

2A:168A-1 et seq.

Legislative Notes on N.J.S.A. 2A:168A-1 et seq.
(Rehabilitated convicted offenders)

Laws of 1968, Chapter 282, Bill No. A733

May 13 - Introduced by Dickey, Thomas, Rinaldi, Moraites
A. S. Smith, Gavan and Owens.
June 13 - Passed in Assembly.
June 24 - Passed in Senate, amended.
June 24 - Senate amend., passed in Assembly.
Sept. 4 - Approved.

Statement to A733

This bill is recommended by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey to implement one of the recommendations contained in its Recommendation Number 14 in its April 22, 1968 report.

974.90 New Jersey Legislature.
C929 Joint Committee to Study Crime and the
1968b System of Criminal Justice in N.J. Report,
1968, pp. 14-17.

SR 3 - Requests the Senate Committee on Revision and Amendment of Laws to investigate the adequacy of the laws pertaining to the issuance of alcoholic beverage licenses.

February 3 - Introduced by Beadleston, Coffee, Crabel,
Knowlton, McDermott
February 3 - Passed in Senate. February 11 - Filed.
March 19 - Public Hearing Held.

974.90 New Jersey Legislature.
L767 Senate Committee on Revision and Amendment of Laws.
1969a [re-issuance of alcoholic beverage licenses, SR-3]
Public hearing held March 9, 1969, p. 5.

Laws of 1974, Chapter 161, Bill No. A1611

April 29 - Introduced by Deverin, Martin and Hamilton.
May 13 - Passed in Assembly.
May 16 - Passed in Senate.
Nov. 15 - Approved.

Not amended during passage.

Statement to A1611:

Laws governing at least 40 different professions and occupations in New Jersey discriminate against persons convicted of crimes. Sections of laws controlling certification and licensing for these jobs disqualify exoffenders by stipulating that admission to those professions and occupations shall go only to those with good moral character and reputation, and not to those persons convicted of certain crimes or of crimes involving moral turpitude.

The President's Commission on Law Enforcement and the Administration of Justice in 1967, and more recently in 1973 recommended:

"The repeal of all mandatory provisions denying persons convicted of a criminal offense the right to engage in any occupation or obtain any license issued by government."

This bill is patterned after the law in Florida and after model legislation* from Georgetown University Law Center endorsed by the American Bar Association National Committee on Employment Restrictions and Corrections and by the New Jersey Bar Association. The model legislation was prepared after studies and surveys of similar proposals in more than 20 states. The bill also is a response to the findings of Governor Cahill's Commission on Vocational Education in Correctional Institutions. That commission was critical of the arbitrary employment disqualifications for ex-convicts and recommended review of these laws. The bill also is consistent with the spirit and letter of the New Jersey Criminal Law Revision Commission* report of 1971 which recommended that laws should establish a rational relationship between the criminal conduct of a man and the ensuing civil and employment disabilities imposed on him. Gainful employment is vital to any ex-offender's chance for returning freely to society. Testimony before the Assembly Institutions and Welfare Committee in 1972 on proposals to reform the correctional system included several recommendations for widening employment opportunities for former prisoners. The committee was told that the lack of jobs and financial security were major factors contributing to the high rates of parole violations and subsequent criminal acts.

* 974.90
C929
1971
U1xV

* TB94 Kerper, Hazel B. Legal Rights of the Convicted.
P 7 Appendix B-14 "Model Civil Service Conviction
K39 Statute," p. 636, [c1974] (Copy enclosed).

JAA/ks 974.90 N.J. Commission on Vocational Education in
P959 Correctional Institutions. Final Report.
1972b

CHAPTER 282 LAWS OF N. J. 19__

APPROVED 9/4/68

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 733

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1968

By Assemblymen DICKEY, THOMAS, RINALDI, MORAITES, A. S.
SMITH, GAVAN and OWENS

Referred to Committee on Revision and Amendment of Laws

AN ACT relating to employment qualifications of rehabilitated
convicted offenders.

