

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

[Third Reprint]
SENATE, No. 52

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Assemblywoman DENISE M. COYLE

District 16 (Morris and Somerset)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblywoman CARIDAD RODRIGUEZ

District 33 (Hudson)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Co-Sponsored by:

Senators Bateman, Stack and Beck

Co-Sponsored by:

**Senators Bateman, Stack, Beck, Assemblymen E.Munoz, Rudder,
Assemblywomen Addiego, N.Munoz and Assemblyman DeAngelo**

SYNOPSIS

Permanently disqualifies certain persons convicted of child endangerment from working with children.

CURRENT VERSION OF TEXT

As reported by the Assembly Human Services Committee on November 13, 2008, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning criminal history records for certain persons
2 working with children and amending P.L.1988, c.45 and
3 P.L.1999, c.358.
4

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

8 ³[1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read
9 as follows:

10 2. a. A facility shall not employ any individual unless the
11 Commissioner of **[the Department of]** Human Services has first
12 determined, consistent with the requirements and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify that individual from being employed at the
17 facility. A criminal history record background check shall be
18 conducted at least once every two years for an individual employed
19 at the facility. An individual shall be disqualified from employment
20 under this act if that individual's criminal history record background
21 check reveals a record of conviction of any of the following crimes
22 and offenses:

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

24 (a) Involving danger to the person, meaning those crimes and
25 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
26 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
27 or N.J.S.2C:15-1 et seq.; or

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

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

35 b. Notwithstanding the provisions of subsection a. of this
36 section, no individual shall be disqualified from employment under
37 this act on the basis of any conviction disclosed by a criminal
38 history record background check performed pursuant to this act if
39 the individual has affirmatively demonstrated to the Commissioner
40 of Human Services clear and convincing evidence of his
41 rehabilitation. In determining whether an individual has
42 affirmatively demonstrated rehabilitation, the following factors
43 shall be considered:

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted March 17, 2008.

²Senate floor amendments adopted May 22, 2008.

³Assembly AHU committee amendments adopted November 13, 2008.

- 1 (1) The nature and responsibility of the position which the
2 convicted individual would hold;
- 3 (2) The nature and seriousness of the offense;
- 4 (3) The circumstances under which the offense occurred;
- 5 (4) The date of the offense;
- 6 (5) The age of the individual when the offense was committed;
- 7 (6) Whether the offense was an isolated or repeated incident;
- 8 (7) Any social conditions which may have contributed to the
9 offense; and
- 10 (8) Any evidence of rehabilitation, including good conduct in
11 prison or in the community, counseling or psychiatric treatment
12 received, acquisition of additional academic or vocational
13 schooling, successful participation in correctional work-release
14 programs, or the recommendation of persons who have had the
15 individual under their supervision.
- 16 c. If a prospective employee of a facility refuses to consent to,
17 or cooperate in, the securing of a criminal history record
18 background check, the commissioner shall direct the principal
19 administrator not to consider the person for employment at the
20 facility. The prospective employee shall, however, retain any
21 available right of review by the Merit System Board in the
22 Department of Personnel.
- 23 d. If a current employee of a facility refuses to consent to, or
24 cooperate in, the securing of a criminal history record background
25 check, the commissioner shall direct the principal administrator to
26 immediately remove the person from his position at the facility and
27 to terminate the person's employment at the facility. The employee
28 shall, however, retain any available right of review by the Merit
29 System Board in the Department of Personnel.
- 30 e. Notwithstanding the provisions of subsection a. of this section
31 to the contrary, a facility may provisionally employ an individual
32 for a period not to exceed six months if that individual's State
33 Bureau of Identification criminal history record background check
34 does not contain any information that would disqualify the
35 individual from employment at the facility and if the individual
36 submits to the commissioner a sworn statement attesting that the
37 individual has not been convicted of any crime or disorderly
38 persons offense as described in this act, pending a determination
39 that no criminal history record background information which
40 would disqualify the individual exists on file in the Federal Bureau
41 of Investigation, Identification Division. An individual who is
42 provisionally employed pursuant to this subsection shall perform
43 his duties at the facility under the direct supervision of a superior
44 who acts in a supervisory capacity over that individual until the
45 determination concerning the federal information is complete.
- 46 f. '[Notwithstanding the provisions of subsection b. of this
47 section to the contrary, if the criminal history record background
48 check of an individual, whose employment involves or would

1 involve working directly with persons under 18 years of age,
2 reveals a conviction for a crime or offense against children,
3 meaning any of those crimes and disorderly persons offenses set
4 forth in N.J.S.2C:24-4, that individual shall be permanently
5 disqualified from employment at a facility.】 A conviction of a
6 crime or disorderly persons offense against children as set forth in
7 N.J.S.2C:24-4 adversely relates to a position in a facility that
8 involves or would involve working directly with a person under 18
9 years of age.¹ ²Individuals convicted of such crimes or disorderly
10 persons offenses are permanently disqualified from such
11 employment at a facility.²
12 (cf: P.L.1997, c.71, s.1)】³

