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end

§§2,3 -
C.45:1-21.5 &
45:1-21.6
§4 - Note

P.L. 2021, CHAPTER 81, *approved May 11, 2021*
Senate, No. 942 (*Second Reprint*)

1 AN ACT concerning criminal history records and professional or
2 occupational boards, and amending and supplementing
3 P.L.1978, c.73.

4

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

7

8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read
9 as follows:

10 8. A board may refuse to admit a person to an examination or
11 may refuse to issue or may suspend or revoke any certificate,
12 registration or license issued by the board upon proof that the
13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or
15 authorization to sit for an examination, as the case may be, through
16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,
18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross
20 incompetence which damaged or endangered the life, health,
21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or
23 incompetence;

24 e. Has engaged in professional or occupational misconduct as
25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any
27 crime or offense **【involving moral turpitude or relating adversely】**
28 that has a direct or substantial relationship to the activity regulated by
29 the board or is of a nature such that certification, registration or
30 licensure of the person would be inconsistent with the public's
31 'health,'¹ safety, 'or welfare,'¹ provided that the board shall make
32 this determination in a manner consistent with section 2 of
33 P.L. , c. (C.) (pending before the Legislature as this bill). For
34 the **【purpose】** purposes of this subsection a judgment of conviction
35 or a plea of guilty, non vult, nolo contendere or any other such
36 disposition of alleged criminal activity shall be deemed a
37 conviction;

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 SBA committee amendments adopted June 25, 2020.

²Assembly AAP committee amendments adopted February 24, 2021.

- 1 g. Has had his authority to engage in the activity regulated by
2 the board revoked or suspended by any other state, agency or
3 authority for reasons consistent with this section;
- 4 h. Has violated or failed to comply with the provisions of any
5 act or regulation administered by the board;
- 6 i. Is incapable, for medical or any other good cause, of
7 discharging the functions of a licensee in a manner consistent with
8 the public's health, safety and welfare;
- 9 j. Has repeatedly failed to submit completed applications, or
10 parts of, or documentation submitted in conjunction with, such
11 applications, required to be filed with the Department of
12 Environmental Protection;
- 13 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-
14 1 et seq.) or any insurance fraud prevention law or act of another
15 jurisdiction or has been adjudicated, in civil or administrative
16 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
17 or has been subject to a final order, entered in civil or
18 administrative proceedings, that imposed civil penalties under that
19 act against the applicant or holder;
- 20 l. Is presently engaged in drug or alcohol use that is likely to
21 impair the ability to practice the profession or occupation with
22 reasonable skill and safety. For purposes of this subsection, the
23 term "presently" means at this time or any time within the previous
24 365 days;
- 25 m. Has prescribed or dispensed controlled dangerous substances
26 indiscriminately or without good cause, or where the applicant or
27 holder knew or should have known that the substances were to be
28 used for unauthorized consumption or distribution;
- 29 n. Has permitted an unlicensed person or entity to perform an
30 act for which a license or certificate of registration or certification
31 is required by the board, or aided and abetted an unlicensed person
32 or entity in performing such an act;
- 33 o. Advertised fraudulently in any manner.
- 34 The division is authorized, for purposes of facilitating
35 determinations concerning licensure eligibility, to require the
36 fingerprinting of each applicant in accordance with applicable State
37 and federal laws, rules and regulations. Each applicant shall submit
38 the applicant's name, address, and written consent to the director for
39 a criminal history record background check to be performed. The
40 division is authorized to receive criminal history record information
41 from the State Bureau of Identification in the Division of State
42 Police and the Federal Bureau of Investigation. Upon receipt of
43 such notification, the division shall forward the information to the
44 appropriate board which shall make a determination regarding the
45 issuance of licensure. The applicant shall bear the cost for the
46 criminal history record background check, including all costs of
47 administering and processing the check, unless otherwise provided
48 for by an individual enabling act. The Division of State Police shall

1 promptly notify the division in the event an applicant or licensee,
2 who was the subject of a criminal history record background check
3 pursuant to this section, is convicted of a crime or offense in this
4 State after the date the background check was performed.

5 For purposes of this act:

6 "Completed application" means the submission of all of the
7 information designated on the checklist, adopted pursuant to section
8 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
9 permit for which application is made.

10 "Permit" has the same meaning as defined in section 1 of
11 P.L.1991, c.421 (C.13:1D-101).

12 (cf: P.L.2003, c.199, s.31)

13

14 2. (New section) a. Notwithstanding any law, rule or regulation
15 to the contrary, **'[a board] an entity'** shall not disqualify a person
16 from obtaining or holding any certificate, registration or license
17 issued by **'[a board] an entity'** solely because the person has been
18 convicted of or engaged in acts constituting any crime or offense,
19 unless the crime or offense has a direct or substantial relationship to
20 the activity regulated by the **'[board] entity'** or is of a nature such
21 that certification, registration or licensure of the person would be
22 inconsistent with the public's **'health,' safety ' , or welfare'**. For
23 the purposes of this section, a judgment of conviction or a plea of
24 guilty, non vult, nolo contendere or any other such disposition of
25 alleged criminal activity shall be deemed a conviction. In making
26 this determination, **'[a board] an entity'** shall consider the
27 following:

28 (1) the nature and seriousness of the crime or offense and the
29 passage of time since its commission;

30 (2) the relationship of the crime or offense to the purposes of
31 regulating the profession or occupation regulated by the **'[board]**
32 **entity'**;

33 (3) any evidence of rehabilitation of the person in the period of
34 time following the prior conviction that may be made available to
35 the **'[board] entity'**; and

36 (4) the relationship of the crime or offense to the ability,
37 capacity, and fitness required to perform the duties and discharge
38 the responsibilities of the profession or occupation regulated by the
39 **'[board] entity'**.