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

1 1. The Legislature finds and declares that it is in the public
2 interest to assist rehabilitated convicted offenders to obtain gainful
3 employment by the elimination of impediments and restrictions
4 upon their obtaining employment based solely upon the existence
5 of a criminal record.

1 2. Notwithstanding the contrary provisions of any law or rule
2 or regulation issued pursuant to law, ***[no]*** **any** State, county
3 or municipal department, board, officer or agency, hereinafter
4 referred to as "licensing authority," authorized to pass upon the
5 qualifications of any applicant for a license or certificate of au-
6 thority or qualification to engage in the practice of a profession or
7 business or for admission to an examination to qualify for such a
8 license or certificate ***[shall deny]*** **may grant** an application for
9 a license or certificate or an application for admission to a qualify-
9A ing examination ***[solely on the ground]*** **notwithstanding**
10 that the applicant has been convicted of a crime, other than a high
11 misdemeanor, or adjudged a disorderly person, where it shall ap-
12 pear to the licensing authority that the applicant has achieved a
13 degree of rehabilitation which indicates his engaging in the pro-
14 fession or business, for which he is an applicant for license or
15 certificate or admission to a qualifying examination, would not be
16 incompatible with the welfare of society or the aims and objectives
17 of the licensing authority.

1 3. Evidence of a pardon or of the expunging of a criminal con-
2 viction, pursuant to N. J. S. 2A:164-28, or certificate of the Federal

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

3 or State Parole Board or the Chief Probation Officer of a United
4 States District Court or of a county, who has supervised the appli-
5 cant's probation, that the applicant has achieved a degree of re-
6 habilitation which indicates engaging in the proposed employment
7 would not be incompatible with the welfare of society shall be
8 sufficient evidence as to the achievement by the applicant of a
9 degree of rehabilitation compatible with the welfare of society.
1 4. This act shall take effect immediately.

CHAPTER 1261 LAWS OF N. J. 1974
APPROVED 11-15-74

ASSEMBLY, No. 1611

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1974

By Assemblymen DEVERIN and MARTIN

Referred to Committee on Judiciary

AN ACT relating to the licensing of rehabilitated convicted offenders, and to amend the Title of "An act relating to employment qualifications of rehabilitated convicted offenders," approved September 4, 1968 (P. L. 1968, c. 282), so that the same shall read "An act relating to licensing qualifications of rehabilitated convicted offenders," and to amend and supplement the body of said act.

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

1 1. The title of P. L. 1968, c. 282 is amended to read as follows:

2 AN ACT relating to [employment] licensing qualifications of
3 rehabilitated convicted offenders.

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

3 1. The Legislature finds and declares that it is in the public
4 interest to assist [rehabilitated convicted offenders to obtain
5 gainful employment by the elimination of impediments and restric-
6 tions upon their obtaining employment] the rehabilitation of
7 convicted offenders by removing impediments and restrictions upon
8 their ability to obtain employment or to participate in vocational
9 or educational rehabilitation programs based solely upon the
10 existence of a criminal record.

11 Therefore, the Legislature finds and declares that notwithstand-
12 ing the contrary provisions of any law or rule or regulation issued
13 pursuant to law, a person shall not be disqualified or discriminated
14 against by any licensing authority because of any conviction for a
15 crime, unless N. J. S. 2A:93-5 is applicable or unless the conviction
16 relates adversely to the occupation, trade, vocation, profession or
17 business for which the license or certificate is sought.