13

14 ³1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read
15 as follows:

16 2. a. A facility shall not employ any individual unless the
17 Commissioner of **【the Department of】** Human Services has first
18 determined, consistent with the requirements and standards of this
19 act, that no criminal history record information exists on file in the
20 Federal Bureau of Investigation, Identification Division, or in the
21 State Bureau of Identification in the Division of State Police, which
22 would disqualify that individual from being employed at the
23 facility. A criminal history record background check shall be
24 conducted at least once every two years for an individual employed
25 at the facility. An individual shall be disqualified from employment
26 under this act if that individual's criminal history record background
27 check reveals a record of conviction of any of the following crimes
28 and offenses:

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

30 (a) Involving danger to the person, meaning those crimes and
31 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
32 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
33 or N.J.S.2C:15-1 et seq.; or

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

37 (2) In any other state or jurisdiction, of conduct which, if
38 committed in New Jersey, would constitute any of the crimes or
39 disorderly persons offenses described in paragraph (1) of this
40 subsection.

41 b. Notwithstanding the provisions of subsection a. of this
42 section, no individual shall be disqualified from employment under
43 this act on the basis of any conviction disclosed by a criminal
44 history record background check performed pursuant to this act if
45 the individual has affirmatively demonstrated to the Commissioner
46 of Human Services clear and convincing evidence of his
47 rehabilitation. In determining whether an individual has

1 affirmatively demonstrated rehabilitation, the following factors
2 shall be considered:

3 (1) The nature and responsibility of the position which the
4 convicted individual would hold;

5 (2) The nature and seriousness of the offense;

6 (3) The circumstances under which the offense occurred;

7 (4) The date of the offense;

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

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

10 (7) Any social conditions which may have contributed to the
11 offense; and

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

18 c. If a prospective employee of a facility refuses to consent to,
19 or cooperate in, the securing of a criminal history record
20 background check, the commissioner shall direct the principal
21 administrator not to consider the person for employment at the
22 facility. The prospective employee shall, however, retain any
23 available right of review by the Civil Service Commission in the
24 Department of Labor and Workforce Development.

25 d. If a current employee of a facility refuses to consent to, or
26 cooperate in, the securing of a criminal history record background
27 check, the commissioner shall direct the principal administrator to
28 immediately remove the person from his position at the facility and
29 to terminate the person's employment at the facility. The employee
30 shall, however, retain any available right of review by the Civil
31 Service Commission in the Department of Labor and Workforce
32 Development.

33 e. Notwithstanding the provisions of subsection a. of this
34 section to the contrary, a facility may provisionally employ an
35 individual for a period not to exceed six months if that individual's
36 State Bureau of Identification criminal history record background
37 check does not contain any information that would disqualify the
38 individual from employment at the facility and if the individual
39 submits to the commissioner a sworn statement attesting that the
40 individual has not been convicted of any crime or disorderly
41 persons offense as described in this act, pending a determination
42 that no criminal history record background information which
43 would disqualify the individual exists on file in the Federal Bureau
44 of Investigation, Identification Division. An individual who is
45 provisionally employed pursuant to this subsection shall perform
46 his duties at the facility under the direct supervision of a superior

1 who acts in a supervisory capacity over that individual until the
2 determination concerning the federal information is complete.

3 f. A conviction of a crime or disorderly persons offense against
4 children as set forth in N.J.S.2C:24-4 adversely relates to a position
5 in a facility that involves or would involve working directly with a
6 person under 18 years of age. Individuals convicted of such crimes
7 or disorderly persons offenses are permanently disqualified from
8 such employment at a facility.³

9 (cf: P.L. 2008, c.29, s.87)

10

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

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

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

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

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

46 (a) Involving danger to the person, meaning those crimes and
47 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
48 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.

1 or N.J.S.2C:15-1 et seq.; or

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

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

9 (2) In any other state or jurisdiction, of conduct which, if
10 committed in New Jersey, would constitute any of the crimes or
11 disorderly persons offenses described in paragraph (1) of this
12 subsection.

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

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

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

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

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

- 1 (2) the nature and seriousness of the offense;
- 2 (3) the circumstances under which the offense occurred;
- 3 (4) the date of the offense;
- 4 (5) the age of the individual when the offense was committed;
- 5 (6) whether the offense was an isolated or repeated incident;
- 6 (7) any social conditions which may have contributed to the
- 7 offense; and
- 8 (8) any evidence of rehabilitation, including good conduct in
- 9 prison or in the community, counseling or psychiatric treatment
- 10 received, acquisition of additional academic or vocational
- 11 schooling, successful participation in correctional work-release
- 12 programs, or the recommendation of those who have had the
- 13 individual under their supervision.

