.C. s.46312; aircraft piracy as defined in 49 U.S.C. s.46502;
42 interference with flight crew members and attendants as defined in 49
43 U.S.C. s.46504; application of certain criminal laws to acts on aircraft
44 as defined in 49 U.S.C. s.46506; carrying a weapon or explosive on an
45 aircraft as defined in 49 U.S.C. s.46505; false information and threats
46 as defined in 49 U.S.C. s.46507; lighting violations involving

1 transporting controlled substances by aircraft not providing air
2 transportation as defined in 49 U.S.C. s.46315; entering aircraft or
3 airport area in violation of security requirements as defined in 49
4 U.S.C. s.46314; destruction of aircraft or aircraft facilities as defined
5 in 18 U.S.C. s.32; espionage as defined in 18 U.S.C. ss.793, 794, 798,
6 or 3077; treason, sedition and subversive activities as defined in 18
7 U.S.C. ss.2381, 2384 and 2385; a violation of 50 U.S.C. s.783;
8 violence at international airports as defined in 18 U.S.C. s.37; or
9 conspiracy or solicitation as defined in 18 U.S.C. ss. 371 and 373; or

10 (21) an attempt or conspiracy to commit any of the offenses
11 specified in paragraphs (1) through (20) of this subsection.

12 g. Upon receipt of the criminal history record background
13 information from the Division of State Police and Federal Bureau of
14 Investigation for a prospective or current employee, the airport
15 operator shall notify the prospective or current employee, in writing,
16 of the prospective or current employee's qualification or
17 disqualification for employment. If the prospective or current
18 employee is disqualified, the convictions that constitute the basis for
19 the disqualification shall be identified in the written notice to the
20 prospective or current employee. Unless otherwise specified by law
21 or regulation, the prospective or current employee shall have 14 days
22 from the date of the written notice of disqualification to challenge the
23 accuracy of the criminal history record background information. If no
24 challenge is filed or if the determination of the accuracy of the criminal
25 history record background information upholds the disqualification,
26 the airport operator shall notify the employer that the prospective or
27 current employee has been disqualified from employment. When the
28 airport operator determines that employment in a position to which the
29 provisions of this section apply should be terminated pursuant to this
30 section, the current employee shall be afforded notice in writing and
31 the right to be heard and offer proof in opposition to such
32 determination in accordance with the rules and regulations
33 promulgated pursuant to subsection c. of this section.

34 h. The Division of State Police shall promptly notify the airport
35 operator in the event a prospective or current employee, who was the
36 subject of a criminal history record background check conducted
37 pursuant to subsection d. of this section, is convicted of a crime or
38 offense in this State after the date the background check was
39 performed. Upon receipt of such notification, the airport operator
40 shall make a determination regarding the eligibility for employment of
41 the prospective or current employee.

42 i. Every employee shall have a continuing obligation to promptly
43 notify the employee's employer and the airport operator of any
44 conviction of a crime punishable by more than one year in prison. The
45 failure to so notify the employer and airport operator shall be grounds
46 for immediate termination of employment.

1 j. This section shall apply to all prospective employees on the
2 effective date thereof. Airport operators shall require the criminal
3 history record background checks to be conducted on all current
4 employees within 90 days of the effective date of this section.

5
6 2. a. As used in this section:

7 "Aircraft operator" means the holder of an operating certificate
8 issued by the Federal Aviation Administration or a permit issued by the
9 Civil Aeronautics Board or the federal Department of Transportation
10 who conducts scheduled passenger, public charter or private charter
11 flight operations in which passengers are emplaned from or deplaned
12 into a sterile area.

13 "Airport" means a commercial service airport facility located wholly
14 within this State operating pursuant to an airport security program
15 approved by the Federal Aviation Administration.

16 "Airport operator" means a State or local government unit, agency
17 or public authority that operates an airport that serves an aircraft
18 operator, except the Port Authority of New York and New Jersey.

19 "Employee" means any person who provides services in the sterile
20 area of an airport.

21 "Prior conviction" means a conviction under the laws of this State,
22 another state, or the United States of an offense substantially
23 equivalent to any crime listed in this section for which a sentence of
24 imprisonment in excess of one year could be imposed.

25 "Sterile area" means that portion of an airport that provides
26 passengers access to boarding aircraft and to which the access
27 generally is controlled through the screening of persons and property
28 in accordance with a security program approved by the Federal
29 Aviation Administration.

