

# 2A:168A-7

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 327  
**NJSA:** 2A:168A-7            (Establishes certificate of rehabilitation for certain persons with criminal records)  
**BILL NO:** A3623                (Substituted for S2387)

**SPONSOR(S):** Watson Coleman and others

**DATE INTRODUCED:** October 23, 2006

**COMMITTEE:**                    **ASSEMBLY:** Law and Public Safety

**SENATE:**

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** January 7, 2008

**SENATE:** January 7, 2008

**DATE OF APPROVAL:** January 13, 2008

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute enacted)

**A3623**

[SPONSOR'S STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

**S2387**

[SPONSOR'S STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes [12-17-07 \(L & PS & VA\)](#)  
[1-3-08 \(B & A\)](#)

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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LAW/IS 6/20/08

P.L. 2007, CHAPTER 327, *approved January 13, 2008*  
Assembly Committee Substitute for  
Assembly, No. 3623

1 AN ACT concerning certificates suspending certain employment or  
2 occupational disabilities related to criminal conviction and  
3 supplementing Chapter 168A of Title 2A of the New Jersey  
4 Statutes.

5

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

8

9 1. a. Notwithstanding any law to the contrary, a certificate may  
10 be issued in accordance with the provisions of this act that suspends  
11 certain disabilities, forfeitures or bars to employment or  
12 professional licensure or certification that apply to persons  
13 convicted of criminal offenses.

14 b. A certificate issued pursuant to this act shall have the effect of  
15 relieving disabilities, forfeitures or bars, except those established or  
16 required by federal law, to:

17 (1) public employment, as defined in this section;

18 (2) qualification for a license or certification to engage in the  
19 practice of a profession, occupation or business, except the practice  
20 of law; or

21 (3) admission to an examination to qualify for such a license or  
22 certification, except for the bar examination, or an examination for  
23 a law enforcement, homeland security, or emergency management  
24 position.

25 A certificate issued pursuant to this act may be limited to one or  
26 more enumerated disabilities, forfeitures or bars, or may relieve the  
27 subject of all disabilities, forfeitures or bars that may be affected by  
28 the act.

29 c. For purposes of this act:

30 (1) "Public employment" shall mean employment by a State,  
31 county, or municipal agency, but shall not include elected office, or  
32 employment in law enforcement, corrections, the judiciary, in a  
33 position related to homeland security or emergency management, or  
34 any position that has access to sensitive information that could  
35 threaten the public health, welfare, or safety.

36 (2) "Qualified offender" refers to a person who has one criminal  
37 conviction or who has convictions for more than one crime charged  
38 in separate counts of one indictment or accusation. Multiple  
39 convictions charged in two indictments or two accusations, or one  
40 indictment and one accusation filed in the same court prior to entry

1 of judgment under any of them, shall be deemed to be one  
2 conviction. Convictions of crimes entered more than 10 years prior  
3 to an application for a certificate under this act shall not be  
4 considered in determining whether a person has one criminal  
5 conviction. In the case of a person seeking relief at the time of  
6 sentencing, qualified offender means a person who will have one  
7 conviction, as set forth in this paragraph, upon sentencing and  
8 issuance of the judgment of conviction.

9 (3) "Supervising authority" shall mean the court in the case of a  
10 person who was subject to probation or who was not required to  
11 serve a period of supervision, or the State Parole Board in the case  
12 of a person who was under parole supervision.

13

14 2. A certificate may be issued pursuant to this act as follows:

15 a. (1) A court, in its discretion, may issue a certificate at the  
16 time of sentencing if the applicant:

17 (a) is a qualified offender, who is being sentenced to a non-  
18 incarcerative sentence for a second, third or fourth degree crime;

19 (b) has established that a specific licensing or employment  
20 disqualification, forfeiture or bar, will apply to him, and may  
21 endanger his ability to maintain existing public employment or  
22 employment for which he has made application, or to engage in a  
23 business enterprise for which a license or certification is required;

24 (c) has no pending criminal charges, and there is no information  
25 presented that such a charge is imminent; and

26 (d) has established that the relief is consistent with the public  
27 interest.

28 (2) A certificate issued under this subsection shall apply only to  
29 the specific disability, forfeiture or bar that is affected, which must  
30 be specifically described in the certificate document.

31 b. (1) A supervising authority may issue a certificate in regard  
32 to a qualified offender who is, or had previously been, under  
33 supervision by the supervising authority if the supervising authority  
34 determines that:

35 (a) the applicant is convicted of a second, third or fourth degree  
36 offense and is eligible for relief under subsection c. of this section;

37 (b) the applicant has not been convicted of a crime since the  
38 conviction for which he is under supervision, has no pending  
39 criminal charge, and there is no information presented that such a  
40 charge is imminent;

41 (c) issuing the certificate will not pose a substantial risk to  
42 public safety; and

43 (d) issuing the certificate will assist in the successful  
44 reintegration of the offender and is consistent with the public  
45 interest.

46 (2) A certificate issued pursuant to this subsection may suspend  
47 disabilities, forfeitures and bars generally within the limits of this

1 act, or only certain disabilities, forfeitures and bars, specifically  
2 named in the certificate document.

3 c. A qualified offender is eligible for relief under subsection b.  
4 of this section if the offender has not been convicted of:

5 (1) a first degree crime;

6 (2) an offense to which section 2 of P.L.1997, c.117 (C.2C:43-  
7 7.2) applies;

8 (3) a second degree offense defined in chapters 13, 14, 15, 16,  
9 24, 27, 30, 33, 38 of Title 2C of the New Jersey Statutes;

10 (4) a violation of subsection a. of N.J.S.2C:24-4 or paragraph (4)  
11 of subsection b. of N.J.S.2C:24-4;

12 (5) a crime requiring registration pursuant to section 2 of  
13 P.L.1994, c.133 (C.2C:7-2);

14 (6) a crime committed against a public entity or against a public  
15 officer;

16 (7) a crime enumerated in subsection b. of section 2 of P.L.  
17 2007, c.49 (C.43:1-3.1) committed by a public employee, which  
18 involves or touches upon the employee's office, position or  
19 employment, such that the crime was related directly to the person's  
20 performance in, or circumstances flowing from, the specific public  
21 office or employment held by the person;

22 (8) any crime committed against a person 16 years of age or  
23 younger, or a disabled or handicapped person; or

24 (9) a conspiracy or attempt to commit any of the crimes  
25 described in this subsection.

26 d. (1) A supervising authority may issue a certificate in regard  
27 to a qualified offender, when three years have passed since the  
28 applicant has completed the incarcerative or supervisory portion of  
29 his sentence, whichever is later, and the supervising authority finds  
30 that:

31 (a) the applicant is eligible for such relief as defined in  
32 subsection e. of this section;

33 (b) issuing the certificate does not pose a substantial risk to  
34 public safety; and

35 (c) issuing the certificate will assist in the successful  
36 reintegration of the offender and is consistent with the public  
37 interest.

38 (2) The certificate issued pursuant to this subsection may  
39 suspend disabilities, forfeitures and bars generally within the limits  
40 of this act, or only certain disabilities, forfeitures and bars  
41 specifically named in the certificate document.

42 e. A qualified offender is eligible for relief under subsection d.  
43 of this section if he has remained without criminal involvement  
44 since his conviction, including that he has not subsequently been  
45 convicted of a crime, has no pending charges for any crime, and  
46 there is no information presented that such a charge is imminent;  
47 and is applying for relief from a conviction other than:

- 1 (1) a first degree crime;
- 2 (2) any of the offenses to which section 2 of P.L.1997, c.117
- 3 (C.2C:43-7.2) applies;
- 4 (3) a violation of subsection a. of N.J.S.2C:24-4 or paragraph
- 5 (4) of subsection b. of N.J.S.2C:24-4;
- 6 (4) a crime requiring registration pursuant to section 2 of
- 7 P.L.1994, c.133 (C.2C:7-2);
- 8 (5) a crime enumerated in subsection b. of section 2 of P.L.
- 9 2007, c.49 (C.43:1-3.1) committed by a public employee, which
- 10 involves or touches upon the employee's office, position or
- 11 employment, such that the crime was related directly to the person's
- 12 performance in, or circumstances flowing from, the specific public
- 13 office or employment held by the person;
- 14 (6) a crime committed against a person 16 years of age or
- 15 younger, or a disabled or handicapped person; or
- 16 (7) a conspiracy or attempt to commit any offense described in
- 17 this paragraph.
- 18
- 19 3. A certificate issued pursuant to this act shall be presumptive
- 20 evidence of the subject's rehabilitation when considered in regard to
- 21 public employment as defined in this act, or in conjunction with any
- 22 licensing, or certification process to which this act applies, which in
- 23 any particular case may or may not be overcome by other evidence
- 24 or information. A certificate granted under this act shall not
- 25 prevent any judicial, administrative, licensing or other body, board,
- 26 authority or public official from relying on grounds other than the
- 27 fact of the criminal conviction in exercising any discretionary
- 28 authority, if any, to suspend, revoke, refuse to issue or refuse to
- 29 renew any license, permit or other authority or privilege or to
- 30 determine eligibility or suitability for employment.
- 31
- 32 4. In all cases, the applicant or the supervising authority shall
- 33 provide notice to the prosecutor of either the issuance of a
- 34 certificate or the pendency of an application for a certificate, or
- 35 both, pursuant to procedures that shall be developed and published
- 36 by the supervising authority within thirty days of the effective date
- 37 of this act.
- 38
- 39 5. a. A certificate granted pursuant to this act shall no longer be
- 40 valid if the person who is the subject of the certificate is indicted
- 41 for a first or second degree crime or convicted of a crime.
- 42 b. Upon presentation of satisfactory proofs that the criminal
- 43 charges or indictment have been dismissed, or of an acquittal after
- 44 trial, a certificate revoked under the circumstances described in
- 45 subsection a. of this section may be reinstated by the issuing entity.
- 46 c. A certificate may be revoked at any time upon application of
- 47 the prosecutor or on the supervising authority's own initiative when

1 information is received that circumstances have materially changed  
2 such that the relief would not be authorized under this act or is no  
3 longer in the public interest. The supervising authority revoking  
4 such a certificate shall notify the subject of the certificate of the  
5 revocation.