14 g. ¹Notwithstanding the provisions of subsection f. of this

15 section to the contrary, if the criminal history record background

16 check of a community agency head or community agency

17 employee, whose employment involves or would involve working

18 directly with persons under 18 years of age, reveals a conviction for

19 a crime or offense against children, meaning any of those crimes

20 and disorderly persons offenses set forth in N.J.S.2C:24-4, that

21 individual shall be permanently disqualified from employment at a

22 community agency.] A conviction of a crime or disorderly persons

23 offense against children as set forth in N.J.S.2C:24-4 adversely

24 relates to a position in a community agency that involves or would

25 involve working directly with a person under 18 years of age.¹

26 ²Individuals convicted of such crimes or disorderly persons

27 offenses are permanently disqualified from such employment at a

28 community agency.²

29 (cf: P.L.2000, c.97, s.2)

30

31 3. This act shall take effect immediately.

SENATE, No. 52

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Permanently disqualifies certain persons convicted of child endangerment from working with children.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning criminal history records for certain persons
2 working with children and amending P.L.1988, c.45 and
3 P.L.1999, c.358.
4

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

7
8 1 Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read
9 as follows:

10 2. a. A facility shall not employ any individual unless the
11 Commissioner of **[the Department of]** Human Services has first
12 determined, consistent with the requirements and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify that individual from being employed at the
17 facility. A criminal history record background check shall be
18 conducted at least once every two years for an individual employed
19 at the facility. An individual shall be disqualified from employment
20 under this act if that individual's criminal history record background
21 check reveals a record of conviction of any of the following crimes
22 and offenses:

- 23 (1) In New Jersey, any crime or disorderly persons offense:
24 (a) Involving danger to the person, meaning those crimes and
25 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
26 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
27 or N.J.S.2C:15-1 et seq.; or
28 (b) Against the family, children or incompetents, meaning those
29 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
30 seq.; or
31 (2) In any other state or jurisdiction, of conduct which, if
32 committed in New Jersey, would constitute any of the crimes or
33 disorderly persons offenses described in paragraph (1) of this
34 subsection.

35 b. Notwithstanding the provisions of subsection a. of this
36 section, no individual shall be disqualified from employment under
37 this act on the basis of any conviction disclosed by a criminal
38 history record background check performed pursuant to this act if
39 the individual has affirmatively demonstrated to the Commissioner
40 of Human Services clear and convincing evidence of his
41 rehabilitation. In determining whether an individual has
42 affirmatively demonstrated rehabilitation, the following factors
43 shall be considered:

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

Matter underlined thus is new matter.

- 1 (1) The nature and responsibility of the position which the
2 convicted individual would hold;
- 3 (2) The nature and seriousness of the offense;
- 4 (3) The circumstances under which the offense occurred;
- 5 (4) The date of the offense;
- 6 (5) The age of the individual when the offense was committed;
- 7 (6) Whether the offense was an isolated or repeated incident;
- 8 (7) Any social conditions which may have contributed to the
9 offense; and
- 10 (8) Any evidence of rehabilitation, including good conduct in
11 prison or in the community, counseling or psychiatric treatment
12 received, acquisition of additional academic or vocational
13 schooling, successful participation in correctional work-release
14 programs, or the recommendation of persons who have had the
15 individual under their supervision.
- 16 c. If a prospective employee of a facility refuses to consent to,
17 or cooperate in, the securing of a criminal history record
18 background check, the commissioner shall direct the principal
19 administrator not to consider the person for employment at the
20 facility. The prospective employee shall, however, retain any
21 available right of review by the Merit System Board in the
22 Department of Personnel.
- 23 d. If a current employee of a facility refuses to consent to, or
24 cooperate in, the securing of a criminal history record background
25 check, the commissioner shall direct the principal administrator to
26 immediately remove the person from his position at the facility and
27 to terminate the person's employment at the facility. The employee
28 shall, however, retain any available right of review by the Merit
29 System Board in the Department of Personnel.
- 30 e. Notwithstanding the provisions of subsection a. of this section
31 to the contrary, a facility may provisionally employ an individual
32 for a period not to exceed six months if that individual's State
33 Bureau of Identification criminal history record background check
34 does not contain any information that would disqualify the
35 individual from employment at the facility and if the individual
36 submits to the commissioner a sworn statement attesting that the
37 individual has not been convicted of any crime or disorderly
38 persons offense as described in this act, pending a determination
39 that no criminal history record background information which
40 would disqualify the individual exists on file in the Federal Bureau
41 of Investigation, Identification Division. An individual who is
42 provisionally employed pursuant to this subsection shall perform
43 his duties at the facility under the direct supervision of a superior
44 who acts in a supervisory capacity over that individual until the
45 determination concerning the federal information is complete.
- 46 f. Notwithstanding the provisions of subsection b. of this section
47 to the contrary, if the criminal history record background check of
48 an individual, whose employment involves or would involve