30 b. An airport operator shall not employ or permit to be employed
31 any employee who has a disqualifying conviction. An airport operator
32 shall not employ, or permit to be employed, an employee unless it has
33 determined, consistent with the standards of this section, that no
34 criminal history record background information exists on file in the
35 Federal Bureau of Investigation or the Division of State Police which
36 would disqualify that individual from being employed. This section
37 shall apply to all employees who are currently employed at or who are
38 prospective employees at an airport operated by an airport operator.
39 This section shall not apply to employees who are subject to
40 fingerprint-based criminal history record background checks mandated
41 by federal law or rules and regulations.

42 c. Each airport operator shall require, for purposes of determining
43 employment eligibility, the fingerprinting of prospective or current
44 employees. The airport operator is authorized to receive criminal
45 history record background information from the Division of State
46 Police and the Federal Bureau of Investigation, consistent with the

1 provisions of Public Law 92-534, for use in determining employment
2 eligibility. Each airport operator shall:

3 (1) promulgate rules and regulations for the use and safeguarding
4 of criminal history record background information received from the
5 Division of State Police and the Federal Bureau of Investigation;

6 (2) develop a form to be used in connection with the submission of
7 fingerprints that contains the specific job title held or sought, and any
8 other information that may be relevant to consideration of the current
9 or prospective employee; and

10 (3) promulgate a form to be provided to all prospective and current
11 employees that shall inform the prospective or current employee that:

12 (a) the airport operator is required to request that employee's criminal
13 history record background information from the Division of State
14 Police and the Federal Bureau of Investigation, and review such
15 information pursuant to this section; (b) the prospective or current
16 employee has the right to obtain, review and seek correction of his
17 criminal history record background information; and (c) the
18 prospective or current employee shall have 14 days from the date of
19 any written notice of disqualification to challenge the accuracy of the
20 criminal history record background information.

21 d. The employee or prospective employee shall submit to the
22 airport operator the individual's name, address and fingerprints taken
23 on standard fingerprint cards by a State or municipal law enforcement
24 agency or other person designated by the Division of State Police, and
25 any fees imposed by the Division of State Police and the Federal
26 Bureau of Investigation. The airport operator is authorized to
27 exchange fingerprint data with and receive criminal history record
28 background information from the Federal Bureau of Investigation and
29 the Division of State Police for use in determining the eligibility for
30 employment of employees and prospective employees, consistent with
31 the provisions of Public Law 92-534. The airport operator shall
32 promptly transmit such fingerprints and the required fees to the
33 Division of State Police and the Federal Bureau of Investigation for
34 their full search and processing. The Division of State Police is
35 authorized to submit the fingerprints and the appropriate fee to the
36 Federal Bureau of Investigation for a national criminal history record
37 background check.

38 The Division of State Police shall forward the criminal history
39 record to the airport operator in a timely manner. As used in this
40 section, "criminal history record" shall mean a record of all convictions
41 of crimes and any pending criminal charges maintained on an individual
42 by the Division of State Police and the Federal Bureau of
43 Investigation.

44 e. All criminal history records processed and sent to the airport
45 operator pursuant to this section shall be confidential pursuant to the
46 applicable federal and state laws, rules and regulations, and shall not

1 be published or in any way disclosed to persons other than an airport
2 operator, unless otherwise authorized by law. No cause of action
3 against an airport operator for damages shall exist for the
4 determination that a prospective or current employee has a
5 disqualifying criminal conviction, or for the lawful disclosure of a
6 disqualifying criminal conviction to an employer, when an airport
7 operator has reasonably and in good faith relied upon the accuracy and
8 completeness of criminal history record background information
9 furnished to it by the Division of State Police or the Federal Bureau of
10 Investigation. An airport operator who acts upon or discloses
11 information pertaining to a disqualifying criminal conviction of a
12 prospective or current employee shall be presumed to be acting in
13 good faith unless it is shown by clear and convincing evidence that the
14 airport operator acted with actual malice toward the person who is the
15 subject of the information.

16 No cause of action against an employer for damages shall exist for
17 acting upon information received from an airport operator that a
18 current employee has a disqualifying criminal conviction, when the
19 employer has reasonably and in good faith relied upon the
20 determination made by the airport operator that the current employee
21 has a disqualifying criminal conviction. An employer at the airport
22 who acts upon information pertaining to a disqualifying criminal
23 conviction of a current employee shall be presumed to be acting in
24 good faith unless it is shown by clear and convincing evidence that the
25 employer acted with actual malice toward the person who is the
26 subject of the information.