6 d. In addition to any other offense that may apply, a person who  
7 knowingly uses or attempts to use a revoked certificate, or a  
8 certificate that is no longer valid, in order to obtain a benefit or  
9 avoid a disqualification shall be guilty of a disorderly persons  
10 offense. For the purposes of this subsection, "uses or attempts to  
11 use," shall include knowing failure to disclose to an employer or  
12 other affected public entity the revocation or invalidity of a  
13 certificate.

14  
15 6. This act shall not apply to private employers. A private  
16 employer may, in its sole and complete discretion, consider a  
17 certificate issued under this statute in making employment  
18 decisions. Nothing in this section shall be construed to create any  
19 right, privilege, or duty or to change any right, privilege, or duty  
20 existing under law.

21  
22 7. The State Parole Board and the Administrative Office of the  
23 Courts shall report to the Governor and the Legislature on or before  
24 the first day of the thirteenth month after the effective date of this  
25 act an evaluation of the effectiveness of the implementation of this  
26 act, including the number of applications received, considered and  
27 granted under the act. Entities issuing certificates shall develop a  
28 system of recording the certificates and provide information to  
29 prospective employers regarding whether a certificate has been  
30 issued or is valid.

31  
32 8. The Department of Labor and Workforce Development shall  
33 prepare a report detailing the impact of a prior criminal conviction  
34 on private employment opportunities for ex-offenders. The  
35 department shall consult with the State Parole Board, and may  
36 consult with and seek the assistance of other executive branch  
37 agencies, municipalities, agencies and any interested parties. The  
38 report shall include identification of barriers faced by ex-offenders  
39 seeking private employment, including those set forth in law,  
40 regulation and policies of private employers. The report shall  
41 analyze the effect of the hiring policies of employers with more  
42 than 100 employees on the employment of ex-offenders. In order to  
43 encourage cooperation, identities of employers and entities  
44 contacted in the course of preparing the report shall remain  
45 confidential. The results of this study shall be reported to the  
46 Governor and the Legislature within 180 days from the effective  
47 date of this act.

1       9. Nothing in this act shall be deemed to alter, limit or affect the  
2 manner of applying for pardons to the Governor, and a certificate  
3 issued under this act shall not be deemed or construed to be a  
4 pardon.

5  
6       10. The State Parole Board shall promulgate any regulations or  
7 issue guidelines necessary to effectuate the provisions of this act.  
8 The court may publish rules or guidelines to implement this act.

9  
10       11. This act shall take effect on the first day of the seventh  
11 month after enactment, except that section 8 shall take effect  
12 immediately. State departments and agencies may take such  
13 anticipatory administrative action in advance thereof as shall be  
14 necessary for the implementation of this act.

15

16

17

18

19       \_\_\_\_\_

20       Establishes certificate of rehabilitation for certain persons with  
criminal records.



# ASSEMBLY, No. 3623

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 23, 2006

**Sponsored by:**

Assemblywoman **BONNIE WATSON COLEMAN**

District 15 (Mercer)

Assemblyman **WILLIAM D. PAYNE**

District 29 (Essex and Union)

**Co-Sponsored by:**

Assemblywoman Evans

**SYNOPSIS**

Establishes certificate of rehabilitation for certain persons with criminal records.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/11/2007)

1 AN ACT establishing a certificate of rehabilitation and  
2 supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. For the purposes of this act:

8 "Conviction" means a finding of guilt in a tribunal of original  
9 jurisdiction and including a plea or finding of guilt upon which  
10 sentence or the execution of sentence has been suspended or upon  
11 which a sentence of probation, conditional discharge, or supervisory  
12 treatment has been imposed.

13 "Direct relationship" means that the nature of criminal conduct  
14 for which the person was convicted has a direct bearing on the  
15 person's fitness or ability to perform one or more of the duties or  
16 responsibilities necessarily related to the license or employment  
17 sought.

18 "Eligible offender" means a person who has been convicted of  
19 one or more crimes of the first, second, third, or fourth degree, or  
20 one or more disorderly persons offenses, and has not been  
21 sentenced to a State or county correctional facility.

22 "Eligible serious offender" means a person who has been  
23 convicted of one or more crimes of the first, second, third, or fourth  
24 degree, or one or more disorderly persons offenses, and was  
25 committed to a State or county correctional facility, or a person who  
26 has been convicted of such a crime or offense in any other  
27 jurisdiction and is a resident of this State.

28 "Employment" means any occupation, vocation or employment,  
29 or any form of vocational or educational training, but does not  
30 include membership in any law enforcement agency.

31 "License" means any certificate, license, permit or grant of  
32 permission required by the laws of this State or of any political  
33 subdivision thereof, or of any instrumentality of this State or its  
34 political subdivisions, as a condition for the lawful practice of any  
35 occupation, employment, trade, vocation, business, or profession,  
36 but does not include any license or permit to own, possess, carry, or  
37 discharge a firearm.

38 "Private employer" means any person, company, corporation,  
39 labor organization or association which employs 10 or more  
40 persons.

41 "Public agency" means the State or any local subdivision thereof,  
42 or any State or local department, agency, board or commission.

43 "Revocable sentence" means a suspended sentence or a sentence  
44 upon which execution was suspended; or a sentence of probation,  
45 conditional discharge, or supervisory treatment.

46

47 2. a. A certificate of rehabilitation may be granted as provided  
48 in this act to relieve an eligible offender or eligible serious offender

1 of any forfeiture or disability, or to remove any bar to the offender's  
2 employment, automatically imposed by law by reason of the  
3 offender's conviction of the crime or offense. The certificate may  
4 be limited to one or more enumerated forfeitures, disabilities or  
5 bars, or may relieve the eligible offender or eligible serious  
6 offender of all forfeitures, disabilities and bars. But the certificate  
7 shall not apply, or be construed to apply, to the right of the offender  
8 to retain or be eligible for public office.

9 b. Notwithstanding any other provision of law, a conviction of a  
10 crime or offense specified in a certificate of rehabilitation shall not  
11 cause automatic forfeiture of any license, employment or franchise,  
12 or automatic forfeiture of any other right or privilege, held by the  
13 eligible offender or eligible serious offender and covered by the  
14 certificate. Nor shall the conviction be deemed to be a conviction  
15 within the meaning of any provision of law that imposes, by reason  
16 of a conviction, a bar to any employment, a disability to exercise  
17 any right or a disability to apply for or to receive any license,  
18 permit or other authority or privilege, covered by the certificate.

19 c. A certificate of rehabilitation shall not prevent any judicial,  
20 administrative, licensing or other body, board or authority from  
21 relying upon the conviction as the basis for the exercise of its  
22 discretionary power to suspend, revoke, refuse to issue or refuse to  
23 renew any license, permit or other authority or privilege in  
24 accordance with the provisions of section 3 of this act.

25

26 3. Notwithstanding any other provision of law to the contrary,  
27 an application for any license or employment, to which the  
28 provisions of this act are applicable, shall not be denied by reason  
29 of the applicant having been previously convicted of one or more  
30 crimes or offenses, or by reason of a finding of lack of "good moral  
31 character" when such finding is based upon the fact that the  
32 applicant has previously been convicted of one or more crimes or  
33 offenses, unless:

34 a. There is a direct relationship between one or more of the  
35 previous crimes or offenses and the specific license or employment  
36 sought; or

37 b. The issuance of the license or granting of employment would  
38 involve an unreasonable risk to property or to the safety or welfare  
39 of specific persons or the general public.

40

41 4. a. In making a determination pursuant to section 3 of this act,  
42 the public agency or private employer shall consider the following  
43 factors:

44 (1) The public policy of this State, as expressed in this act, to  
45 encourage the licensure and employment of persons previously  
46 convicted of one or more crimes or offenses;

47 (2) The specific duties and responsibilities necessarily related to  
48 the license or employment sought;

1 (3) The bearing, if any, the crime or offense for which the  
2 offender was previously convicted will have on the offender's  
3 fitness or ability to perform one or more such duties or  
4 responsibilities;

5 (4) The time which has elapsed since the occurrence of the crime  
6 or offense;

7 (5) The age of the offender at the time of occurrence of the crime  
8 or offense;

9 (6) The seriousness of the crime or offense;

10 (7) Any information produced by the offender, or produced on  
11 the offender's behalf, in regard to the offender's rehabilitation and  
12 good conduct; and

13 (8) The legitimate interest of the public agency or private  
14 employer in protecting property, and the safety and welfare of  
15 specific persons or the general public.