1 working directly with persons under 18 years of age, reveals a
2 conviction for a crime or offense against children, meaning any of
3 those crimes and disorderly persons offenses set forth in
4 N.J.S.2C:24-4, that individual shall be permanently disqualified
5 from employment at a facility.

6 (cf: P.L.1997, c.71, s.1)

7

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

10 2. a. The department shall not contract with any community
11 agency for the provision of services unless it has first been
12 determined, consistent with the requirement and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify the community agency head or the community
17 agency employees from such employment. The determination shall
18 be made by the community agency board with regard to the agency
19 head and the determination shall be made by the agency head with
20 regard to all agency employees.

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

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

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

43 (a) Involving danger to the person, meaning those crimes and
44 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
45 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
46 or N.J.S.2C:15-1 et seq.; or

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

1 seq.; or

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

6 (2) In any other state or jurisdiction, of conduct which, if
7 committed in New Jersey, would constitute any of the crimes or
8 disorderly persons offenses described in paragraph (1) of this
9 subsection.

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

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

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

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

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

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

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

48 (4) the date of the offense;

- 1 (5) the age of the individual when the offense was committed;
2 (6) whether the offense was an isolated or repeated incident;
3 (7) any social conditions which may have contributed to the
4 offense; and
5 (8) any evidence of rehabilitation, including good conduct in
6 prison or in the community, counseling or psychiatric treatment
7 received, acquisition of additional academic or vocational
8 schooling, successful participation in correctional work-release
9 programs, or the recommendation of those who have had the
10 individual under their supervision.

11 g. Notwithstanding the provisions of subsection f. of this section
12 to the contrary, if the criminal history record background check of a
13 community agency head or community agency employee, whose
14 employment involves or would involve working directly with
15 persons under 18 years of age, reveals a conviction for a crime or
16 offense against children, meaning any of those crimes and
17 disorderly persons offenses set forth in N.J.S.2C:24-4, that
18 individual shall be permanently disqualified from employment at a
19 community agency.

20 (cf: P.L.2000, c.97, s.2)

21

22 3. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill amends the laws requiring criminal history record
28 background checks for employees of a facility for the mentally ill or
29 the developmentally disabled, and for community agency heads or
30 employees of a community agency for the provision of services for
31 persons with developmental disabilities.

32 Specifically, the bill provides that if these criminal history record
33 background checks reveal a conviction for a crime or offense
34 against children under N.J.S.A.2C:24-4, those individuals who work
35 directly with children would be permanently disqualified from
36 employment at a facility for the mentally ill or the developmentally
37 disabled or a community agency for the provision of services for
38 persons with developmental disabilities.

39 Under N.J.S.A.2C:24-4, any person having a legal duty for the
40 care of a child or who has assumed responsibility for the care of a
41 child who engages in certain sexual conduct, enumerated under the
42 law, which would impair or debauch the morals of the child, or who
43 causes the child harm that would make the child an abused or
44 neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3 and
45 N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

SENATE, No. 52

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

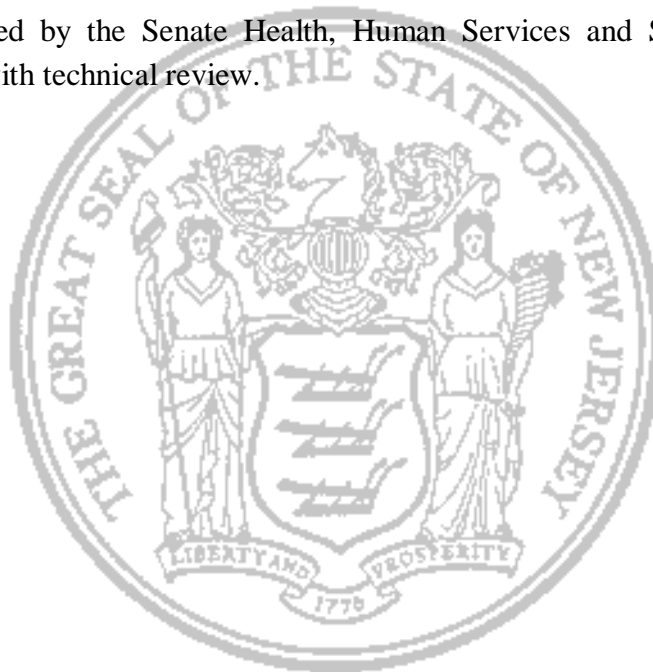
Senators Bateman and Stack

SYNOPSIS

Permanently disqualifies certain persons convicted of child endangerment from working with children.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee with technical review.