40 b. **'[A board] An entity'** shall not disqualify a person from
41 obtaining or holding a certificate, registration or license issued by
42 the **'[board] entity'** because of a person's prior conviction of a
43 crime or offense unless it provides the person with a written notice
44 that the **'[board] entity'** has determined that the conviction may
45 disqualify the person, and an explanation for the preliminary
46 determination that the crime or offense has a direct or substantial
47 relationship to the activity regulated by the **'[board] entity'** or is of

1 a nature such that certification, registration or licensure of the
 2 person would be inconsistent with the public's 'health,' safety, 'or
 3 welfare,' and affords the person an opportunity to be heard before
 4 the '[board] entity' prior to the '[board] entity' making a final
 5 decision on whether to disqualify the person. The person shall be
 6 afforded an opportunity to be heard before the '[board] entity' no
 7 later than ²[30] ⁴⁵² days after ²[receiving the written notice of
 8 potential disqualification] the entity receives the person's request
 9 for a hearing unless the person and the entity mutually agree to an
 10 extension². If, after the person is afforded the opportunity to be
 11 heard before the '[board] entity', the person is disqualified for a
 12 certificate, registration or license, the '[board] entity' shall notify
 13 the person, no later than ²[30] ⁴⁵² days after the hearing, in writing
 14 of the following:

- 15 (1) the grounds and reasons for the denial or disqualification;
- 16 (2) the earliest date the person may reapply for the certificate,
 17 registration or license; and
- 18 (3) that additional evidence of rehabilitation may be considered
 19 upon reapplication.

20 c. If a person's prior conviction was for murder, pursuant to
 21 N.J.S.2C:11-3 or an equivalent statute of another state or
 22 jurisdiction, or any sex offense that would qualify the person for
 23 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
 24 under an equivalent statute of another state or jurisdiction, there
 25 shall be a rebuttable presumption that the crime or offense has a
 26 direct or substantial relationship to the activity regulated by the
 27 '[board] entity' or is of such a nature that certification, registration
 28 or licensure of the person would be inconsistent with the public's
 29 'health,' safety, 'or welfare'.

30 ¹d. This section shall apply to any license, certification, or
 31 registration issued by any entity designated in section 2 of
 32 P.L.1978, c.73 (C.45:1-15), or by any principal department of the
 33 Executive Branch of State government or any entity within any
 34 department or any other entity hereafter created to license or
 35 otherwise regulate a profession or occupation.¹

36 ²e. No certificate, registration or license shall be issued by the
 37 Division of Local Government Services in the Department of
 38 Community Affairs to an individual who has, within the five years
 39 of preceding the submission of an application for a certificate,
 40 registration or license, been convicted of embezzlement, fraud,
 41 crimes involving public corruption, or theft.²

42
 43 3. (New section) The Director of the Division of Consumer
 44 Affairs in the Department of Law and Public Safety¹, and any entity
 45 subject to the requirements of section 2 of P.L. , c. (C.)
 46 (pending before the Legislature as this bill),¹ shall obtain data

1 concerning the number of, and reasons for, disqualification by any
2 **1** **board** entity¹ pursuant to section 2 of P.L. , c. (C.)
3 (pending before the Legislature as this bill), and annually submit a
4 report to the Legislature, pursuant to section 2 of P.L.1991, c.164
5 (C.52:14-19.1), that provides the disqualification data for each
6 **1** **board** entity¹.

7
8 4. This act shall take effect on the 90th day next following
9 enactment, except that the Director of the Division of Consumer
10 Affairs in the Department of Law and Public Safety¹, and any other
11 entity subject to the requirements of section 2 of P.L. , c. (C.)
12 (pending before the Legislature as this bill),¹ may take any
13 anticipatory administrative action in advance as shall be necessary
14 for the implementation of this act.

15

16

17

18

19 Requires certain standards for professional and occupational
20 boards considering applicants with criminal history records.

SENATE, No. 942

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

Requires certain standards for professional and occupational boards considering applicants with criminal history records.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2020)

1 AN ACT concerning criminal history records and professional or
2 occupational boards, and amending and supplementing
3 P.L.1978, c.73.

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

7
8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read
9 as follows:

10 8. A board may refuse to admit a person to an examination or
11 may refuse to issue or may suspend or revoke any certificate,
12 registration or license issued by the board upon proof that the
13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or
15 authorization to sit for an examination, as the case may be, through
16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,
18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross
20 incompetence which damaged or endangered the life, health,
21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or
23 incompetence;

24 e. Has engaged in professional or occupational misconduct as
25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any
27 crime or offense **[involving moral turpitude or relating adversely]**
28 that has a direct or substantial relationship to the activity regulated by
29 the board or is of a nature such that certification, registration or
30 licensure of the person would be inconsistent with the public's
31 safety, provided that the board shall make this determination in a
32 manner consistent with section 2 of P.L. , c. (C.) (pending
33 before the Legislature as this bill). For the **[purpose]** purposes of
34 this subsection a judgment of conviction or a plea of guilty, non
35 vult, nolo contendere or any other such disposition of alleged
36 criminal activity shall be deemed a conviction;

37 g. Has had his authority to engage in the activity regulated by
38 the board revoked or suspended by any other state, agency or
39 authority for reasons consistent with this section;