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

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

3 2. Notwithstanding the contrary provisions of any law or rule
4 or regulation issued pursuant to law, **[any]** no State, county or
5 municipal department, board, officer or agency, hereinafter referred
6 to as "licensing authority" authorized to pass upon the qualifica-
7 tions of any applicant for a license or certificate of authority or
8 qualification to engage in the practice of a profession or business
9 or for admission to an examination to qualify for such a license
10 or certificate may **[grant]** *disqualify or discriminate against* an
11 **[application]** applicant for a license or certificate or an application
12 for admission to a qualifying examination **[notwithstanding]** *on*
13 *the grounds* that the applicant has been convicted of a crime, **[other**
14 **than a high misdemeanor,]** or adjudged a disorderly person, **[where**
15 **it shall appear to the licensing authority that the applicant has**
16 **achieved a degree of rehabilitation which indicates his engaging**
17 **in the profession or business, for which he is an applicant for license**
18 **or certificate or admission to a qualifying examination, would not**
19 **be incompatible with the welfare of society or the aims and objec-**
20 **tives of the licensing authority]** *except that a licensing authority*
21 *may disqualify or discriminate against an applicant for a license*
22 *or certificate if N. J. S. 2A:93-5 is applicable or if a conviction for*
23 *a crime relates adversely to the occupation, trade, vocation, pro-*
24 *profession or business for which the license or certificate is sought.*
25 *In determining that a conviction for a crime relates adversely to*
26 *the occupation, trade, vocation, profession or business, the licensing*
27 *authority shall explain in writing how the following factors, or any*
28 *other factors, relate to the license or certificate sought:*

- 29 a. *The nature and duties of the occupation, trade, vocation,*
30 *profession or business, a license or certificate for which the person*
31 *is applying;*
32 b. *Nature and seriousness of the crime;*
33 c. *Circumstances under which the crime occurred;*
34 d. *Date of the crime;*
35 e. *Age of the person when the crime was committed;*
36 f. *Whether the crime was an isolated or repeated incident;*
37 g. *Social conditions which may have contributed to the crime;*
38 h. *Any evidence of rehabilitation, including good conduct in*
39 *prison or in the community, counseling or psychiatric treatment*
40 *received, acquisition of additional academic or vocational schooling,*
41 *successful participation in correctional work-release programs, or*
42 *the recommendation of persons who have or have had the applicant*
43 *under their supervision.*

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

3 3. *The presentation to a licensing authority of [Evidence]
4 evidence of a pardon or of the [expunging] expungement of a
5 criminal conviction, pursuant to N. J. S. 2A:164-28, or of a cer-
6 tificate of the Federal or State Parole Board, or of the Chief Pro-
7 bation Officer of a United States District Court or [of] a county[.]
8 who has supervised the applicant's probation, that the applicant
9 has achieved a degree of rehabilitation [which] indicating that his
10 [indicates] engaging in the proposed employment would not be
11 incompatible with the welfare of society shall [be sufficient evidence
12 as to the achievement by the applicant of a degree of rehabilitation
13 compatible with the welfare of society] preclude a licensing au-
14 thority from disqualifying or discriminating against the applicant.*

1 5. (New section) A licensing authority may disqualify or dis-
2 criminate against an applicant for a license or certificate on the
3 grounds that the applicant has within 4 months of the application
4 for admission to a qualifying examination been addicted to the
5 habitual use of drugs or intoxicating liquors.

1 6. (New section) Notwithstanding the contrary provisions of any
2 law or rule or regulation issued pursuant to law, any licensing
3 authority may permit any person subject to correctional super-
4 vision in this State to engage in regulated employment pursuant
5 to an approved program of vocational or educational rehabilitation.

1 7. (New section) This act shall not be applicable to any law
2 enforcement agency; however, nothing herein shall preclude a law
3 enforcement agency in its discretion from adopting the policies
4 and procedures set forth herein.

1 8. This act shall take effect immediately.

STATEMENT

Laws governing at least 49 different professions and occupations in New Jersey discriminate against persons convicted of crimes. Sections of laws controlling certification and licensing for these jobs disqualify ex-offenders by stipulating that admission to those professions and occupations shall go only to those with good moral character and reputation, and not to those persons convicted of certain crimes or of crimes involving moral turpitude.

The President's Commission on Law Enforcement and the Administration of Justice in 1967, and more recently in 1973 recommended:

"The repeal of all mandatory provisions denying persons

convicted of a criminal offense the right to engage in any occupation or obtain any license issued by government.”