16 b. In making a determination pursuant to section 3 of this act,  
17 the public agency or private employer also shall consider the  
18 certificate of rehabilitation issued to the applicant, which shall  
19 create a presumption of rehabilitation in regard to the crime or  
20 offense specified on the certificate.

21  
22 5. At the request of any person previously convicted of one or  
23 more crimes or offenses who has been denied a license or  
24 employment, a public agency or private employer shall provide,  
25 within 30 days of a request, a written statement setting forth the  
26 reasons for the denial.

27  
28 6. a. Any court of competent jurisdiction in this State may, in  
29 its discretion, issue a certificate of rehabilitation to an eligible  
30 offender for a conviction that occurred in the court, if the court  
31 imposed either a revocable sentence or a sentence other than one  
32 executed by commitment to a State or county correctional facility.  
33 The certificate may be issued when the sentence is pronounced, in  
34 which case it may grant relief from forfeitures, as well as from  
35 disabilities; or at any time thereafter, in which case it shall apply  
36 only to disabilities.

37 b. The certificate shall not be issued by the court unless the  
38 court is satisfied that:

39 (1) The offender to whom it is to be granted is an eligible  
40 offender, as defined in section 1 of this act;

41 (2) The relief to be granted by the certificate is consistent with  
42 the rehabilitation of the offender; and

43 (3) The relief to be granted by the certificate is consistent with  
44 the public interest.

45 c. If a certificate of rehabilitation is not issued at the time  
46 sentence is pronounced, it shall be issued thereafter upon verified  
47 application to the court. The court may, for the purpose of  
48 determining whether the certificate shall be issued, request the

1 Probation Services Division to conduct an investigation of the  
2 applicant. A probation officer requested to make an investigation  
3 pursuant to this subsection shall prepare and submit to the court a  
4 written report in accordance with the request.

5 d. If the court has imposed a revocable sentence and the  
6 certificate of rehabilitation is issued prior to the expiration or  
7 termination of the time which the court may revoke such sentence,  
8 the certificate shall be deemed to be a temporary certificate until the  
9 time the court's authority to revoke the sentence has expired or is  
10 terminated.

11 (1) The court shall revoke a temporary certificate if the court  
12 revokes the offender's sentence and commits the person to a State  
13 or county correctional facility.

14 (2) The court may revoke a temporary certificate for a violation  
15 of the conditions of the sentence.

16 (3) A revocation shall be upon notice and after an opportunity to  
17 be heard.

18 If the certificate is not revoked, it shall become a permanent  
19 certificate upon expiration or termination of the court's authority to  
20 revoke the sentence.

21 e. Any court that has issued a certificate of rehabilitation may at  
22 any time issue a new certificate to enlarge the relief previously  
23 granted. The provisions of subsections a. through d. of this section  
24 shall apply to the issuance of a new certificate.

25 f. Any applicant whose application for a certificate of  
26 rehabilitation has been denied shall have the right to appeal to the  
27 issuing body if the applicant initiates the appeal within 30 days of  
28 written receipt of the initial decision.

29 g. Any written report submitted to the court pursuant to this  
30 section is confidential and shall not be made available to any person  
31 or public or private agency except where specifically required or  
32 permitted by statute or upon specific authorization of the court. But  
33 it shall be made available by the court for examination by the  
34 offender's attorney, or the offender, if the offender has no attorney.  
35 In its discretion, the court may except from disclosure any part of  
36 the report which is not relevant to the granting of a certificate, or  
37 sources of information which have been obtained on a promise of  
38 confidentiality, or any other portion thereof, disclosure of which  
39 would not be in the interests of justice. The action of the court  
40 excepting information from disclosure shall be subject to appellate  
41 review. The court, in its discretion, may hold a conference in open  
42 court or in chambers to afford the offender an opportunity to  
43 controvert or comment upon any portion of the report. The court  
44 also may conduct a summary hearing at the conference on any  
45 matter relevant to the granting of the application and may take  
46 testimony under oath.

1       7. a. The State Parole Board shall have the power to issue a  
2 certificate of rehabilitation to:

3       (1) Any eligible serious offender who has been committed to a  
4 State or county correctional facility. The certificate may be issued  
5 by the parole board at the time the offender is released from the  
6 facility under the board's supervision or otherwise or at any time  
7 thereafter;

8       (2) Any eligible offender or eligible serious offender who has  
9 completed his or her sentence and has been released without  
10 supervision; or

11       (3) Any eligible offender or eligible serious offender who resides  
12 within this State and whose judgment of conviction was rendered by  
13 a court in any other jurisdiction.

14       b. If the parole board has issued a certificate of rehabilitation, it  
15 may at any time issue a new certificate enlarging the relief  
16 previously granted.

17       c. The parole board shall not issue a certificate of rehabilitation  
18 pursuant to subsections a. or b. of this section unless it is satisfied  
19 that:

20       (1) The person to whom it is to be granted is an eligible serious  
21 offender, as defined in section 1 of this act;

22       (2) The relief to be granted by the certificate is consistent with  
23 the rehabilitation of the offender; and

24       (3) The relief to be granted by the certificate is consistent with  
25 the public interest.

26       d. A certificate of rehabilitation issued by the parole board to an  
27 offender who at time of the issuance of the certificate is under the  
28 board's supervision, shall be deemed to be a temporary certificate  
29 until such time as the offender is discharged from the board's  
30 supervision, and, while temporary, such certificate may be revoked  
31 by the board for a violation of the conditions of parole or release.  
32 Revocation shall be upon notice to the offender, who shall be  
33 accorded an opportunity to explain the violation prior to the  
34 decision to revoke the certificate. If the certificate is not revoked, it  
35 shall become a permanent certificate upon expiration or termination  
36 of the board's jurisdiction over the offender.

37       e. In granting or revoking a certificate of rehabilitation the  
38 action of the parole board shall be by a vote of the members of the  
39 panel authorized to grant or revoke parole.

40       f. For the purpose of determining whether a certificate of  
41 rehabilitation shall be issued, the parole board may conduct an  
42 investigation of the applicant. An applicant whose application for a  
43 certificate has been denied shall have the right to appeal to the  
44 issuing body if the applicant initiates appeal within thirty days of  
45 written receipt of initial decision.

46  
47       8. a. If a certificate of rehabilitation is deemed to be temporary  
48 and the certificate is revoked, disabilities and forfeitures thereby

1 relieved shall be reinstated as of the date upon which the person to  
2 whom the certificate was issued receives written notice of such  
3 revocation. The person shall, upon receipt of such notice, surrender  
4 the certificate to the issuing court or board.

5 b. An offender who knowingly uses or attempts to use, a  
6 revoked certificate of rehabilitation in order to obtain or to exercise  
7 any right or privilege that the offender would not be entitled to  
8 obtain or to exercise without a valid certificate shall be guilty of a  
9 disorderly persons offense.

10  
11 9. a. All applications, certificates and orders of revocation  
12 necessary for the purposes of this act shall be upon forms  
13 prescribed pursuant to agreement among the Commissioner of  
14 Corrections, the Chairman of the State Parole Board and the  
15 Administrative Director of the Courts. Forms relating to certificates  
16 of rehabilitation shall be distributed by the State court system, and  
17 probation and parole departments.

18 b. A court or board issuing or revoking any certificate pursuant  
19 to this act shall immediately file a copy of the certificate, or the  
20 order of revocation, with the State Bureau of Identification in the  
21 Division of State Police.

22  
23 10. Nothing contained in this act shall be deemed to alter, limit  
24 or affect the manner of applying for pardons to the Governor, and a  
25 certificate issued under this act shall not be deemed or construed to  
26 be a pardon.

27  
28 11. a. All licensing authorities must annually report to the  
29 Legislature one year after the effective date of this act the number  
30 of licensure applicants who presented certificates of rehabilitation,  
31 the number of licenses awarded to applicants with conviction  
32 histories, the number of licenses awarded to applicants with  
33 certificates of rehabilitation, the number of applicants with criminal  
34 histories denied licenses, and the number of applicants with  
35 certificates of rehabilitation denied licenses.

36 b. All bodies issuing certificates of rehabilitation must annually  
37 report to the Legislature one year after the effective date of this act  
38 the number of applications made, the number of applications that  
39 are denied, and the number of applications that are granted.

40  
41 12. Any private employer violating sections 3 through 5 of this  
42 act shall, in addition to any other relief or affirmative action  
43 provided by law, be subject to the following civil penalties, which  
44 may be collected with costs in a summary proceeding pursuant to  
45 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
46 10 et seq.).

1 a. A fine of up to \$10,000 if the person has not committed any  
2 prior violation within the five-year period ending on the date of the  
3 filing of this charge;

4 b. A fine of up to \$25,000 if the person has committed one  
5 other violation within the five-year period ending on the date of the  
6 filing of this charge; and

7 c. A fine of up to \$50,000 if the person has committed two or  
8 more violations within the seven-year period ending on the date of  
9 the filing of this charge.