40 h. Has violated or failed to comply with the provisions of any
41 act or regulation administered by the board;

42 i. Is incapable, for medical or any other good cause, of
43 discharging the functions of a licensee in a manner consistent with
44 the public's health, safety and welfare;

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 j. Has repeatedly failed to submit completed applications, or
2 parts of, or documentation submitted in conjunction with, such
3 applications, required to be filed with the Department of
4 Environmental Protection;

5 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-
6 1 et seq.) or any insurance fraud prevention law or act of another
7 jurisdiction or has been adjudicated, in civil or administrative
8 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
9 or has been subject to a final order, entered in civil or
10 administrative proceedings, that imposed civil penalties under that
11 act against the applicant or holder;

12 l. Is presently engaged in drug or alcohol use that is likely to
13 impair the ability to practice the profession or occupation with
14 reasonable skill and safety. For purposes of this subsection, the
15 term "presently" means at this time or any time within the previous
16 365 days;

17 m. Has prescribed or dispensed controlled dangerous substances
18 indiscriminately or without good cause, or where the applicant or
19 holder knew or should have known that the substances were to be
20 used for unauthorized consumption or distribution;

21 n. Has permitted an unlicensed person or entity to perform an
22 act for which a license or certificate of registration or certification
23 is required by the board, or aided and abetted an unlicensed person
24 or entity in performing such an act;

25 o. Advertised fraudulently in any manner.

26 The division is authorized, for purposes of facilitating
27 determinations concerning licensure eligibility, to require the
28 fingerprinting of each applicant in accordance with applicable State
29 and federal laws, rules and regulations. Each applicant shall submit
30 the applicant's name, address, and written consent to the director for
31 a criminal history record background check to be performed. The
32 division is authorized to receive criminal history record information
33 from the State Bureau of Identification in the Division of State
34 Police and the Federal Bureau of Investigation. Upon receipt of
35 such notification, the division shall forward the information to the
36 appropriate board which shall make a determination regarding the
37 issuance of licensure. The applicant shall bear the cost for the
38 criminal history record background check, including all costs of
39 administering and processing the check, unless otherwise provided
40 for by an individual enabling act. The Division of State Police shall
41 promptly notify the division in the event an applicant or licensee,
42 who was the subject of a criminal history record background check
43 pursuant to this section, is convicted of a crime or offense in this
44 State after the date the background check was performed.

45 For purposes of this act:

46 "Completed application" means the submission of all of the
47 information designated on the checklist, adopted pursuant to section

1 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
2 permit for which application is made.

3 "Permit" has the same meaning as defined in section 1 of
4 P.L.1991, c.421 (C.13:1D-101).
5 (cf: P.L.2003, c.199, s.31)

6
7 2. (New section) a. Notwithstanding any law, rule or
8 regulation to the contrary, a board shall not disqualify a person from
9 obtaining or holding any certificate, registration or license issued by
10 a board solely because the person has been convicted of or engaged in
11 acts constituting any crime or offense, unless the crime or offense
12 has a direct or substantial relationship to the activity regulated by
13 the board or is of a nature such that certification, registration or
14 licensure of the person would be inconsistent with the public's
15 safety. For the purposes of this section, a judgment of conviction or
16 a plea of guilty, non vult, nolo contendere or any other such
17 disposition of alleged criminal activity shall be deemed a
18 conviction. In making this determination, a board shall consider the
19 following:

20 (1) the nature and seriousness of the crime or offense and the
21 passage of time since its commission;

22 (2) the relationship of the crime or offense to the purposes of
23 regulating the profession or occupation regulated by the board;

24 (3) any evidence of rehabilitation of the person in the period of
25 time following the prior conviction that may be made available to
26 the board; and

27 (4) the relationship of the crime or offense to the ability,
28 capacity, and fitness required to perform the duties and discharge
29 the responsibilities of the profession or occupation regulated by the
30 board.

31 b. A board shall not disqualify a person from obtaining or
32 holding a certificate, registration or license issued by the board
33 because of a person's prior conviction of a crime or offense unless
34 it provides the person with a written notice that the board has
35 determined that the conviction may disqualify the person, and an
36 explanation for the preliminary determination that the crime or offense
37 has a direct or substantial relationship to the activity regulated by the
38 board or is of a nature such that certification, registration or licensure
39 of the person would be inconsistent with the public's safety, and
40 affords the person an opportunity to be heard before the board prior
41 to the board making a final decision on whether to disqualify the
42 person. The person shall be afforded an opportunity to be heard
43 before the board no later than 30 days after receiving the written
44 notice of potential disqualification. If, after the person is afforded
45 the opportunity to be heard before the board, the person is
46 disqualified for a certificate, registration or license, the board shall
47 notify the person, no later than 30 days after the hearing, in writing
48 of the following:

- 1 (1) the grounds and reasons for the denial or disqualification;
2 (2) the earliest date the person may reapply for the certificate,
3 registration or license; and
4 (3) that additional evidence of rehabilitation may be considered
5 upon reapplication.

6 c. If a person's prior conviction was for murder, pursuant to
7 N.J.S.2C:11-3 or an equivalent statute of another state or
8 jurisdiction, or any sex offense that would qualify the person for
9 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
10 under an equivalent statute of another state or jurisdiction, there
11 shall be a rebuttable presumption that the crime or offense has a
12 direct or substantial relationship to the activity regulated by the board
13 or is of such a nature that certification, registration or licensure of
14 the person would be inconsistent with the public's safety.