27 f. The airport operator shall review the criminal history record of
28 a current or prospective employee covered by this section to determine
29 whether that employee has a disqualifying criminal conviction in his
30 background. A disqualifying criminal conviction shall be evidenced by
31 a criminal history record background check which reveals a conviction
32 within the preceding 10 years of any of the following:

33 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
34 N.J.S.2C:11-5 or N.J.S.2C:11-6;

35 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
36 N.J.S.2C:12-3;

37 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal restraint
38 in violation of N.J.S.2C:13-2, interference with custody in violation of
39 N.J.S.2C:13-4, criminal coercion in violation of N.J.S.2C:13-5 or
40 luring or enticing a child in violation of section 1 of P.L.1993, c.291
41 (C.2C:13-6);

42 (4) any aggravated sexual assault or sexual assault in violation of
43 N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
44 sexual contact in violation of N.J.S.2C:14-3;

45 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
46 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

- 1 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;
- 2 (7) any arson or related offense in violation of N.J.S.2C:17-1,
- 3 causing or risking widespread injury or damage in violation of
- 4 N.J.S.2C:17-2, any crime of criminal mischief in violation of
- 5 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks
- 6 or identification numbers in violation of section 1 of P.L.1983, c.351
- 7 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7 et seq.);
- 8 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
- 9 criminal trespass in violation of N.J.S.2C:18-3;
- 10 (9) any crime of theft in violation of chapter 20 of Title 2C of the
- 11 New Jersey Statutes;
- 12 (10) any crime of forgery and fraudulent practices in violation of
- 13 chapter 21 of Title 2C of the New Jersey Statutes;
- 14 (11) any crime of bribery and corrupt influence in violation of
- 15 chapter 27 of Title 2C of the New Jersey Statutes;
- 16 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
- 17 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
- 18 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 19 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 20 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
- 21 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 22 (15) any crime in violation of chapter 35 of Title 2C of the New
- 23 Jersey Statutes;
- 24 (16) any crime in violation of chapter 36 of Title 2C of the New
- 25 Jersey Statutes;
- 26 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
- 27 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
- 28 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
- 29 (C.2C:39-16);
- 30 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
- 31 al.);
- 32 (19) any crime in violation of sections 2 through 5 of the
- 33 "September 11th, 2001 Anti-Terrorism Act," P.L. , c. (C.)
- 34 (now before the Legislature as Assembly Bill No. 911(2R) of 2002;
- 35 (20) any of the following federal offenses: registration violations
- 36 involving aircraft not providing air transportation as defined in 49
- 37 U.S.C. s.46306; interference with air navigation as defined in 49
- 38 U.S.C. s.46308; transporting hazardous material as defined in 49
- 39 U.S.C. s.46312; aircraft piracy as defined in 49 U.S.C. s.46502;
- 40 interference with flight crew members and attendants as defined in 49
- 41 U.S.C. s.46504; application of certain criminal laws to acts on aircraft
- 42 as defined in 49 U.S.C. s.46506; carrying a weapon or explosive on an
- 43 aircraft as defined in 49 U.S.C. s.46505; false information and threats
- 44 as defined in 49 U.S.C. s.46507; lighting violations involving
- 45 transporting controlled substances by aircraft not providing air
- 46 transportation as defined in 49 U.S.C. s.46315; entering aircraft or

1 airport area in violation of security requirements as defined in 49
2 U.S.C. s.46314; destruction of aircraft or aircraft facilities as defined
3 in 18 U.S.C. s.32; espionage as defined in 18 U.S.C. ss.793, 794, 798,
4 or 3077; treason, sedition and subversive activities as defined in 18
5 U.S.C. ss.2381, 2384 and 2385; a violation of 50 U.S.C. s.783;
6 violence at international airports as defined in 18 U.S.C. s.37; or
7 conspiracy or solicitation as defined in 18 U.S.C. ss. 371 and 373; or
8 (21) an attempt or conspiracy to commit any of the offenses
9 specified in paragraphs (1) through (20) of this subsection.