10

11 13. This act shall take effect on the first day of the seventh  
12 month after enactment.

13

14

15

#### STATEMENT

16

17 This bill would establish a certificate of rehabilitation (COR) for  
18 convicted offenders to assist them in procuring public or private  
19 employment from which they would otherwise be barred because of  
20 their conviction. A person who has been issued a COR which lists  
21 a conviction of a specific crime or offense would not automatically  
22 forfeit a license, employment, franchise or any other right or  
23 privilege because of that conviction.

24 The bill specifically prohibits the denial of a license or  
25 employment to applicants who have previously been convicted of a  
26 crime because of the conviction or because of a finding of lack of  
27 "good moral character" based on the conviction unless: (1) there is  
28 a direct relationship between the crimes that were committed and  
29 the specific license or employment sought; or (2) if issuing the  
30 license or granting the employment would involve an unreasonable  
31 risk to property or to the safety or welfare of a specific person or  
32 the public. The bill defines a "direct relationship" as one where the  
33 nature of the criminal conduct for which the person was convicted  
34 has a direct bearing on the person's fitness or ability to perform one  
35 or more of the duties or responsibilities necessarily related to the  
36 license or employment sought.

37 In determining whether either of these standards are met, the  
38 public agency or private employer must consider the following  
39 factors: (1) the public policy of this State, as expressed in the bill,  
40 to encourage the licensure and employment of persons previously  
41 convicted of one or more crimes or offenses; 2) the specific duties  
42 and responsibilities necessarily related to the license or employment  
43 sought; (3) the bearing, if any, the crime or offense for which the  
44 offender was previously convicted will have on the offender's  
45 fitness or ability to perform one or more such duties or  
46 responsibilities; (4) the time which has elapsed since the occurrence  
47 of the crime or offense; (5) the age of the offender at the time of  
48 occurrence of the crime or offense; (6) the seriousness of the crime



1 or offense; (7) any information produced by the offender, or  
2 produced on the offender's behalf, in regard to the offender's  
3 rehabilitation and good conduct; and (8) the legitimate interest of  
4 the public agency or private employer in protecting property, and  
5 the safety and welfare of specific persons or the general public.

6 An applicant who has been issued a COR is to be presumed  
7 rehabilitated in regard to the crime or offense specified on the  
8 certificate. A public agency or private employer who denies a  
9 license or employment to a convicted offender must set forth in  
10 writing the reasons for the denial within 30 days of a request.

11 A COR would be granted by the court if the person has a  
12 revocable sentence or is not otherwise committed to a State or  
13 county correctional facility. The bill defines "revocable sentence"  
14 as a suspended sentence or a sentence upon which execution was  
15 suspended; or a sentence of probation, conditional discharge, or  
16 supervisory treatment. The COR could be issued immediately or  
17 any time thereafter.

18 The State Parole Board would issue a COR to persons who have  
19 been committed to a State or county correctional facility and  
20 subsequently released on parole or who have completed their  
21 sentence and been released without supervision, as well as to  
22 persons who reside in this State but were convicted in another  
23 jurisdiction. The certificate may be issued by the parole board at  
24 the time the offender is released or anytime thereafter.

25 A COR could be revoked by the court or the Parole Board.  
26 Offenders who attempt to use a revoked COR are guilty of a  
27 disorderly persons offense.

28 Private employers violating the anti-discrimination sections of  
29 the bill would be fined up to \$10,000 if the employer has not  
30 committed any prior violation within the five-year period ending on  
31 the date of the filing of this charge; \$25,000 if the employer has  
32 committed one other violation within the five-year period ending on  
33 the date of the filing of this charge; and \$50,000 if the employer  
34 has committed two or more violations within the seven-year period  
35 ending on the date of the filing of this charge.

36 It is the sponsor's intent to more successfully integrate convicted  
37 offenders back into society after their release from incarceration by  
38 encouraging their efforts at employment. It is the sponsor's  
39 understanding that convicted offenders who are able to find and  
40 hold jobs are less likely to reoffend and, therefore, the bill also  
41 would reduce incarceration costs.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3623

# STATE OF NEW JERSEY

DATED: DECEMBER 10, 2007

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3623.

This Assembly Committee substitute for Assembly Bill No. 3623 establishes a program to assist persons with criminal convictions in procuring employment or obtaining professional licenses or certifications under certain circumstances.

Under the substitute, a person with a criminal conviction could apply for a certificate that would relieve disabilities, forfeitures or bars to (1) public employment; (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; and (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement, homeland security, or emergency management position.

“Public employment” is defined in the bill as employment by a State, county, or municipal agency. It does not include elected office, or employment in law enforcement, corrections, or the judiciary, or a position related to homeland security or emergency management.

The bill’s provisions do not apply to private employers, but these employers may consider such a certificate in making employment decisions.

**FISCAL NOTE**  
**ASSEMBLY, No. 3623**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: OCTOBER 24, 2007

**SUMMARY**

**Synopsis:** Establishes certificate of rehabilitation for certain persons with criminal records.

**Type of Impact:** General Fund expenditure.

**Agencies Affected:** State Parole Board, Judiciary, Department of Law and Public Safety

**Executive Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Parole Board Cost</b>	\$1,230,000	\$1,319,000	\$1,381,000
<b>Judiciary Cost</b>	Cannot be determined - see comments below		
<b>Department of Law and Public Safety Cost</b>	\$0	\$0	\$0

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate and the Office of Management and Budget (OMB) estimate that the State Parole Board’s personnel might be able to be phased in over time rather than hired immediately.
- The bill would establish a certificate of rehabilitation (COR) for convicted offenders to assist them in procuring public or private employment from which they would otherwise be barred because of their conviction. A person who has been issued a COR which lists a conviction of a specific crime or offense would not automatically forfeit a license, employment, franchise or any other right or privilege because of that conviction.
- The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would required 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.
- The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel

requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

- The Administrative Office of the Courts (AOC) states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary.
- The Department of Law and Public Safety states that this bill would generate no additional costs for the department

## **BILL DESCRIPTION**

Assembly Bill No. 3623 of 2006 would establish a COR for convicted offenders to assist them in procuring public or private employment from which they would otherwise be barred because of their conviction. A person who has been issued a COR which lists a conviction of a specific crime or offense would not automatically forfeit a license, employment, franchise or any other right or privilege because of that conviction.

The bill specifically prohibits the denial of a license or employment to applicants who have previously been convicted of a crime because of the conviction or because of a finding of lack of “good moral character” based on the conviction unless: (1) there is a direct relationship between the crimes that were committed and the specific license or employment sought; or (2) if issuing the license or granting the employment would involve an unreasonable risk to property or to the safety or welfare of a specific person or the public.

An applicant who has been issued a COR is to be presumed rehabilitated in regard to the crime or offense specified on the certificate. A public agency or private employer who denies a license or employment to a convicted offender must set forth in writing the reasons for the denial within 30 days of a request.

A COR would be granted by the court if the person has a revocable sentence or is not otherwise committed to a State or county correctional facility. The bill defines “revocable sentence” as a suspended sentence or a sentence upon which execution was suspended; or a sentence of probation, conditional discharge, or supervisory treatment. The COR could be issued immediately or any time thereafter.

The State Parole Board would issue a COR to persons who have been committed to a State or county correctional facility and subsequently released on parole or who have completed their sentence and been released without supervision, as well as to persons who reside in this State but were convicted in another jurisdiction. The certificate may be issued by the parole board at the time the offender is released or anytime thereafter.

A COR could be revoked by the court or the Parole Board. Offenders who attempt to use a revoked COR are guilty of a disorderly persons offense.

Private employers violating the anti-discrimination sections of the bill would be fined up to \$10,000 if the employer has not committed any prior violation within the five-year period ending on the date of the filing of this charge; \$25,000 if the employer has committed one other violation within the five-year period ending on the date of the filing of this charge; and \$50,000 if the employer has committed two or more violations within the seven-year period ending on the date of the filing of this charge.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

#### **State Parole Board**

The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would require 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.

The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12,600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

#### **Judiciary**

The AOC states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary. However, court must hold a hearing and consider various factors before awarding a COR. If the latter, there could be a substantial effect on judicial resources. If, for example, interested parties contested the awarding of a COR in even 25 percent of cases, there would be approximately 6,336 additional court hearings. If a judge holds 25 hearings per day, it would take roughly 253 days to dispose of the COR disputes. Assuming that a judge sits 215 days a year, it would take an additional 1.18 judge teams to handle those petitions. This would cost the State approximately \$508,853.

#### **Department of Law and Public Safety**

The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

### *OFFICE OF LEGISLATIVE SERVICES*

The Office of Legislative Services concurs with the Executive estimate and the OMB estimate that the State Parole Board's personnel might be able to be phased in over time rather than hired immediately.