15

16 3. (New section) The Director of the Division of Consumer
17 Affairs in the Department of Law and Public Safety shall obtain
18 data concerning the number of, and reasons for, disqualification by
19 any board pursuant to section 2 of P.L. , c. (C.) (pending
20 before the Legislature as this bill), and annually submit a report to
21 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
22 19.1), that provides the disqualification data for each board.

23

24 4. This act shall take effect on the 90th day next following
25 enactment, except that the Director of the Division of Consumer
26 Affairs in the Department of Law and Public Safety may take any
27 anticipatory administrative action in advance as shall be necessary
28 for the implementation of this act.

29

30

31

STATEMENT

32

33 This bill requires professional and occupational boards in the
34 Division of Consumer Affairs, when determining whether a person is
35 disqualified from certification, registration or licensure because of a
36 prior conviction of a crime or offense, to consider whether the crime or
37 offense has a direct or substantial relationship to the activity regulated
38 by the board or is of a nature such that certification, registration or
39 licensure of the person would be inconsistent with the public's safety.

40 Current law permits a board to suspend or revoke, refuse to issue,
41 or refuse to admit a person to an examination for any certificate,
42 registration or license issued by the board upon proof that the applicant
43 or holder of such certificate, registration or license has been convicted
44 of, or engaged in acts constituting, any crime or offense involving
45 moral turpitude or relating adversely to the activity regulated by the
46 board. The bill amends this standard of proof in current law to delete
47 the reference to a crime or offense involving moral turpitude, and
48 requires that the crime or offense have a direct or substantial

1 relationship to the activity regulated by the board, or to be of a nature
2 such that certification, registration or licensure of the person would be
3 inconsistent with the public's safety.

4 In addition, the bill supplements current law to provide that no
5 person will be disqualified from obtaining or holding any certificate,
6 registration or license issued by a board solely because of a prior
7 conviction of a crime or offense, unless the crime or offense has a
8 direct or substantial relationship to the activity regulated by the board,
9 or is of a nature such that certification, registration or licensure of the
10 person would be inconsistent with the public's safety. In determining
11 whether a crime or offense directly or substantially relates to the
12 activity regulated by the board, a board must consider the following:

13 (1) the nature and seriousness of the crime or offense and the
14 passage of time since its commission;

15 (2) the relationship of the crime or offense to the purposes of
16 regulating the profession or occupation regulated by the board;

17 (3) any evidence of rehabilitation of the person in the period of
18 time following the prior conviction that may be made available to the
19 board; and

20 (4) the relationship of the crime or offense to the ability, capacity,
21 and fitness required to perform the duties and discharge the
22 responsibilities of the profession or occupation regulated by the board.

23 The bill provides that a board shall not disqualify a person from
24 obtaining or holding a certificate, registration or license issued by the
25 board because of a person's prior conviction of a crime or offense
26 unless it provides the person with a written notice that the board has
27 determined that the conviction may disqualify the person and an
28 explanation for the preliminary determination that the crime or offense
29 has a direct or substantial relationship to the activity regulated by the
30 board or is of a nature such that certification, registration or licensure
31 of the person would be inconsistent with the public's safety.

32 The board must also afford the person an opportunity to be heard
33 before the board prior to the board making a final decision on whether
34 to disqualify the person. The person shall be afforded an opportunity
35 to be heard before the board no later than 30 days after receiving the
36 written notice of potential disqualification. If the board's final
37 decision is to disqualify the person, the board must notify the person,
38 no later than 30 days after the hearing, in writing as to the grounds and
39 reasons for the disqualification, the earliest date upon which the person
40 may reapply, and that additional evidence of rehabilitation may be
41 considered upon reapplication.

42 The bill also provides that a person's prior conviction for murder,
43 or an equivalent statute of another state or jurisdiction, or any sex
44 offense that would qualify the person for registration under "Megan's
45 Law," or under an equivalent statute of another state or jurisdiction,
46 creates a rebuttable presumption that a substantial relationship exists
47 between the prior conviction and the profession or occupation
48 regulated by the board.

S942 SINGLETON, CARDINALE

7

1 The bill requires the division to obtain data concerning the number
2 of, and reasons for, disqualification by any board pursuant to the
3 provisions of the bill, and annually submit a report to the Legislature
4 that provides the disqualification data for each board.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 942

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Commerce Committee reports favorably Senate Bill No. 942.

This bill requires professional and occupational boards in the Division of Consumer Affairs, when determining whether a person is disqualified from certification, registration or licensure because of a prior conviction of a crime or offense, to consider whether the crime or offense has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety.

Current law permits a board to suspend or revoke, refuse to issue, or refuse to admit a person to an examination for any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. The bill amends this standard of proof in current law to delete the reference to a crime or offense involving moral turpitude, and requires that the crime or offense have a direct or substantial relationship to the activity regulated by the board, or to be of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety.

In addition, the bill supplements current law to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by a board solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the board, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety. In determining whether a crime or offense directly or substantially relates to the activity regulated by the board, a board must consider the following:

- (1) the nature and seriousness of the crime or offense and the passage of time since its commission;
- (2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the board;
- (3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the board; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the board.

The bill provides that a board shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the board because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the board has determined that the conviction may disqualify the person and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's safety.

The board must also afford the person an opportunity to be heard before the board prior to the board making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the board no later than 30 days after receiving the written notice of potential disqualification. If the board's final decision is to disqualify the person, the board must notify the person, no later than 30 days after the hearing, in writing as to the grounds and reasons for the disqualification, the earliest date upon which the person may reapply, and that additional evidence of rehabilitation may be considered upon reapplication.