(Sponsorship Updated As Of: 3/18/2008)

1 AN ACT concerning criminal history records for certain persons
2 working with children and amending P.L.1988, c.45 and
3 P.L.1999, c.358.
4

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

7
8 1 Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read
9 as follows:

10 2. a. A facility shall not employ any individual unless the
11 Commissioner of **[the Department of]** Human Services has first
12 determined, consistent with the requirements and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify that individual from being employed at the
17 facility. A criminal history record background check shall be
18 conducted at least once every two years for an individual employed
19 at the facility. An individual shall be disqualified from employment
20 under this act if that individual's criminal history record background
21 check reveals a record of conviction of any of the following crimes
22 and offenses:

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

24 (a) Involving danger to the person, meaning those crimes and
25 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
26 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
27 or N.J.S.2C:15-1 et seq.; or

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

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

35 b. Notwithstanding the provisions of subsection a. of this
36 section, no individual shall be disqualified from employment under
37 this act on the basis of any conviction disclosed by a criminal
38 history record background check performed pursuant to this act if
39 the individual has affirmatively demonstrated to the Commissioner
40 of Human Services clear and convincing evidence of his
41 rehabilitation. In determining whether an individual has
42 affirmatively demonstrated rehabilitation, the following factors
43 shall be considered:

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

Matter underlined thus is new matter.

- 1 (1) The nature and responsibility of the position which the
2 convicted individual would hold;
- 3 (2) The nature and seriousness of the offense;
- 4 (3) The circumstances under which the offense occurred;
- 5 (4) The date of the offense;
- 6 (5) The age of the individual when the offense was committed;
- 7 (6) Whether the offense was an isolated or repeated incident;
- 8 (7) Any social conditions which may have contributed to the
9 offense; and
- 10 (8) Any evidence of rehabilitation, including good conduct in
11 prison or in the community, counseling or psychiatric treatment
12 received, acquisition of additional academic or vocational
13 schooling, successful participation in correctional work-release
14 programs, or the recommendation of persons who have had the
15 individual under their supervision.
- 16 c. If a prospective employee of a facility refuses to consent to,
17 or cooperate in, the securing of a criminal history record
18 background check, the commissioner shall direct the principal
19 administrator not to consider the person for employment at the
20 facility. The prospective employee shall, however, retain any
21 available right of review by the Merit System Board in the
22 Department of Personnel.
- 23 d. If a current employee of a facility refuses to consent to, or
24 cooperate in, the securing of a criminal history record background
25 check, the commissioner shall direct the principal administrator to
26 immediately remove the person from his position at the facility and
27 to terminate the person's employment at the facility. The employee
28 shall, however, retain any available right of review by the Merit
29 System Board in the Department of Personnel.
- 30 e. Notwithstanding the provisions of subsection a. of this section
31 to the contrary, a facility may provisionally employ an individual
32 for a period not to exceed six months if that individual's State
33 Bureau of Identification criminal history record background check
34 does not contain any information that would disqualify the
35 individual from employment at the facility and if the individual
36 submits to the commissioner a sworn statement attesting that the
37 individual has not been convicted of any crime or disorderly
38 persons offense as described in this act, pending a determination
39 that no criminal history record background information which
40 would disqualify the individual exists on file in the Federal Bureau
41 of Investigation, Identification Division. An individual who is
42 provisionally employed pursuant to this subsection shall perform
43 his duties at the facility under the direct supervision of a superior
44 who acts in a supervisory capacity over that individual until the
45 determination concerning the federal information is complete.
- 46 f. Notwithstanding the provisions of subsection b. of this section
47 to the contrary, if the criminal history record background check of
48 an individual, whose employment involves or would involve

1 working directly with persons under 18 years of age, reveals a
2 conviction for a crime or offense against children, meaning any of
3 those crimes and disorderly persons offenses set forth in
4 N.J.S.2C:24-4, that individual shall be permanently disqualified
5 from employment at a facility.

6 (cf: P.L.1997, c.71, s.1)

7

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

10 2. a. The department shall not contract with any community
11 agency for the provision of services unless it has first been
12 determined, consistent with the requirement and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify the community agency head or the community
17 agency employees from such employment. The determination shall
18 be made by the community agency board with regard to the agency
19 head and the determination shall be made by the agency head with
20 regard to all agency employees.