*Section:           Judiciary*  
*Analyst:          Anne Raughley*  
*Principal Fiscal Analyst*  
*Approved:       David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 3623**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: DECEMBER 28, 2007

**SUMMARY**

**Synopsis:** Establishes certificate of rehabilitation for certain persons with criminal records.

**Type of Impact:** General Fund Expenditure.

**Agencies Affected:** State Parole Board, Judiciary, Department of Labor and Workforce Development, Department of Law and Public Safety.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost -</b>			
<b>Parole Board</b>	\$1,230,000	\$1,319,000	\$1,381,000
<b>Judiciary</b>	Cannot be determined - See comments below		
<b>Department of Law &amp; Public Safety</b>	\$0	\$0	\$0
<b>Department of Labor &amp; Workforce Development</b>	Undetermined, one-time program evaluation study cost		

- The Office of Legislative Services (OLS) concurs with the Executive estimate and the Office of Management and Budget (OMB) estimate that the State Parole Board’s personnel might be able to be phased in over time rather than hired immediately. The OLS also notes that the Department of Labor and Workforce Development would incur a one-time undetermined cost to conduct a study of the effect of criminal convictions on private employment policies.
- The bill establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances.
- The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would required 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.

- The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.
- The Administrative Office of the Courts (AOC) states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation (COR), or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary.
- The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

## **BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill No. 3623 of 2006 establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances. The term employment does not include elected office, or employment in law enforcement, corrections, or the judiciary, or a position related to emergency management or homeland security. The bill's provisions do not apply to private employers, but these employers may consider such a certificate in making employment decisions.

Under the substitute, a person with a criminal conviction could apply for a certificate that would relieve disabilities, forfeitures or bars to (1) public employment; (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; and (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement or emergency management position or a position that may raise homeland security concerns due to access to sensitive information.

Courts or, in the case of a person who was subject to parole supervision, the Parole Board, would determine whether to grant a certificate applying the criteria required in the bill, including whether the offender is eligible for relief, whether any applicable time frames have been satisfied, and whether the relief is in the public interest. However, persons who are convicted of certain serious offenses, including violent offenses, offenses against children, or corruption related offenses, would be ineligible for the certificate. Similarly, persons with multiple prior convictions or pending charges would not be eligible.

If a certificate is granted, an employer, prospective employer or licensing or certifying agency cannot apply an automatic disqualifier, except one required by federal law, based on the fact that a person was convicted of the offense for which the certificate issued. The bill provides that employers retain their discretionary hiring authority and may make individualized determinations and rely on all relevant facts and circumstances in doing so. The bill requires entities issuing certificates to develop a system of recording the certificates and provide information to prospective employers regarding whether a certificate has been issued or is valid.

A certificate may be revoked by the issuing agency when information is received that circumstances have materially changed such that the relief would not be authorized under the bill

or is no longer in the public interest. The supervising authority revoking such a certificate shall notify the subject of the certificate of the revocation.

In addition to any other offense that may apply, a person who knowingly uses or attempts to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a penalty disqualification would be guilty of a disorderly persons offense.

The bill requires the Department of Labor and Workforce Development to undertake a study of the effect of criminal convictions on private employment policies. Moreover, it requires that the State Parole Board and the Administrative Office of the Courts report to the Legislature regarding the bill's implementation, including the number of applications received, considered and granted.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### **State Parole Board**

The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would require 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.

The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

#### **Judiciary**

The AOC states that information is not available concerning the number of defendants who would be eligible for COR, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary. However court must hold a hearing and consider various factors before awarding a COR. If the latter, there could be a substantial effect on judicial resources. If, for example, interested parties contested the awarding of a COR in even 25 percent of cases, there would be approximately 6,336 additional court hearings. If a judge holds 25 hearings per day, it would take roughly 253 days to dispose of the COR disputes. Assuming that a judge sits 215 days a year, it would take an additional 1.18 judge teams to handle those petitions. This would cost the State approximately \$508,853.

#### **Department of Labor and Workforce Development**

None received.

#### **Department of Law and Public Safety**

The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the Executive estimate and the OMB estimate that the State Parole Board's personnel might be able to be phased in over time rather than hired immediately. The



OLS also notes that the Department of Labor and Workforce Development would incur a one-time undetermined cost to conduct a study of the effect of criminal convictions on private employment policies.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**SENATE, No. 2387**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED DECEMBER 11, 2006

**Sponsored by:**

**Senator JOHN A. GIRGENTI**

**District 35 (Bergen and Passaic)**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

**Senator Turner**

**SYNOPSIS**

Establishes certificate of rehabilitation for certain persons with criminal records.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/6/2007)**

1 AN ACT establishing a certificate of rehabilitation and  
2 supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. For the purposes of this act:

8 "Conviction" means a finding of guilt in a tribunal of original  
9 jurisdiction and including a plea or finding of guilt upon which  
10 sentence or the execution of sentence has been suspended or upon  
11 which a sentence of probation, conditional discharge, or supervisory  
12 treatment has been imposed.

13 "Direct relationship" means that the nature of criminal conduct  
14 for which the person was convicted has a direct bearing on the  
15 person's fitness or ability to perform one or more of the duties or  
16 responsibilities necessarily related to the license or employment  
17 sought.

18 "Eligible offender" means a person who has been convicted of  
19 one or more crimes of the first, second, third, or fourth degree, or  
20 one or more disorderly persons offenses, and has not been  
21 sentenced to a State or county correctional facility.

22 "Eligible serious offender" means a person who has been  
23 convicted of one or more crimes of the first, second, third, or fourth  
24 degree, or one or more disorderly persons offenses, and was  
25 committed to a State or county correctional facility, or a person who  
26 has been convicted of such a crime or offense in any other  
27 jurisdiction and is a resident of this State.

28 "Employment" means any occupation, vocation or employment,  
29 or any form of vocational or educational training, but does not  
30 include membership in any law enforcement agency.

31 "License" means any certificate, license, permit or grant of  
32 permission required by the laws of this State or of any political  
33 subdivision thereof, or of any instrumentality of this State or its  
34 political subdivisions, as a condition for the lawful practice of any  
35 occupation, employment, trade, vocation, business, or profession,  
36 but does not include any license or permit to own, possess, carry, or  
37 discharge a firearm.

38 "Private employer" means any person, company, corporation,  
39 labor organization or association which employs 10 or more  
40 persons.

41 "Public agency" means the State or any local subdivision thereof,  
42 or any State or local department, agency, board or commission.

43 "Revocable sentence" means a suspended sentence or a sentence  
44 upon which execution was suspended; or a sentence of probation,  
45 conditional discharge, or supervisory treatment.

46

47 2. a. A certificate of rehabilitation may be granted as provided  
48 in this act to relieve an eligible offender or eligible serious offender

1 of any forfeiture or disability, or to remove any bar to the offender's  
2 employment, automatically imposed by law by reason of the  
3 offender's conviction of the crime or offense. The certificate may  
4 be limited to one or more enumerated forfeitures, disabilities or  
5 bars, or may relieve the eligible offender or eligible serious  
6 offender of all forfeitures, disabilities and bars. But the certificate  
7 shall not apply, or be construed to apply, to the right of the offender  
8 to retain or be eligible for public office.

9 b. Notwithstanding any other provision of law, a conviction of a  
10 crime or offense specified in a certificate of rehabilitation shall not  
11 cause automatic forfeiture of any license, employment or franchise,  
12 or automatic forfeiture of any other right or privilege, held by the  
13 eligible offender or eligible serious offender and covered by the  
14 certificate. Nor shall the conviction be deemed to be a conviction  
15 within the meaning of any provision of law that imposes, by reason  
16 of a conviction, a bar to any employment, a disability to exercise  
17 any right or a disability to apply for or to receive any license,  
18 permit or other authority or privilege, covered by the certificate.

19 c. A certificate of rehabilitation shall not prevent any judicial,  
20 administrative, licensing or other body, board or authority from  
21 relying upon the conviction as the basis for the exercise of its  
22 discretionary power to suspend, revoke, refuse to issue or refuse to  
23 renew any license, permit or other authority or privilege in  
24 accordance with the provisions of section 3 of this act.

25  
26 3. Notwithstanding any other provision of law to the contrary,  
27 an application for any license or employment, to which the  
28 provisions of this act are applicable, shall not be denied by reason  
29 of the applicant having been previously convicted of one or more  
30 crimes or offenses, or by reason of a finding of lack of "good moral  
31 character" when such finding is based upon the fact that the  
32 applicant has previously been convicted of one or more crimes or  
33 offenses, unless:

34 a. There is a direct relationship between one or more of the  
35 previous crimes or offenses and the specific license or employment  
36 sought; or

37 b. The issuance of the license or granting of employment would  
38 involve an unreasonable risk to property or to the safety or welfare  
39 of specific persons or the general public.

40  
41 4. a. In making a determination pursuant to section 3 of this act,  
42 the public agency or private employer shall consider the following  
43 factors:

44 (1) The public policy of this State, as expressed in this act, to  
45 encourage the licensure and employment of persons previously  
46 convicted of one or more crimes or offenses;

47 (2) The specific duties and responsibilities necessarily related to  
48 the license or employment sought;

1 (3) The bearing, if any, the crime or offense for which the  
2 offender was previously convicted will have on the offender's  
3 fitness or ability to perform one or more such duties or  
4 responsibilities;

5 (4) The time which has elapsed since the occurrence of the crime  
6 or offense;

7 (5) The age of the offender at the time of occurrence of the crime  
8 or offense;

9 (6) The seriousness of the crime or offense;

10 (7) Any information produced by the offender, or produced on  
11 the offender's behalf, in regard to the offender's rehabilitation and  
12 good conduct; and

13 (8) The legitimate interest of the public agency or private  
14 employer in protecting property, and the safety and welfare of  
15 specific persons or the general public.