The bill also provides that a person's prior conviction for murder, or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration under "Megan's Law," or under an equivalent statute of another state or jurisdiction, creates a rebuttable presumption that a substantial relationship exists between the prior conviction and the profession or occupation regulated by the board.

The bill requires the division to obtain data concerning the number of, and reasons for, disqualification by any board pursuant to the provisions of the bill, and annually submit a report to the Legislature that provides the disqualification data for each board.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 942

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 25, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 942, with committee amendments.

This bill, as amended, requires professional and occupational boards in the Division of Consumer Affairs, as well as other government entities that issue certifications, registrations or licenses in the State, when determining whether a person is disqualified from certification, registration or licensure because of a prior conviction of a crime or offense, to consider whether the crime or offense has a direct or substantial relationship to the activity regulated by the board or entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

Current law permits a board to suspend or revoke, refuse to issue, or refuse to admit a person to an examination for any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. The bill amends this standard of proof in current law to delete the reference to a crime or offense involving moral turpitude, and requires that the crime or offense have a direct or substantial relationship to the activity regulated by the board, or to be of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

In addition, the bill supplements current law to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by an entity solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare. In determining whether a crime or offense directly or substantially relates to the activity regulated by the entity, an entity must consider the following:

- (1) the nature and seriousness of the crime or offense and the passage of time since its commission;

(2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity;

(3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity.

The bill provides that an entity shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the entity because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the entity has determined that the conviction may disqualify the person and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

The entity must also afford the person an opportunity to be heard before the entity prior to the entity making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the entity no later than 30 days after receiving the written notice of potential disqualification. If the entity's final decision is to disqualify the person, the entity must notify the person, no later than 30 days after the hearing, in writing as to the grounds and reasons for the disqualification, the earliest date upon which the person may reapply, and that additional evidence of rehabilitation may be considered upon reapplication.

The bill also provides that a person's prior conviction for murder, or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration under "Megan's Law," or under an equivalent statute of another state or jurisdiction, creates a rebuttable presumption that a substantial relationship exists between the prior conviction and the profession or occupation regulated by the entity.

The bill requires the division to obtain data concerning the number of, and reasons for, disqualification by any entity pursuant to the provisions of the bill, and annually submit a report to the Legislature that provides the disqualification data for each entity.

The supplemental sections of the bill apply to any license, certification, or registration issued by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a profession or occupation.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by an entity solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

The committee amended the bill to expand the scope of the prohibition on disqualification from obtaining or holding any certificate, registration or license solely because of certain prior convictions. The amendments provide that the prohibition applies to any license, certification, or registration issued by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a profession or occupation.

Additionally, the amendments require any entity subject to the requirements of the bill to obtain data concerning the number of, and reasons for, disqualification by the entity pursuant to the provisions of the bill, and annually submit a report to the Legislature that provides the disqualification data for each entity.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 942

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 942 (1R), with committee amendments.

As amended, this bill requires professional and occupational boards in the Division of Consumer Affairs, as well as other government entities that issue certifications, registrations or licenses in the State, when determining whether a person is disqualified from certification, registration or licensure because of a prior conviction of a crime or offense, to consider whether the crime or offense has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

Current law permits a board to suspend or revoke, refuse to issue, or refuse to admit a person to an examination for any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. The bill amends this standard of proof by deleting the reference to a crime or offense involving moral turpitude, and requires that the crime or offense have a direct or substantial relationship to the activity regulated by the board, or to be of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

In addition, the bill supplements current law to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by an entity solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare. In determining whether a crime or offense directly or substantially relates to the activity regulated by the entity, an entity must consider the following:

(1) the nature and seriousness of the crime or offense and the passage of time since its commission;

(2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity;

(3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity.

The bill provides that an entity shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the entity because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the entity has determined that the conviction may disqualify the person and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

The entity must also afford the person an opportunity to be heard before the entity prior to the entity making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the entity no later than 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. If the entity's final decision is to disqualify the person, the entity must notify the person, no later than 45 days after the hearing, in writing as to the grounds and reasons for the disqualification, the earliest date upon which the person may reapply, and that additional evidence of rehabilitation may be considered upon reapplication.

The bill also provides that a person's prior conviction for murder, or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration under "Megan's Law," or under an equivalent statute of another state or jurisdiction, creates a rebuttable presumption that a substantial relationship exists between the prior conviction and the profession or occupation regulated by the entity.

Under the bill, an individual is disqualified from certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if the individual has been convicted of embezzlement, fraud, crimes involving public corruption, or theft within five years preceding the submission of an application for certification, registration or licensure.

As amended and reported by the committee, Senate Bill No. 942 (1R) is identical to Assembly Bill No. 2890, which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments change the timeline for an individual's opportunity to be heard from no later than 30 days after the individual has received notice from an entity to 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. Additionally, the amendments change an entity's deadline to issue a final determination after an individual's hearing to no later than 45 days after the hearing rather than no later than 30 days.

The amendments also add language to prohibit the issuance of a certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if an individual has, within five years of submitting an application for a certificate, registration or license, been convicted of embezzlement, fraud, public corruption, or theft.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY, No. 2890

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson and Assemblyman Johnson

SYNOPSIS

Requires certain standards for professional and occupational boards considering applicants with criminal history records.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/25/2021)

1 AN ACT concerning criminal history records and professional or
2 occupational boards, and amending and supplementing
3 P.L.1978, c.73.