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

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

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

43 (a) Involving danger to the person, meaning those crimes and
44 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
45 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
46 or N.J.S.2C:15-1 et seq.; or

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

1 seq.; or

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

6 (2) In any other state or jurisdiction, of conduct which, if
7 committed in New Jersey, would constitute any of the crimes or
8 disorderly persons offenses described in paragraph (1) of this
9 subsection.

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

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

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

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

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

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

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

48 (4) the date of the offense;

- 1 (5) the age of the individual when the offense was committed;
2 (6) whether the offense was an isolated or repeated incident;
3 (7) any social conditions which may have contributed to the
4 offense; and
5 (8) any evidence of rehabilitation, including good conduct in
6 prison or in the community, counseling or psychiatric treatment
7 received, acquisition of additional academic or vocational
8 schooling, successful participation in correctional work-release
9 programs, or the recommendation of those who have had the
10 individual under their supervision.
- 11 g. Notwithstanding the provisions of subsection f. of this section
12 to the contrary, if the criminal history record background check of a
13 community agency head or community agency employee, whose
14 employment involves or would involve working directly with
15 persons under 18 years of age, reveals a conviction for a crime or
16 offense against children, meaning any of those crimes and
17 disorderly persons offenses set forth in N.J.S.2C:24-4, that
18 individual shall be permanently disqualified from employment at a
19 community agency.
20 (cf: P.L.2000, c.97, s.2)
21
22 3. This act shall take effect immediately.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 52

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 52.

This bill amends the laws requiring criminal history record background checks for employees of a facility for the mentally ill or the developmentally disabled, and for community agency heads or employees of a community agency for the provision of services for persons with developmental disabilities.

Specifically, the bill provides that if these criminal history record background checks reveal a conviction for a crime or offense against children under N.J.S.2C:24-4, those individuals who work directly with children would be permanently disqualified from employment at a facility for the mentally ill or the developmentally disabled or a community agency for the provision of services for persons with developmental disabilities.

Under N.J.S.2C:24-4, any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in certain sexual conduct, enumerated under the law, which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3, and N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 52

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Human Services Committee reports favorably and with committee amendments, Senate Bill No. 52 (2R).

As amended by the committee, this bill amends the laws requiring criminal history record background checks for employees of a facility for the mentally ill or the developmentally disabled, and for community agency heads or employees of a community agency for the provision of services for persons with developmental disabilities.

Under the provisions of the bill, a conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility that involves or would involve working directly with a person under 18 years of age. Therefore, individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a facility.

Under N.J.S.2C:24-4, any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in certain sexual conduct, enumerated under the law, which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3, and N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

As reported by the committee, this bill is identical to Assembly Bill No. 2384 (ACA) (Coyle/Lampitt), which the committee also reported on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to update section 2 of P.L.1988, c.45 (C.30:4-3.5) to reflect the enactment of P.L.2008, c.29, and to clarify that the Civil Service Commission is in the Department of Labor and Workforce Development.

STATEMENT TO

SENATE, No. 52

with Senate Floor Amendments
(Proposed By Senator Rice)

ADOPTED: MARCH 17, 2008

This amendment declares that a conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility or community agency that involves or would involve working directly with a person under 18 years of age.

The effect of this declaration is to permanently disqualify a person from employment in a State developmental center or psychiatric hospital, and a community agency that serves persons with developmental disabilities, who has been convicted of a crime or disorderly persons offense under N.J.S.2C:24-4.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 52

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Human Services Committee reports favorably and with committee amendments, Senate Bill No. 52 (2R).

As amended by the committee, this bill amends the laws requiring criminal history record background checks for employees of a facility for the mentally ill or the developmentally disabled, and for community agency heads or employees of a community agency for the provision of services for persons with developmental disabilities.

Under the provisions of the bill, a conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility that involves or would involve working directly with a person under 18 years of age. Therefore, individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a facility.

Under N.J.S.2C:24-4, any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in certain sexual conduct, enumerated under the law, which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3, and N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

As reported by the committee, this bill is identical to Assembly Bill No. 2384 (ACA) (Coyle/Lampitt), which the committee also reported on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to update section 2 of P.L.1988, c.45 (C.30:4-3.5) to reflect the enactment of P.L.2008, c.29, and to clarify that the Civil Service Commission is in the Department of Labor and Workforce Development.