16 b. In making a determination pursuant to section 3 of this act,  
17 the public agency or private employer also shall consider the  
18 certificate of rehabilitation issued to the applicant, which shall  
19 create a presumption of rehabilitation in regard to the crime or  
20 offense specified on the certificate.

21  
22 5. At the request of any person previously convicted of one or  
23 more crimes or offenses who has been denied a license or  
24 employment, a public agency or private employer shall provide,  
25 within 30 days of a request, a written statement setting forth the  
26 reasons for the denial.

27  
28 6. a. Any court of competent jurisdiction in this State may, in  
29 its discretion, issue a certificate of rehabilitation to an eligible  
30 offender for a conviction that occurred in the court, if the court  
31 imposed either a revocable sentence or a sentence other than one  
32 executed by commitment to a State or county correctional facility.  
33 The certificate may be issued when the sentence is pronounced, in  
34 which case it may grant relief from forfeitures, as well as from  
35 disabilities; or at any time thereafter, in which case it shall apply  
36 only to disabilities.

37 b. The certificate shall not be issued by the court unless the  
38 court is satisfied that:

39 (1) The offender to whom it is to be granted is an eligible  
40 offender, as defined in section 1 of this act;

41 (2) The relief to be granted by the certificate is consistent with  
42 the rehabilitation of the offender; and

43 (3) The relief to be granted by the certificate is consistent with  
44 the public interest.

45 c. If a certificate of rehabilitation is not issued at the time  
46 sentence is pronounced, it shall be issued thereafter upon verified  
47 application to the court. The court may, for the purpose of  
48 determining whether the certificate shall be issued, request the

1 Probation Services Division to conduct an investigation of the  
2 applicant. A probation officer requested to make an investigation  
3 pursuant to this subsection shall prepare and submit to the court a  
4 written report in accordance with the request.

5 d. If the court has imposed a revocable sentence and the  
6 certificate of rehabilitation is issued prior to the expiration or  
7 termination of the time which the court may revoke such sentence,  
8 the certificate shall be deemed to be a temporary certificate until the  
9 time the court's authority to revoke the sentence has expired or is  
10 terminated.

11 (1) The court shall revoke a temporary certificate if the court  
12 revokes the offender's sentence and commits the person to a State  
13 or county correctional facility.

14 (2) The court may revoke a temporary certificate for a violation  
15 of the conditions of the sentence.

16 (3) A revocation shall be upon notice and after an opportunity to  
17 be heard.

18 If the certificate is not revoked, it shall become a permanent  
19 certificate upon expiration or termination of the court's authority to  
20 revoke the sentence.

21 e. Any court that has issued a certificate of rehabilitation may at  
22 any time issue a new certificate to enlarge the relief previously  
23 granted. The provisions of subsections a. through d. of this section  
24 shall apply to the issuance of a new certificate.

25 f. Any applicant whose application for a certificate of  
26 rehabilitation has been denied shall have the right to appeal to the  
27 issuing body if the applicant initiates the appeal within 30 days of  
28 written receipt of the initial decision.

29 g. Any written report submitted to the court pursuant to this  
30 section is confidential and shall not be made available to any person  
31 or public or private agency except where specifically required or  
32 permitted by statute or upon specific authorization of the court. But  
33 it shall be made available by the court for examination by the  
34 offender's attorney, or the offender, if the offender has no attorney.  
35 In its discretion, the court may except from disclosure any part of  
36 the report which is not relevant to the granting of a certificate, or  
37 sources of information which have been obtained on a promise of  
38 confidentiality, or any other portion thereof, disclosure of which  
39 would not be in the interests of justice. The action of the court  
40 excepting information from disclosure shall be subject to appellate  
41 review. The court, in its discretion, may hold a conference in open  
42 court or in chambers to afford the offender an opportunity to  
43 controvert or comment upon any portion of the report. The court  
44 also may conduct a summary hearing at the conference on any  
45 matter relevant to the granting of the application and may take  
46 testimony under oath.

- 1       7. a. The State Parole Board shall have the power to issue a  
2 certificate of rehabilitation to:
- 3       (1) Any eligible serious offender who has been committed to a  
4 State or county correctional facility. The certificate may be issued  
5 by the parole board at the time the offender is released from the  
6 facility under the board's supervision or otherwise or at any time  
7 thereafter;
- 8       (2) Any eligible offender or eligible serious offender who has  
9 completed his or her sentence and has been released without  
10 supervision; or
- 11       (3) Any eligible offender or eligible serious offender who resides  
12 within this State and whose judgment of conviction was rendered by  
13 a court in any other jurisdiction.
- 14       b. If the parole board has issued a certificate of rehabilitation, it  
15 may at any time issue a new certificate enlarging the relief  
16 previously granted.
- 17       c. The parole board shall not issue a certificate of rehabilitation  
18 pursuant to subsections a. or b. of this section unless it is satisfied  
19 that:
- 20       (1) The person to whom it is to be granted is an eligible serious  
21 offender, as defined in section 1 of this act;
- 22       (2) The relief to be granted by the certificate is consistent with  
23 the rehabilitation of the offender; and
- 24       (3) The relief to be granted by the certificate is consistent with  
25 the public interest.
- 26       d. A certificate of rehabilitation issued by the parole board to an  
27 offender who at time of the issuance of the certificate is under the  
28 board's supervision, shall be deemed to be a temporary certificate  
29 until such time as the offender is discharged from the board's  
30 supervision, and, while temporary, such certificate may be revoked  
31 by the board for a violation of the conditions of parole or release.  
32 Revocation shall be upon notice to the offender, who shall be  
33 accorded an opportunity to explain the violation prior to the  
34 decision to revoke the certificate. If the certificate is not revoked, it  
35 shall become a permanent certificate upon expiration or termination  
36 of the board's jurisdiction over the offender.
- 37       e. In granting or revoking a certificate of rehabilitation the  
38 action of the parole board shall be by a vote of the members of the  
39 panel authorized to grant or revoke parole.
- 40       f. For the purpose of determining whether a certificate of  
41 rehabilitation shall be issued, the parole board may conduct an  
42 investigation of the applicant. An applicant whose application for a  
43 certificate has been denied shall have the right to appeal to the  
44 issuing body if the applicant initiates appeal within thirty days of  
45 written receipt of initial decision.
- 46
- 47       8. a. If a certificate of rehabilitation is deemed to be temporary  
48 and the certificate is revoked, disabilities and forfeitures thereby

1 relieved shall be reinstated as of the date upon which the person to  
2 whom the certificate was issued receives written notice of such  
3 revocation. The person shall, upon receipt of such notice, surrender  
4 the certificate to the issuing court or board.

5 b. An offender who knowingly uses or attempts to use, a  
6 revoked certificate of rehabilitation in order to obtain or to exercise  
7 any right or privilege that the offender would not be entitled to  
8 obtain or to exercise without a valid certificate shall be guilty of a  
9 disorderly persons offense.

10

11 9. a. All applications, certificates and orders of revocation  
12 necessary for the purposes of this act shall be upon forms  
13 prescribed pursuant to agreement among the Commissioner of  
14 Corrections, the Chairman of the State Parole Board and the  
15 Administrative Director of the Courts. Forms relating to certificates  
16 of rehabilitation shall be distributed by the State court system, and  
17 probation and parole departments.

18 b. A court or board issuing or revoking any certificate pursuant  
19 to this act shall immediately file a copy of the certificate, or the  
20 order of revocation, with the State Bureau of Identification in the  
21 Division of State Police.

22

23 10. Nothing contained in this act shall be deemed to alter, limit  
24 or affect the manner of applying for pardons to the Governor, and a  
25 certificate issued under this act shall not be deemed or construed to  
26 be a pardon.

27

28 11. a. All licensing authorities must annually report to the  
29 Legislature one year after the effective date of this act the number  
30 of licensure applicants who presented certificates of rehabilitation,  
31 the number of licenses awarded to applicants with conviction  
32 histories, the number of licenses awarded to applicants with  
33 certificates of rehabilitation, the number of applicants with criminal  
34 histories denied licenses, and the number of applicants with  
35 certificates of rehabilitation denied licenses.

36 b. All bodies issuing certificates of rehabilitation must annually  
37 report to the Legislature one year after the effective date of this act  
38 the number of applications made, the number of applications that  
39 are denied, and the number of applications that are granted.

40

41 12. Any private employer violating sections 3 through 5 of this  
42 act shall, in addition to any other relief or affirmative action  
43 provided by law, be subject to the following civil penalties, which  
44 may be collected with costs in a summary proceeding pursuant to  
45 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
46 10 et seq.).



1 a. A fine of up to \$10,000 if the person has not committed any  
2 prior violation within the five-year period ending on the date of the  
3 filing of this charge;

4 b. A fine of up to \$25,000 if the person has committed one other  
5 violation within the five-year period ending on the date of the filing  
6 of this charge; and

7 c. A fine of up to \$50,000 if the person has committed two or  
8 more violations within the seven-year period ending on the date of  
9 the filing of this charge.