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

7
8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read
9 as follows:

10 8. A board may refuse to admit a person to an examination or
11 may refuse to issue or may suspend or revoke any certificate,
12 registration or license issued by the board upon proof that the
13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or
15 authorization to sit for an examination, as the case may be, through
16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,
18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross
20 incompetence which damaged or endangered the life, health,
21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or
23 incompetence;

24 e. Has engaged in professional or occupational misconduct as
25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any
27 crime or offense **[involving moral turpitude or relating adversely]**
28 that has a direct or substantial relationship to the activity regulated by
29 the board or is of a nature such that certification, registration or
30 licensure of the person would be inconsistent with the public's
31 safety, provided that the board shall make this determination in a
32 manner consistent with section 2 of P.L. , c. (C.) (pending
33 before the Legislature as this bill). For the **[purpose]** purposes of
34 this subsection a judgment of conviction or a plea of guilty, non
35 vult, nolo contendere or any other such disposition of alleged
36 criminal activity shall be deemed a conviction;

37 g. Has had his authority to engage in the activity regulated by
38 the board revoked or suspended by any other state, agency or
39 authority for reasons consistent with this section;

40 h. Has violated or failed to comply with the provisions of any
41 act or regulation administered by the board;

42 i. Is incapable, for medical or any other good cause, of
43 discharging the functions of a licensee in a manner consistent with
44 the public's health, safety and welfare;

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 j. Has repeatedly failed to submit completed applications, or
2 parts of, or documentation submitted in conjunction with, such
3 applications, required to be filed with the Department of
4 Environmental Protection;

5 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-
6 1 et seq.) or any insurance fraud prevention law or act of another
7 jurisdiction or has been adjudicated, in civil or administrative
8 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
9 or has been subject to a final order, entered in civil or
10 administrative proceedings, that imposed civil penalties under that
11 act against the applicant or holder;

12 l. Is presently engaged in drug or alcohol use that is likely to
13 impair the ability to practice the profession or occupation with
14 reasonable skill and safety. For purposes of this subsection, the
15 term "presently" means at this time or any time within the previous
16 365 days;

17 m. Has prescribed or dispensed controlled dangerous substances
18 indiscriminately or without good cause, or where the applicant or
19 holder knew or should have known that the substances were to be
20 used for unauthorized consumption or distribution;

21 n. Has permitted an unlicensed person or entity to perform an
22 act for which a license or certificate of registration or certification
23 is required by the board, or aided and abetted an unlicensed person
24 or entity in performing such an act;

25 o. Advertised fraudulently in any manner.

26 The division is authorized, for purposes of facilitating
27 determinations concerning licensure eligibility, to require the
28 fingerprinting of each applicant in accordance with applicable State
29 and federal laws, rules and regulations. Each applicant shall submit
30 the applicant's name, address, and written consent to the director for
31 a criminal history record background check to be performed. The
32 division is authorized to receive criminal history record information
33 from the State Bureau of Identification in the Division of State
34 Police and the Federal Bureau of Investigation. Upon receipt of
35 such notification, the division shall forward the information to the
36 appropriate board which shall make a determination regarding the
37 issuance of licensure. The applicant shall bear the cost for the
38 criminal history record background check, including all costs of
39 administering and processing the check, unless otherwise provided
40 for by an individual enabling act. The Division of State Police shall
41 promptly notify the division in the event an applicant or licensee,
42 who was the subject of a criminal history record background check
43 pursuant to this section, is convicted of a crime or offense in this
44 State after the date the background check was performed.

45 For purposes of this act:

1 "Completed application" means the submission of all of the
2 information designated on the checklist, adopted pursuant to section
3 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
4 permit for which application is made.

5 "Permit" has the same meaning as defined in section 1 of
6 P.L.1991, c.421 (C.13:1D-101).
7 (cf: P.L.2003, c.199, s.31)

8
9 2. (New section) a. Notwithstanding any law, rule or
10 regulation to the contrary, a board shall not disqualify a person from
11 obtaining or holding any certificate, registration or license issued by
12 a board solely because the person has been convicted of or engaged in
13 acts constituting any crime or offense, unless the crime or offense
14 has a direct or substantial relationship to the activity regulated by
15 the board or is of a nature such that certification, registration or
16 licensure of the person would be inconsistent with the public's
17 safety. For the purposes of this section, a judgment of conviction or
18 a plea of guilty, non vult, nolo contendere or any other such
19 disposition of alleged criminal activity shall be deemed a
20 conviction. In making this determination, a board shall consider the
21 following:

22 (1) the nature and seriousness of the crime or offense and the
23 passage of time since its commission;

24 (2) the relationship of the crime or offense to the purposes of
25 regulating the profession or occupation regulated by the board;

26 (3) any evidence of rehabilitation of the person in the period of
27 time following the prior conviction that may be made available to
28 the board; and

29 (4) the relationship of the crime or offense to the ability,
30 capacity, and fitness required to perform the duties and discharge
31 the responsibilities of the profession or occupation regulated by the
32 board.

33 b. A board shall not disqualify a person from obtaining or
34 holding a certificate, registration or license issued by the board
35 because of a person's prior conviction of a crime or offense unless
36 it provides the person with a written notice that the board has
37 determined that the conviction may disqualify the person, and an
38 explanation for the preliminary determination that the crime or offense
39 has a direct or substantial relationship to the activity regulated by the
40 board or is of a nature such that certification, registration or licensure
41 of the person would be inconsistent with the public's safety, and
42 affords the person an opportunity to be heard before the board prior
43 to the board making a final decision on whether to disqualify the
44 person. The person shall be afforded an opportunity to be heard
45 before the board no later than 30 days after receiving the written
46 notice of potential disqualification. If, after the person is afforded
47 the opportunity to be heard before the board, the person is
48 disqualified for a certificate, registration or license, the board shall

1 notify the person, no later than 30 days after the hearing, in writing
2 of the following:

- 3 (1) the grounds and reasons for the denial or disqualification;
4 (2) the earliest date the person may reapply for the certificate,
5 registration or license; and
6 (3) that additional evidence of rehabilitation may be considered
7 upon reapplication.