This bill is patterned after the law in Florida and after model legislation from Georgetown University Law Center endorsed by the American Bar Association National Committee on Employment Restrictions and Corrections and by the New Jersey Bar Association. The model legislation was prepared after studies and surveys of similar proposals in more than 20 states. The bill also is a response to the findings of Governor Cahill's Commission on Vocational Education in Correctional Institutions. That commission was critical of the arbitrary employment disqualifications for ex-convicts and recommended review of these laws. The bill also is consistent with the spirit and letter of the New Jersey Criminal Law Revision Commission report of 1971 which recommended that laws should establish a rational relationship between the criminal conduct of a man and the ensuing civil and employment disabilities imposed on him. Gainful employment is vital to any ex-offender's chance for returning freely to society. Testimony before the Assembly Institutions and Welfare Committee in 1972 on proposals to reform the correctional system included several recommendations for widening employment opportunities for former prisoners. The committee was told that the lack of jobs and financial security were major factors contributing to the high rates of parole violations and subsequent criminal acts.

FROM THE OFFICE OF THE GOVERNOR

NOVEMBER 15, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Friday two bills designed to reduce restrictions against employment opportunities for persons convicted of crimes.

One bill, A-1610, increases the ability of persons with criminal records to obtain employment with state, county or municipal governments.

The measure provides that conviction of a crime may be considered in denying employment only if it relates adversely to the specific employment sought. It also provides that no public employer other than a law enforcement agency may ask an applicant questions related to arrests which did not result in a conviction or charges pending at the time of application for employment.

The other bill, A-1611, contains similar provisions for persons convicted of crimes who are seeking a state license necessary to pursue various forms of employment.

In signing the bills, Byrne cautioned that the measures do not provide a "blanket disregard" of a prior criminal record.

"This legislation provides a rational way of dealing with persons with prior experience with the law," he said.

Both bills were sponsored by Assemblymen Thomas J. Deverin, D-Middlesex, and Harold Martin, D-Bergen.

###

PROPERTY OF
NEW JERSEY GOVERNMENT PRINTING OFFICE

1974

11-4
P. 7
RJ9

p. 636

2A:168A-1

otherwise provided in the order, and shall be treated in all respects as not having been convicted, except that upon conviction of any subsequent crime the prior conviction may be considered by the court in determining the sentence to be imposed.

In any application for employment, license, or other civil right or privilege, or any appearance as a witness, a person may be questioned about previous criminal record only in language such as the following: "Have you ever been arrested for or convicted of a crime which has not been annulled by a court?"

Upon entry of the order of annulment of conviction, the court shall issue to the person in whose favor the order has been entered a certificate stating that his behavior after conviction has warranted the issuance of the order, and that its effect is to annul, cancel, and rescind the record of conviction and disposition.

Nothing in this act shall affect any right of the offender to appeal from his conviction or to rely on it in bar of any subsequent proceedings for the same offense.

Appendix B-14—Model Civil Service Conviction Statute *

Section 1. The [name of legislature] finds that the public is best protected when criminal offenders are rehabilitated and returned to society prepared to take their places as productive citizens. The [name of legislature] also finds that the ability of returned offenders to find meaningful employment is directly related to their normal functioning in the community. It is therefore the policy of [name of state] to encourage all employers to give favorable consideration to providing jobs to qualified individuals, including those who may have criminal conviction records.

Section 2. No person with a criminal conviction record shall be disqualified from taking open competitive examinations to test the relative fitness of applicants for the respective positions. Persons with criminal conviction records shall be entitled to the benefit of all rules and regulations pertaining to the grading and processing of job applications which are accorded to other applicants. In considering persons with criminal conviction records who have applied for employment the [hiring official] shall consider the following:

- a. The nature of the crime and its relationship to the job for which the person has applied;
- b. Information pertaining to the degree or rehabilitation of the convicted person; and
- c. The time elapsed since the conviction.

* Prepared By: Herbert S. Miller, Georgetown University Law Center, Washington, D. C., "The Closed Door. The Effect of a Criminal Record on Employment with State and Local Public Agencies." pp. 47-48