ASSEMBLY, No. 2384

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 28, 2008

Sponsored by:

Assemblywoman DENISE M. COYLE

District 16 (Morris and Somerset)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblywoman CARIDAD RODRIGUEZ

District 33 (Hudson)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblywoman CLEOPATRA G. TUCKER

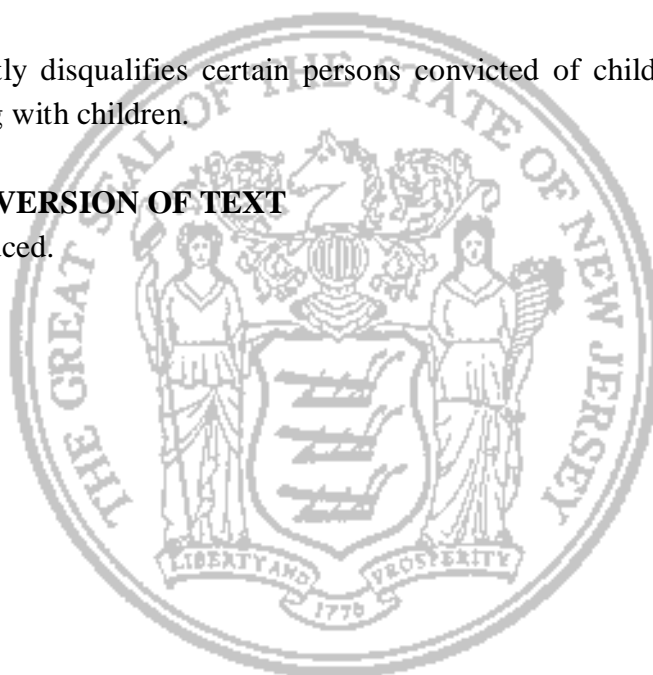
District 28 (Essex)

SYNOPSIS

Permanently disqualifies certain persons convicted of child endangerment from working with children.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/14/2008)

1 AN ACT concerning criminal history records for certain persons
2 working with children and amending P.L.1988, c.45 and
3 P.L.1999, c.358.

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

7
8 1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read
9 as follows:

10 2. a. A facility shall not employ any individual unless the
11 Commissioner of **[the Department of]** Human Services has first
12 determined, consistent with the requirements and standards of this
13 act, that no criminal history record information exists on file in the
14 Federal Bureau of Investigation, Identification Division, or in the
15 State Bureau of Identification in the Division of State Police, which
16 would disqualify that individual from being employed at the
17 facility. A criminal history record background check shall be
18 conducted at least once every two years for an individual employed
19 at the facility. An individual shall be disqualified from employment
20 under this act if that individual's criminal history record background
21 check reveals a record of conviction of any of the following crimes
22 and offenses:

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

24 (a) Involving danger to the person, meaning those crimes and
25 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
26 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
27 or N.J.S.2C:15-1 et seq.; or

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

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

35 b. Notwithstanding the provisions of subsection a. of this
36 section, no individual shall be disqualified from employment under
37 this act on the basis of any conviction disclosed by a criminal
38 history record background check performed pursuant to this act if
39 the individual has affirmatively demonstrated to the Commissioner
40 of Human Services clear and convincing evidence of his
41 rehabilitation. In determining whether an individual has
42 affirmatively demonstrated rehabilitation, the following factors
43 shall be considered:

44 (1) The nature and responsibility of the position which the

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

Matter underlined thus is new matter.

- 1 convicted individual would hold;
- 2 (2) The nature and seriousness of the offense;
- 3 (3) The circumstances under which the offense occurred;
- 4 (4) The date of the offense;
- 5 (5) The age of the individual when the offense was committed;
- 6 (6) Whether the offense was an isolated or repeated incident;
- 7 (7) Any social conditions which may have contributed to the
- 8 offense; and
- 9 (8) Any evidence of rehabilitation, including good conduct in
- 10 prison or in the community, counseling or psychiatric treatment
- 11 received, acquisition of additional academic or vocational
- 12 schooling, successful participation in correctional work-release
- 13 programs, or the recommendation of persons who have had the
- 14 individual under their supervision.
- 15 c. If a prospective employee of a facility refuses to consent to,
- 16 or cooperate in, the securing of a criminal history record
- 17 background check, the commissioner shall direct the principal
- 18 administrator not to consider the person for employment at the
- 19 facility. The prospective employee shall, however, retain any
- 20 available right of review by the Merit System Board in the
- 21 Department of Personnel.
- 22 d. If a current employee of a facility refuses to consent to, or
- 23 cooperate in, the securing of a criminal history record background
- 24 check, the commissioner shall direct the principal administrator to
- 25 immediately remove the person from his position at the facility and
- 26 to terminate the person's employment at the facility. The employee
- 27 shall, however, retain any available right of review by the Merit
- 28 System Board in the Department of Personnel.
- 29 e. Notwithstanding the provisions of subsection a. of this section
- 30 to the contrary, a facility may provisionally employ an individual
- 31 for a period not to exceed six months if that individual's State
- 32 Bureau of Identification criminal history record background check
- 33 does not contain any information that would disqualify the
- 34 individual from employment at the facility and if the individual
- 35 submits to the commissioner a sworn statement attesting that the
- 36 individual has not been convicted of any crime or disorderly
- 37 persons offense as described in this act, pending a determination
- 38 that no criminal history record background information which
- 39 would disqualify the individual exists on file in the Federal Bureau
- 40 of Investigation, Identification Division. An individual who is
- 41 provisionally employed pursuant to this subsection shall perform
- 42 his duties at the facility under the direct supervision of a superior
- 43 who acts in a supervisory capacity over that individual until the
- 44 determination concerning the federal information is complete.
- 45 f. Notwithstanding the provisions of subsection b. of this section
- 46 to the contrary, if the criminal history record background check of
- 47 an individual, whose employment involves or would involve
- 48 working directly with persons under 18 years of age, reveals a