8 c. If a person's prior conviction was for murder, pursuant to
9 N.J.S.2C:11-3 or an equivalent statute of another state or
10 jurisdiction, or any sex offense that would qualify the person for
11 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
12 under an equivalent statute of another state or jurisdiction, there
13 shall be a rebuttable presumption that the crime or offense has a
14 direct or substantial relationship to the activity regulated by the board
15 or is of such a nature that certification, registration or licensure of
16 the person would be inconsistent with the public's safety.

17
18 3. (New section) The Director of the Division of Consumer
19 Affairs in the Department of Law and Public Safety shall obtain
20 data concerning the number of, and reasons for, disqualification by
21 any board pursuant to section 2 of P.L. , c. (C.) (pending
22 before the Legislature as this bill), and annually submit a report to
23 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
24 19.1), that provides the disqualification data for each board.

25
26 4. This act shall take effect on the 90th day next following
27 enactment, except that the Director of the Division of Consumer
28 Affairs in the Department of Law and Public Safety may take any
29 anticipatory administrative action in advance as shall be necessary
30 for the implementation of this act.

31

32

33

STATEMENT

34

35 This bill requires professional and occupational boards in the
36 Division of Consumer Affairs, when determining whether a person is
37 disqualified from certification, registration or licensure because of a
38 prior conviction of a crime or offense, to consider whether the crime or
39 offense has a direct or substantial relationship to the activity regulated
40 by the board or is of a nature such that certification, registration or
41 licensure of the person would be inconsistent with the public's safety.

42 Current law permits a board to suspend or revoke, refuse to issue,
43 or refuse to admit a person to an examination for any certificate,
44 registration or license issued by the board upon proof that the applicant
45 or holder of such certificate, registration or license has been convicted
46 of, or engaged in acts constituting, any crime or offense involving
47 moral turpitude or relating adversely to the activity regulated by the
48 board. The bill amends this standard of proof in current law to delete

1 the reference to a crime or offense involving moral turpitude, and
2 requires that the crime or offense have a direct or substantial
3 relationship to the activity regulated by the board, or to be of a nature
4 such that certification, registration or licensure of the person would be
5 inconsistent with the public's safety.

6 In addition, the bill supplements current law to provide that no
7 person will be disqualified from obtaining or holding any certificate,
8 registration or license issued by a board solely because of a prior
9 conviction of a crime or offense, unless the crime or offense has a
10 direct or substantial relationship to the activity regulated by the board,
11 or is of a nature such that certification, registration or licensure of the
12 person would be inconsistent with the public's safety. In determining
13 whether a crime or offense directly or substantially relates to the
14 activity regulated by the board, a board must consider the following:

15 (1) the nature and seriousness of the crime or offense and the
16 passage of time since its commission;

17 (2) the relationship of the crime or offense to the purposes of
18 regulating the profession or occupation regulated by the board;

19 (3) any evidence of rehabilitation of the person in the period of
20 time following the prior conviction that may be made available to the
21 board; and

22 (4) the relationship of the crime or offense to the ability, capacity,
23 and fitness required to perform the duties and discharge the
24 responsibilities of the profession or occupation regulated by the board.

25 The bill provides that a board shall not disqualify a person from
26 obtaining or holding a certificate, registration or license issued by the
27 board because of a person's prior conviction of a crime or offense
28 unless it provides the person with a written notice that the board has
29 determined that the conviction may disqualify the person and an
30 explanation for the preliminary determination that the crime or offense
31 has a direct or substantial relationship to the activity regulated by the
32 board or is of a nature such that certification, registration or licensure
33 of the person would be inconsistent with the public's safety.

34 The board must also afford the person an opportunity to be heard
35 before the board prior to the board making a final decision on whether
36 to disqualify the person. The person shall be afforded an opportunity
37 to be heard before the board no later than 30 days after receiving the
38 written notice of potential disqualification. If the board's final
39 decision is to disqualify the person, the board must notify the person,
40 no later than 30 days after the hearing, in writing as to the grounds and
41 reasons for the disqualification, the earliest date upon which the person
42 may reapply, and that additional evidence of rehabilitation may be
43 considered upon reapplication.

44 The bill also provides that a person's prior conviction for murder,
45 or an equivalent statute of another state or jurisdiction, or any sex
46 offense that would qualify the person for registration under "Megan's
47 Law," or under an equivalent statute of another state or jurisdiction,
48 creates a rebuttable presumption that a substantial relationship exists

A2890 LOPEZ, CHIARAVALLOTI

7

1 between the prior conviction and the profession or occupation
2 regulated by the board.

3 The bill requires the division to obtain data concerning the number
4 of, and reasons for, disqualification by any board pursuant to the
5 provisions of the bill, and annually submit a report to the Legislature
6 that provides the disqualification data for each board.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2890

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2890, with committee amendments.