10 g. Upon receipt of the criminal history record background
11 information from the Division of State Police and Federal Bureau of
12 Investigation for a prospective or current employee, the airport
13 operator shall notify the prospective or current employee, in writing,
14 of the prospective or current employee's qualification or
15 disqualification for employment. If the prospective or current
16 employee is disqualified, the convictions that constitute the basis for
17 the disqualification shall be identified in the written notice to the
18 prospective or current employee. Unless otherwise specified by law
19 or regulation, the prospective or current employee shall have 14 days
20 from the date of the written notice of disqualification to challenge the
21 accuracy of the criminal history record background information. If no
22 challenge is filed or if the determination of the accuracy of the criminal
23 history record background information upholds the disqualification,
24 the airport operator shall notify the employer that the prospective or
25 current employee has been disqualified from employment. When the
26 airport operator determines that employment in a position to which the
27 provisions of this section apply should be terminated pursuant to this
28 section, the current employee shall be afforded notice in writing and
29 the right to be heard and offer proof in opposition to such
30 determination in accordance with the rules and regulations
31 promulgated pursuant to subsection c. of this section.

32 h. The Division of State Police shall promptly notify the airport
33 operator in the event a prospective or current employee, who was the
34 subject of a criminal history record background check conducted
35 pursuant to subsection d. of this section, is convicted of a crime or
36 offense in this State after the date the background check was
37 performed. Upon receipt of such notification, the airport operator
38 shall make a determination regarding the eligibility for employment of
39 the prospective or current employee.

40 i. Every employee shall have a continuing obligation to promptly
41 notify the employee's employer and the airport operator of any
42 conviction of a crime punishable by more than one year in prison. The
43 failure to so notify the employer and airport operator shall be grounds
44 for immediate termination of employment.

45 j. This section shall apply to all prospective employees on the
46 effective date thereof. Airport operators shall require the criminal

1 history record background checks to be conducted on all current
2 employees within 90 days of the effective date of this section.

3

4 3. Section 1 of this act shall take effect upon the enactment into
5 law by the State of New York of legislation having an identical effect
6 with this section, but if the State of New York shall have already
7 enacted such legislation, section 1 shall take effect immediately, and
8 section 2 shall take effect on the 90th day after enactment of this act.
9 Airport operators and the Division of State Police shall take such
10 anticipatory administrative action in advance as shall be necessary for
11 the implementation of this act.

12

13

14

STATEMENT

15

16 This bill would strengthen airport security by requiring all current
17 and prospective employees who have access to those areas of airports
18 covered by the bill to which access generally is controlled through the
19 screening of persons and property, to undergo a criminal history
20 record background check. The bill would also prohibit employment
21 of those individuals who have been convicted of certain enumerated
22 crimes. The bill imposes a continuing obligation on the Division of
23 State Police and employees to notify the airport operator of a
24 conviction of a current or prospective employee that was not
25 previously reported.

26 This bill is intended to take effect upon the enactment into law by
27 the State of New York of legislation having an identical effect. By this
28 legislation, the Legislatures of New Jersey and New York intend to
29 establish uniform procedures to strengthen airport security at those
30 airports operated by the Port Authority of New York and New Jersey
31 and those regulated by the Federal Aviation Administration.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1507

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2002

The Senate Transportation Committee reports without recommendation and with committee amendments Senate Bill No. 1507.

This amended bill requires certain current and prospective employees at certain airports in the State to undergo criminal history record background checks and prohibits their employment if they have a disqualifying conviction revealed by such checks. Employees falling under the provisions of this bill are those providing services in the "sterile area" of the airport, which area is defined as that portion of an airport that provides passengers access to boarding aircraft and to which the access generally is controlled through the screening of persons and property in accordance with a security program approved by the Federal Aviation Administration (FAA). Employees who are subject to fingerprint based criminal history record background checks mandated by federal law or rules or regulations are not subject to this bill.

Airports covered by this bill are those commercial service airport facilities conducting business pursuant to Title 14 of the Code of Federal Regulations, Part 139 located wholly within New Jersey operating pursuant to an airport security program approved by the FAA and operated either by the Port Authority of New York and New Jersey or a State or local government unit, agency or public authority that operates an airport that serves an aircraft operator. Airports currently falling under the provisions of the bill are Newark International Airport, Trenton-Mercer Airport and Atlantic City International Airport.