10

11 13. This act shall take effect on the first day of the seventh  
12 month after enactment.

13

14

15

#### STATEMENT

16

17 This bill would establish a certificate of rehabilitation (COR) for  
18 convicted offenders to assist them in procuring public or private  
19 employment from which they would otherwise be barred because of  
20 their conviction. A person who has been issued a COR which lists  
21 a conviction of a specific crime or offense would not automatically  
22 forfeit a license, employment, franchise or any other right or  
23 privilege because of that conviction.

24 The bill specifically prohibits the denial of a license or  
25 employment to applicants who have previously been convicted of a  
26 crime because of the conviction or because of a finding of lack of  
27 "good moral character" based on the conviction unless: (1) there is  
28 a direct relationship between the crimes that were committed and  
29 the specific license or employment sought; or (2) if issuing the  
30 license or granting the employment would involve an unreasonable  
31 risk to property or to the safety or welfare of a specific person or  
32 the public. The bill defines a "direct relationship" as one where the  
33 nature of the criminal conduct for which the person was convicted  
34 has a direct bearing on the person's fitness or ability to perform one  
35 or more of the duties or responsibilities necessarily related to the  
36 license or employment sought.

37 In determining whether either of these standards are met, the  
38 public agency or private employer must consider the following  
39 factors: (1) the public policy of this State, as expressed in the bill,  
40 to encourage the licensure and employment of persons previously  
41 convicted of one or more crimes or offenses; 2) the specific duties  
42 and responsibilities necessarily related to the license or employment  
43 sought; (3) the bearing, if any, the crime or offense for which the  
44 offender was previously convicted will have on the offender's  
45 fitness or ability to perform one or more such duties or  
46 responsibilities; (4) the time which has elapsed since the occurrence  
47 of the crime or offense; (5) the age of the offender at the time of  
48 occurrence of the crime or offense; (6) the seriousness of the crime

1 or offense; (7) any information produced by the offender, or  
2 produced on the offender's behalf, in regard to the offender's  
3 rehabilitation and good conduct; and (8) the legitimate interest of  
4 the public agency or private employer in protecting property, and  
5 the safety and welfare of specific persons or the general public.

6 An applicant who has been issued a COR is to be presumed  
7 rehabilitated in regard to the crime or offense specified on the  
8 certificate. A public agency or private employer who denies a  
9 license or employment to a convicted offender must set forth in  
10 writing the reasons for the denial within 30 days of a request.

11 A COR would be granted by the court if the person has a  
12 revocable sentence or is not otherwise committed to a State or  
13 county correctional facility. The bill defines "revocable sentence"  
14 as a suspended sentence or a sentence upon which execution was  
15 suspended; or a sentence of probation, conditional discharge, or  
16 supervisory treatment. The COR could be issued immediately or  
17 any time thereafter.

18 The State Parole Board would issue a COR to persons who have  
19 been committed to a State or county correctional facility and  
20 subsequently released on parole or who have completed their  
21 sentence and been released without supervision, as well as to  
22 persons who reside in this State but were convicted in another  
23 jurisdiction. The certificate may be issued by the parole board at  
24 the time the offender is released or anytime thereafter.

25 A COR could be revoked by the court or the Parole Board.  
26 Offenders who attempt to use a revoked COR are guilty of a  
27 disorderly persons offense.

28 Private employers violating the anti-discrimination sections of  
29 the bill would be fined up to \$10,000 if the employer has not  
30 committed any prior violation within the five-year period ending on  
31 the date of the filing of this charge; \$25,000 if the employer has  
32 committed one other violation within the five-year period ending on  
33 the date of the filing of this charge; and \$50,000 if the employer  
34 has committed two or more violations within the seven-year period  
35 ending on the date of the filing of this charge.

36 It is the sponsor's intent to more successfully integrate convicted  
37 offenders back into society after their release from incarceration by  
38 encouraging their efforts at employment. It is the sponsor's  
39 understanding that convicted offenders who are able to find and  
40 hold jobs are less likely to reoffend and, therefore, the bill also  
41 would reduce incarceration costs.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2387**

**STATE OF NEW JERSEY**

DATED: DECEMBER 17, 2007

The Senate Law and Public Safety and Veteran's Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2387.

This Senate Committee Substitute for Senate Bill 2387 establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances.

“Public employment” is defined in the bill as employment by a State, county, or municipal agency. It is the committee’s understanding that the bill is not intended to reach other relationships between the State and the public, including for example, contractual relationships or foster parent eligibility. The term employment does not include elected office, or employment in law enforcement, corrections, or the judiciary, or a position related to emergency management or homeland security. The bill’s provisions do not apply to private employers, but these employers may consider such a certificate in making employment decisions.

Under the substitute, a person with a criminal conviction could apply for a certificate that would relieve disabilities, forfeitures or bars to (1) public employment; (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; and (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement or emergency management position or a position that may raise homeland security concerns due to access to sensitive information.

Courts or, in the case of a person who was subject to parole supervision, the Parole Board, would determine whether to grant a certificate applying the criteria required in the bill, including whether the offender is eligible for relief, whether any applicable time frames have been satisfied, and whether the relief is in the public interest. However, persons who are convicted of certain serious offenses, including violent offenses, offenses against children, or corruption related offenses, would be ineligible for the certificate. Similarly,

persons with multiple prior convictions or pending charges would not be eligible.

If a certificate is granted, an employer, prospective employer or licensing or certifying agency cannot apply an automatic disqualifier, except one required by federal law, based on the fact that a person was convicted of the offense for which the certificate issued. The bill provides that employers retain their discretionary hiring authority and may make individualized determinations and rely on all relevant facts and circumstances in doing so. The bill requires entities issuing certificates to develop a system of recording the certificates and provide information to prospective employers regarding whether a certificate has been issued or is valid.

A certificate may be revoked by the issuing agency when information is received that circumstances have materially changed such that the relief would not be authorized under the bill or is no longer in the public interest. The supervising authority revoking such a certificate shall notify the subject of the certificate of the revocation.

In addition to any other offense that may apply, a person who knowingly uses or attempts to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a penalty disqualification would be guilty of a disorderly persons offense.

The bill requires the Department of Labor and Workforce Development to undertake a study of the effect of criminal convictions on private employment policies. Moreover, it requires that the State Parole Board and the Administrative Office of the Courts report to the Legislature regarding the bill's implementation, including the number of applications received, considered and granted.

As reported by the committee, this committee substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 3623.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2387

# STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2387 (SCS).

The bill establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances. The term employment does not include elected office, or employment in law enforcement, corrections, or the judiciary, or a position related to emergency management or homeland security. The bill's provisions do not apply to private employers, but these employers may consider such a certificate in making employment decisions.

Under the bill, a person with a criminal conviction could apply for a certificate that would relieve disabilities, forfeitures or bars to (1) public employment; (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; and (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement or emergency management position or a position that may raise homeland security concerns due to access to sensitive information.

Courts or, in the case of a person who was subject to parole supervision, the Parole Board, would determine whether to grant a certificate applying the criteria required in the bill, including whether the offender is eligible for relief, whether any applicable time frames have been satisfied, and whether the relief is in the public interest. However, persons who are convicted of certain serious offenses, including violent offenses, offenses against children, or corruption related offenses, would be ineligible for the certificate. Similarly, persons with multiple prior convictions or pending charges would not be eligible.

If a certificate is granted, an employer, prospective employer or licensing or certifying agency cannot apply an automatic disqualifier, except one required by federal law, based on the fact that a person was convicted of the offense for which the certificate issued. The bill provides that employers retain their discretionary hiring authority and may make individualized determinations and rely on all relevant facts

and circumstances in doing so. The bill requires entities issuing certificates to develop a system of recording the certificates and provide information to prospective employers regarding whether a certificate has been issued or is valid.

A certificate may be revoked by the issuing agency when information is received that circumstances have materially changed such that the relief would not be authorized under the bill or is no longer in the public interest. The supervising authority revoking such a certificate shall notify the subject of the certificate of the revocation.

In addition to any other offense that may apply, a person who knowingly uses or attempts to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a penalty disqualification would be guilty of a disorderly persons offense.

The bill requires the Department of Labor and Workforce Development to undertake a study of the effect of criminal convictions on private employment policies. Moreover, it requires that the State Parole Board and the Administrative Office of the Courts report to the Legislature regarding the bill's implementation, including the number of applications received, considered and granted.

#### FISCAL IMPACT:

The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would require 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively. However, the Office of Management and Budget indicates that the Parole Board's estimate may be overstated in the near term and that the need for additional staff could be phased-in rather than hired immediately.

In addition to the costs of the Parole Board, there is expected to be some cost to the Judiciary as a result of the bill. However, according to the Administrative Office of the Courts (AOC), this cost is indeterminate since information concerning the number of defendants who would be eligible for certificates of rehabilitation, and the procedures involved in granting those certificates, is not available.

Finally, the Department of Labor and Workforce Development will incur a one-time, unspecified cost to conduct the study of the effect of criminal convictions on private employment policies as required by the bill.