As amended, this bill requires professional and occupational boards in the Division of Consumer Affairs, when determining whether a person is disqualified from certification, registration or licensure because of a prior conviction of a crime or offense, to consider whether the crime or offense has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

Current law permits a board to suspend or revoke, refuse to issue, or refuse to admit a person to an examination for any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. The bill amends this standard of proof by deleting the reference to a crime or offense involving moral turpitude, and requires that the crime or offense have a direct or substantial relationship to the activity regulated by the board, or to be of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

In addition, the bill supplements current law to provide that no person will be disqualified from obtaining or holding any certificate, registration or license issued by an entity solely because of a prior conviction of a crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity, or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare. In determining whether a crime or offense directly or substantially relates to the activity regulated by the entity, an entity must consider the following:

(1) the nature and seriousness of the crime or offense and the passage of time since its commission;

(2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity;

(3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity.

The bill provides that an entity shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the entity because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the entity has determined that the conviction may disqualify the person and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety and welfare.

The entity must also afford the person an opportunity to be heard before the entity prior to the entity making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the entity no later than 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. If the entity's final decision is to disqualify the person, the entity must notify the person, no later than 45 days after the hearing, in writing as to the grounds and reasons for the disqualification, the earliest date upon which the person may reapply, and that additional evidence of rehabilitation may be considered upon reapplication.

The bill also provides that a person's prior conviction for murder, or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration under "Megan's Law," or under an equivalent statute of another state or jurisdiction, creates a rebuttable presumption that a substantial relationship exists between the prior conviction and the profession or occupation regulated by the entity.

Under the bill, an individual is disqualified from certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if the individual has been convicted of embezzlement, fraud, crimes involving public corruption, or theft within five years preceding the submission of an application for certification, registration or licensure.

The supplemental sections of the bill apply to any license, certification, or registration issued by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a profession or occupation.

As amended and reported by the committee, Assembly Bill No. 2890 is identical to Senate Bill No. 942 (1R), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments clarify that certification, registration or licensure may be prohibited if such action is inconsistent with protecting the public's health, safety, and welfare. Additionally, language was added to expand to all entities, including those in any principal department of the Executive Branch of State government that certify, register or license a profession, the application of the process in the bill to determine if an individual should be prohibited from being certified, registered or licensed. References to a "board" were also changed to "entity" to capture the types of entities other than boards that certify, register or license a profession.

The amendments also change the timeline for an individual's opportunity to be heard from no later than 30 days after the individual has received notice from an entity to 45 days after an entity received the individual's request for a hearing unless an extension was mutually agreed upon between the individual and the entity. Additionally, the amendments change an entity's deadline to issue a final determination after an individual's hearing to no later than 45 days after the hearing rather than no later than 30 days.

The amendments also add language to disqualify an individual from certification, registration or licensure by the Division of Local Government Services in the Department of Community Affairs if the individual has been convicted of embezzlement, fraud, public corruption, or theft within five years preceding the submission of an application for certification, registration or licensure. Lastly, the amendments expand current language requiring data collection and allowing anticipatory regulations to all entities that certify, register or license a profession.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

Governor Murphy Takes Action on Legislation

05/11/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

S-767/A-4552 (Gopal, Greenstein/Houghtaling, Benson, Tully) – Exempts New Jersey Infrastructure Bank projects from certain local bond requirements

S-942/A-2890 (Singleton/Lopez, Chiaravalloti, Timberlake) – Requires certain standards for professional and occupational boards considering applicants with criminal history records

S-1937/A-1597 (Madden, Sweeney/Mejia, Timberlake, Vainieri Huttie) – Establishes Task Force to Promote Employment by State Agencies of People with Disabilities

S-2486/A-4264 (Sweeney/Taliaferro, Lampitt, Vainieri Huttie) – Establishes Clayton Model Pilot Program in DOE to provide school-based social emotional learning to students in grades kindergarten through five at certain public schools

S-2728/A-4835 (Sweeney, A.M. Bucco/Verrelli, Burzichelli, Wirths) – Adds two members to State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors

S-2832/A-5295 (Ruiz, Beach/Quijano, Lampitt) – Allows student enrolled in institution of higher education who has completed 30 semester-hour credits to serve as substitute teacher; extends time period substitute teacher may serve during public health emergency

S-3145/A-2308 (Greenstein, Pou/Vainieri Huttie, Johnson, Downey) – Concerns names required on applications for professional and occupational licensure

S-3198/A-5078 (Codey, Gopal/Dancer, Caputo) – Extends time outstanding parimutuel ticket may be claimed from six months to 12 months; allows additional time to claim outstanding parimutuel tickets and unclaimed cash vouchers due to Public Health Emergency

S-3234/A-5149 (Singleton, A.M. Bucco/Greenwald, Benson, Johnson) – Allows deduction from tax of certain expenses when taxpayer's federal paycheck protection program loan is forgiven and excludes those forgiven loans from gross income tax

Governor Murphy conditionally vetoed the following bills:

S-853/A-5064 (Sweeney, Beach/Verrelli, Giblin, Danielsen) – **CONDITIONAL** – "New Jersey Buy American Act"; requires certain State agency highway and bridge construction contracts to include iron and steel products made in U.S.

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S-890/A-1061 (Pou, Codey/Jasey, Johnson, Verrelli) – **CONDITIONAL** – Requires DOH and DHS to identify and take appropriate steps to secure federal sources of funding to support maternal mental health

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S-1676/A-3326 (Smith, Vitale/Conaway, Reynolds-Jackson, Vainieri Huttle) – CONDITIONAL – Allows hospitals to construct housing and provide wrap-around services for individuals who are homeless or housing insecure

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