This bill permits an airport operator to receive criminal history record background information concerning current and prospective employees from the Division of State Police and the Federal Bureau of Investigation, Criminal Justice Information Service in order to determine employment eligibility. The airport operator shall review the criminal history background record to determine if the employee has a disqualifying conviction within the preceding 10 years. The current or prospective employee shall be notified in writing of the

employee's qualification or disqualification for employment. A challenge to the accuracy of the background information is provided for, as is a hearing in case of a terminated employee. Every employee shall have a continuing obligation to promptly notify the employee's employer and the airport operator of conviction of a crime punishable by more than one year in prison. For its part, the State Police shall promptly notify the airport operator in the event a prospective or current employee, who was the subject of a background check, is convicted of a crime or offense in New Jersey after the date the background check was performed. The disqualifying crimes enumerated in the bill deal with certain violations of New Jersey's criminal code, such as arson, car jacking and bribery, or violations of federal law, such as interference with air navigation or espionage. The bill's provisions are to apply to all prospective employees subject to sections 1 or 2 of the bill on that section's respective effective date. Airport operators shall require the background checks to be initiated on current employees within 90 days of the respective effective dates. The provisions of the bill applicable to the airports operated by the Port Authority of New York and New Jersey (section 1) are to take effect upon the enactment of companion legislation by the State of New York. The provisions of this bill applicable to airport operators other than the Port Authority of New York and New Jersey (section 2) are to take effect on the 90th day after enactment of the bill into law.

The committee amended the bill to clarify the definition of airport, to specify the Criminal Justice Information Service as that branch of the FBI to be involved in the background checks, to clarify the procedures and requirements of background checks, and to provide that the checks are to be initiated, rather than conducted, on current employees within 90 days of the relevant effective dates.

FISCAL NOTE
[First Reprint]
SENATE, No. 1507
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: JULY 16, 2002

SUMMARY

Synopsis: Prohibits employment at certain airports of individuals convicted of certain crimes.

Type of Impact: None. Fees paid by employees would defray State costs.

Agencies Affected: Division of State Police.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$64,330	\$67,547	\$70,924
State Revenue	\$64,330	\$67,547	\$70,924

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! Requires current or prospective employees at certain commercial airports to undergo and pass criminal history record background checks.
- ! Any fees imposed by the Division of State Police and the Federal Bureau of Investigation for background checks are to be borne by the employees.
- ! Imposes a continuing obligation on the Division of State Police and employees to notify the airport operator of a convictions occurring after the background check.

BILL DESCRIPTION

Senate Bill No. 1507 (1R) of 2002 requires certain current and prospective employees at certain airports in the State to undergo criminal history record background checks and prohibits their employment if they have a disqualifying conviction revealed by such checks. Airports covered by this bill are Newark International Airport, Trenton-Mercer Airport and Atlantic City International Airport.

Criminal history record background checks would be conducted by submitting an employee or prospective employees fingerprints to the Division of State Police. The division would search its criminal records and request a national record check through the Federal Bureau of Investigation. Disqualifying crimes include violations of the New Jersey criminal code and

certain violations of federal law.

The State Police are required to notify the airport operators in the event a prospective or current employee, who was the subject of a background check, is convicted of a crime or offense after the completion of the background check.

Any fees imposed by the Division of State Police and the Federal Bureau of Investigation for background checks are to be borne by the employees.

Employees required to receive background checks under federal law are not subject to provisions of this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Law and Public Safety's estimate of the cost to administer a similar bill introduced in the current session is \$64,330 for the first year. Included in this estimate are salary costs of \$29,200 for a fingerprint technician and \$22,600 for a clerk typist, and fringe benefit costs of \$12,500. After adjusting for inflation of 5 percent per year, the division estimates the second and third year costs of this bill at \$67,515 and \$70,891, respectively.

According to the department, approximately 850 current employees of airport operators, in addition to the number of prospective employees, will be subjected to criminal history record background checks under the terms of this bill.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the Executive estimate. However, OLS notes that the fee imposed by the bill on current and prospective employees of airport operators should defray any State costs. The current fee for a State and federal background check is approximately \$50.

Section: *Law and Public Safety*

Analyst: *Kristen A. Fischer*
Associate Fiscal Analyst

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

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

?		?		
?	?	?	?	?

Press Releases

PO BOX 004
TRENTON, NJ 08625

Contact: Paul Aronsohn
609-777-2600

RELEASE: August 15, 2002

[Previous Screen](#)

McGreevey Signs Law Requiring Fingerprinting and Background Checks on Additional Airport Employees

Governor says new law will strengthen security at New Jersey's airports

(NEWARK)—Reinforcing his commitment to increase security at New Jersey's airports, Governor James E. McGreevey signed legislation into law today that calls for expanded background checks for more airport employees.

"The safety of our airports, waterways and roadways has been, and will continue to be, a top priority of my administration," McGreevey said. "New Jersey is the first state in the nation to enact a strong, tough law that will disqualify persons with certain criminal convictions from working in secure areas of our airports, which are the areas between the security scanners and the boarding ramps."