**FISCAL NOTE**  
**SENATE, No. 2387**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: OCTOBER 24, 2007

**SUMMARY**

**Synopsis:** Establishes certificate of rehabilitation for certain persons with criminal records.

**Type of Impact:** General Fund expenditure.

**Agencies Affected:** State Parole Board, Judiciary, Department of Law and Public Safety

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Parole Board Cost</b>	\$1,230,000	\$1,319,000	\$1,381,000
<b>Judiciary Cost</b>	Cannot be determined - see comments below		
<b>Department of Law and Public Safety Cost</b>	\$0	\$0	\$0

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate and the Office of Management and Budget (OMB) estimate that the State Parole Board’s personnel might be able to be phased in over time rather than hired immediately.
- The bill would establish a certificate of rehabilitation (COR) for convicted offenders to assist them in procuring public or private employment from which they would otherwise be barred because of their conviction. A person who has been issued a COR which lists a conviction of a specific crime or offense would not automatically forfeit a license, employment, franchise or any other right or privilege because of that conviction.
- The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would required 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.
- The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel

requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

- The Administrative Office of the Courts (AOC) states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary.
- The Department of Law and Public Safety states that this bill would generate no additional costs for the department

## **BILL DESCRIPTION**

Senate Bill No. 2387 of 2006 would establish a COR for convicted offenders to assist them in procuring public or private employment from which they would otherwise be barred because of their conviction. A person who has been issued a COR which lists a conviction of a specific crime or offense would not automatically forfeit a license, employment, franchise or any other right or privilege because of that conviction.

The bill specifically prohibits the denial of a license or employment to applicants who have previously been convicted of a crime because of the conviction or because of a finding of lack of “good moral character” based on the conviction unless: (1) there is a direct relationship between the crimes that were committed and the specific license or employment sought; or (2) if issuing the license or granting the employment would involve an unreasonable risk to property or to the safety or welfare of a specific person or the public.

An applicant who has been issued a COR is to be presumed rehabilitated in regard to the crime or offense specified on the certificate. A public agency or private employer who denies a license or employment to a convicted offender must set forth in writing the reasons for the denial within 30 days of a request.

A COR would be granted by the court if the person has a revocable sentence or is not otherwise committed to a State or county correctional facility. The bill defines “revocable sentence” as a suspended sentence or a sentence upon which execution was suspended; or a sentence of probation, conditional discharge, or supervisory treatment. The COR could be issued immediately or any time thereafter.

The State Parole Board would issue a COR to persons who have been committed to a State or county correctional facility and subsequently released on parole or who have completed their sentence and been released without supervision, as well as to persons who reside in this State but were convicted in another jurisdiction. The certificate may be issued by the parole board at the time the offender is released or anytime thereafter.

A COR could be revoked by the court or the Parole Board. Offenders who attempt to use a revoked COR are guilty of a disorderly persons offense.

Private employers violating the anti-discrimination sections of the bill would be fined up to \$10,000 if the employer has not committed any prior violation within the five-year period ending on the date of the filing of this charge; \$25,000 if the employer has committed one other violation within the five-year period ending on the date of the filing of this charge; and \$50,000 if the employer has committed two or more violations within the seven-year period ending on the date of the filing of this charge.



## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

#### **State Parole Board**

The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would require 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.

The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12,600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

#### **Judiciary**

The AOC states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary. However, court must hold a hearing and consider various factors before awarding a COR. If the latter, there could be a substantial effect on judicial resources. If, for example, interested parties contested the awarding of a COR in even 25 percent of cases, there would be approximately 6,336 additional court hearings. If a judge holds 25 hearings per day, it would take roughly 253 days to dispose of the COR disputes. Assuming that a judge sits 215 days a year, it would take an additional 1.18 judge teams to handle those petitions. This would cost the State approximately \$508,853.

#### **Department of Law and Public Safety**

The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

### *OFFICE OF LEGISLATIVE SERVICES*

The Office of Legislative Services concurs with the Executive estimate and the OMB estimate that the State Parole Board's personnel might be able to be phased in over time rather than hired immediately.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2387**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: DECEMBER 28, 2007

**SUMMARY**

**Synopsis:** Establishes certificate of rehabilitation for certain persons with criminal records.

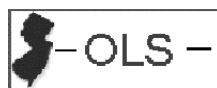
**Type of Impact:** General Fund Expenditure.

**Agencies Affected:** State Parole Board, Judiciary, Department of Labor and Workforce Development, Department of Law and Public Safety.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost -</b>			
<b>Parole Board</b>	\$1,230,000	\$1,319,000	\$1,381,000
<b>Judiciary</b>	Cannot be determined - See comments below		
<b>Department of Law &amp; Public Safety Cost</b>	\$0	\$0	\$0
<b>Department of Labor &amp; Workforce Development</b>	Undetermined, one-time program evaluation study cost		

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate and the Office of Management and Budget (OMB) estimate that the State Parole Board’s personnel might be able to be phased in over time rather than hired immediately. The OLS also notes that the Department of Labor and Workforce Development would incur a one-time undetermined cost to conduct a study of the effect of criminal convictions on private employment policies.
- The bill establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances.
- The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would required 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.



- The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.
- The Administrative Office of the Courts (AOC) states that information is not available concerning the number of defendants who would be eligible for certificates of rehabilitation (COR), or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary.
- The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

## **BILL DESCRIPTION**

Senate Committee Substitute for Senate Bill No. 2387 of 2006 establishes a program to assist persons with criminal convictions in seeking public employment or obtaining professional licenses or certifications under certain circumstances. The term employment does not include elected office, or employment in law enforcement, corrections, or the judiciary, or a position related to emergency management or homeland security. The bill's provisions do not apply to private employers, but these employers may consider such a certificate in making employment decisions.

Under the substitute, a person with a criminal conviction could apply for a certificate that would relieve disabilities, forfeitures or bars to (1) public employment; (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; and (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement or emergency management position or a position that may raise homeland security concerns due to access to sensitive information.

Courts or, in the case of a person who was subject to parole supervision, the Parole Board, would determine whether to grant a certificate applying the criteria required in the bill, including whether the offender is eligible for relief, whether any applicable time frames have been satisfied, and whether the relief is in the public interest. However, persons who are convicted of certain serious offenses, including violent offenses, offenses against children, or corruption related offenses, would be ineligible for the certificate. Similarly, persons with multiple prior convictions or pending charges would not be eligible.

If a certificate is granted, an employer, prospective employer or licensing or certifying agency cannot apply an automatic disqualifier, except one required by federal law, based on the fact that a person was convicted of the offense for which the certificate issued. The bill provides that employers retain their discretionary hiring authority and may make individualized determinations and rely on all relevant facts and circumstances in doing so. The bill requires entities issuing certificates to develop a system of recording the certificates and provide information to prospective employers regarding whether a certificate has been issued or is valid.

A certificate may be revoked by the issuing agency when information is received that circumstances have materially changed such that the relief would not be authorized under the bill

or is no longer in the public interest. The supervising authority revoking such a certificate shall notify the subject of the certificate of the revocation.

In addition to any other offense that may apply, a person who knowingly uses or attempts to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a penalty disqualification would be guilty of a disorderly persons offense.

The bill requires the Department of Labor and Workforce Development to undertake a study of the effect of criminal convictions on private employment policies. Moreover, it requires that the State Parole Board and the Administrative Office of the Courts report to the Legislature regarding the bill's implementation, including the number of applications received, considered and granted.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### **State Parole Board**

The State Parole Board estimates that it would receive a total of 3,000 initial applications from ex-offenders released between 1987 and 2006 upon enactment of the bill. The board notes that it would require 17 additional positions to process the applications, at a total first year cost of \$1.230 million. Second and third year costs would total \$1.319 million and \$1.381 million, respectively.

The OMB notes that the Parole Board estimates that 17 new positions would be required to process approximately 12, 600 applications annually. The OMB states that the personnel requirement may be overstated in the beginning years and could be phased in as the parolees, inmate and prior inmates require these certificates.

#### **Judiciary**

The AOC states that information is not available concerning the number of defendants who would be eligible for COR, or the procedures involved in granting CORs. As a result, the AOC cannot estimate the impact that this bill could have on the Judiciary. However court must hold a hearing and consider various factors before awarding a COR. If the latter, there could be a substantial effect on judicial resources. If, for example, interested parties contested the awarding of a COR in even 25 percent of cases, there would be approximately 6,336 additional court hearings. If a judge holds 25 hearings per day, it would take roughly 253 days to dispose of the COR disputes. Assuming that a judge sits 215 days a year, it would take an additional 1.18 judge teams to handle those petitions. This would cost the State approximately \$508,853.

#### **Department of Labor and Workforce Development**

None received.

#### **Department of Law and Public Safety**

The Department of Law and Public Safety states that this bill would generate no additional costs for the department.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the Executive estimate and the OMB estimate that the State Parole Board's personnel might be able to be phased in over time rather than hired immediately. The OLS also notes that the Department of Labor and Workforce Development would incur a one-time undetermined cost to conduct a study of the effect of criminal convictions on private employment policies.

*Section:       Judiciary*

*Analyst:      Anne Raughley  
                  Principal Fiscal Analyst*

*Approved:     David J. Rosen  
                  Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).