1 conviction for a crime or offense against children, meaning any of
2 those crimes and disorderly persons offenses set forth in
3 N.J.S.2C:24-4, that individual shall be permanently disqualified
4 from employment at a facility.

5 (cf: P.L.1997, c.71, s.1)

6

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

9 2. a. The department shall not contract with any community
10 agency for the provision of services unless it has first been
11 determined, consistent with the requirement and standards of this
12 act, that no criminal history record information exists on file in the
13 Federal Bureau of Investigation, Identification Division, or in the
14 State Bureau of Identification in the Division of State Police, which
15 would disqualify the community agency head or the community
16 agency employees from such employment. The determination shall
17 be made by the community agency board with regard to the agency
18 head and the determination shall be made by the agency head with
19 regard to all agency employees.

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

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

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

42 (a) Involving danger to the person, meaning those crimes and
43 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
44 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
45 or N.J.S.2C:15-1 et seq.; or

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

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

5 (2) In any other state or jurisdiction, of conduct which, if
6 committed in New Jersey, would constitute any of the crimes or
7 disorderly persons offenses described in paragraph (1) of this
8 subsection.

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

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

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

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

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

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

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

47 (4) the date of the offense;

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

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

2 (7) any social conditions which may have contributed to the
3 offense; and

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

10 g. Notwithstanding the provisions of subsection f. of this section
11 to the contrary, if the criminal history record background check of a
12 community agency head or community agency employee, whose
13 employment involves or would involve working directly with
14 persons under 18 years of age, reveals a conviction for a crime or
15 offense against children, meaning any of those crimes and
16 disorderly persons offenses set forth in N.J.S.2C:24-4, that
17 individual shall be permanently disqualified from employment at a
18 community agency.

19 (cf: P.L.2000, c.97, s.2)

20

21 3. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill amends the laws requiring criminal history record
27 background checks for employees of a facility for the mentally ill or
28 the developmentally disabled, and for community agency heads or
29 employees of a community agency for the provision of services for
30 persons with developmental disabilities.

31 Specifically, the bill provides that if these criminal history record
32 background checks reveal a conviction for a crime or offense
33 against children under N.J.S.A.2C:24-4, those individuals who work
34 directly with children would be permanently disqualified from
35 employment at a facility for the mentally ill or the developmentally
36 disabled or a community agency for the provision of services for
37 persons with developmental disabilities.

38 Under N.J.S.A.2C:24-4, any person having a legal duty for the
39 care of a child or who has assumed responsibility for the care of a
40 child who engages in certain sexual conduct, enumerated under the
41 law, which would impair or debauch the morals of the child, or who
42 causes the child harm that would make the child an abused or
43 neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3 and
44 N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2384

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Human Services Committee reports favorably and with committee amendments, Assembly Bill No. 2384.

As amended by the committee, this bill amends the laws requiring criminal history record background checks for employees of a facility for the mentally ill or the developmentally disabled, and for community agency heads or employees of a community agency for the provision of services for persons with developmental disabilities.

Under the provisions of the bill, a conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility that involves or would involve working directly with a person under 18 years of age. Therefore, individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a facility.

Under N.J.S.A.2C:24-4, any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in certain sexual conduct, enumerated under the law, which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child, as defined in N.J.S.A.9:6-1, N.J.S.A.9:6-3, and N.J.S.A.9:6-8.21, is guilty of a crime of the second degree.

As reported by the committee, this bill is identical to Senate Bill No. 52 (2R) ACA (Rice/Oroho), which the committee reported on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- provide that a conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a facility that involves or would involve working directly with a person under 18 years of age. Individuals convicted of such crimes or disorderly persons offenses are permanently disqualified from such employment at a facility; and
- update section 2 of P.L.1988, c.45 (C.30:4-3.5) to reflect the

enactment of P.L.2008, c.29, and to clarify that the Civil Service Commission is in the Department of Labor and Workforce Development.