Joined by 1st Assistant Attorney General and legislative sponsors, the Governor said the new law will require all current and prospective employees who have access to secure, or sterile, areas of airports to undergo fingerprinting and criminal history background checks. This includes any employee who works beyond security check points, such as those who work at retail outlets, restaurants or as custodians. Currently, the federal government only requires employees who have access to cargo, baggage or the areas where aircraft are located to undergo background checks.

Sponsored by Senators Joseph Coniglio (D-Bergen) and Andrew Ciesla (R-Monmouth, Ocean), Assembly Bill 2359/ Senate Bill 1507 passed unanimously on June 27, 2002. The Assembly version of the bill was sponsored by Assemblymembers Joan Quigley (D-Bergen, Hudson), Bob Smith (D-Middlesex, Somerset) and Gary Guear (D-Mercer, Middlesex) and unanimously passed the Assembly on June 20, 2002.

"I would like to thank Senators Coniglio and Ciesla, as well as Assemblywoman Quigley and Assemblymen Smith and Guear, for their leadership in getting this legislation passed," said McGreevey. "Undoubtedly, this new law will be an important step toward the enhanced security of our regional airports as we continue to work in a bi-state and cooperative fashion to protect the safety of the traveling public."

"This legislation will require that all personnel, current and prospective, who have access to secure areas of our commercial airports undergo complete background checks," said Coniglio.

“It will bar employees convicted of homicide, kidnapping, sexual assault, forgery, racketeering, arson or many other crimes from working in those secure areas. Hopefully, this legislation will be a model for other states in the nation to follow, so we can declare in one, unified voice that though September 11th has shaken us, we will not be beaten by fear.”

Specifically, the bill would prohibit individuals convicted of certain serious crimes from gaining employment at an airport, including violent crimes, kidnapping, sexual assault, robbery and burglary, bias intimidation, bribery and corruption, perjury and false swearing, impersonation of a law enforcement officer and tampering with evidence or jurors.

The Administration developed this initiative in collaboration with the State of New York, Office of Public Safety and the Port Authority of New York and New Jersey to ensure that both states have concurrent legislation that can be implemented at all airports operated by the Port Authority of New York and New Jersey, and at all commercial airports. New York’s legislation is currently pending.

The New Jersey legislation would apply to Newark International, Mercer County and Atlantic City airports. At Newark International Airport, there are about 100 vendors and businesses located in the secure, or sterile, areas employing approximately 850 people who would be required to undergo background checks. Currently, sterile area employees at Mercer and Atlantic City airports are subject to federal background checks since they all have access to the ramp or baggage areas.

The airport operator, who is authorized to receive criminal history record information from the State Police, would obtain two sets of fingerprints from prospective or current employees. The State Police, Port Authority or a designated vendor would then receive the fingerprints and fees and proceed with a full search. The results will be returned to the airport operator who will determine whether the employee or applicant is eligible for employment. The employees and prospective employees will be responsible for the cost of the background check.

Upon enabling legislation passing in New York, the Port Authority will implement the new standards within 90 days. Background checks on current employees would be required to be complete within 180 days after enactment. The provisions applicable to Mercer County and Atlantic City airports will take effect 90 days after enactment.

Governor McGreevey has made the safety and security of New Jersey a top priority in his administration. Recently, the Governor has taken numerous steps to enhance public safety including:

- Announced the State Police Model Troop Initiative, creation of three State Police Command Operations Centers around the State, and implementation of NCIC
- Signed the September 11th Anti-Terrorism Act, which makes a number of terrorism-related offenses part of the State’s Criminal Code as a first degree crime
- Signed an Executive Order to reduce identity theft, forgery and fraud in the issuance of all vital records, including birth, marriage, and death certificates as well as county identifications
- Announced \$27.2 million in federal funds to strengthen the State’s public health care infrastructure and improve hospital preparedness
- Announced the construction of state-of-the-art training facilities for New Jersey’s law enforcement officers, improved network systems, three regional training centers and a new headquarters for the New Jersey State Police.

Created the Office of Counter Terrorism, led by Kathryn Flicker, which is strengthening New Jersey's antiterrorism law enforcement efforts and serving as a liaison with federal and local law enforcement agencies to improve coordinated efforts among all levels of law enforcement.



State of New Jersey Governor's Office

statewide: [nihome](#) | [my new jersey](#) | [people](#) | [business](#) | [government](#) | [departments](#) | [search](#)
Copyright © State of New Jersey, 2002