

30:4-3.5

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(State institutions--provisional
hiring pending criminal
investigation check)

NJSA: 30:4-3.5

LAWS OF: 1993 CHAPTER: 1

BILL NO: S920

SPONSOR(S) Cody & Palaia

DATE INTRODUCED: June 8, 1992

COMMITTEE: ASSEMBLY: Health & Human Services
SENATE: Health & Human Services

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: December 21, 1992
SENATE: September 14, 1992

DATE OF APPROVAL: January 12, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping -- attached:
"Florio signs hiring bill," 1-13-93 Trenton Times.

KBG:pp

Legislative History Checklist
(Compiled by the Office of Legislative Services Library)

Synopsis: Permits provisional employment of persons in State facilities pending outcome of federal criminal history record background check.

Bill No.: S920

P.L. 1993, c. 1

Identical to:
Substituted for:
Combined with:
Last Session Bill No.:

See Above Bill(s) for Additional History

NJSA: 30:4-3.5

Sponsor(s): Codey/Palaia

Date Introduced: 06/08/92

Committee Reference:

Statement:

Public Hearing:

Assembly:

Health and Human Services

Yes

No

Senate:

Health and Human Services

Yes

No

Sponsor Statement: Yes

Fiscal Note: No

Dates of Passage:

Assembly:

02/11/92 (48-2)

Senate:

09/24/92 (37-0)

Amended During Passage: Yes

Governor's Action:

Veto: No

Date of Veto:

Date of Approval: 01/12/93

Message on Signing: No

Additional Information:

1 **AN ACT** concerning the provisional employment of certain
2 employees in State facilities and amending P.L.1988, c.45.

3

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

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

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

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

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

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

27 (2) In any other state or jurisdiction, of conduct which, if
28 committed in New Jersey, would constitute any of the crimes or
29 disorderly persons offenses described in paragraph (1) of this
30 subsection.

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

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

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

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:

¹ Senate SHM committee amendments adopted June 15, 1992.

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

13 c. If a prospective employee of a facility refuses to consent
14 to, or cooperate in, the securing of a criminal history record
15 background check, the commissioner shall direct the principal
16 administrator not to consider the person for employment at the
17 facility. The prospective employee shall, however, retain any
18 available right of review by the Merit System Board in the
19 Department of Personnel.

20 d. If a current employee of a facility refuses to consent to, or
21 cooperate in, the securing of a criminal history record
22 background check, the commissioner shall direct the principal
23 administrator to immediately remove the person from his position
24 at the facility and to terminate the person's employment at the
25 facility. The employee shall, however, retain any available right
26 of review by the Merit System Board in the Department of
27 Personnel.

28 e. Notwithstanding the provisions of subsection a. of this
29 section to the contrary, a facility may provisionally employ an
30 individual¹ [whose] for a period not to exceed six months if that
31 individual's¹ State Bureau of Identification criminal history
32 record background check does not contain any information that
33 would disqualify the individual from employment at the facility
34 ¹and if the individual submits to the commissioner a sworn
35 statement attesting that the individual has not been convicted of
36 any crime or disorderly persons offense as described in this act¹,
37 pending a determination that no criminal history record
38 background information which would disqualify the individual
39 exists on file in the Federal Bureau of Investigation,
40 Identification Division. An individual who is provisionally
41 employed pursuant to this subsection shall perform his duties at
42 the facility under the direct supervision of a superior who acts in
43 a supervisory capacity over that individual until the
44 determination concerning the federal information is complete.

45 (cf: P.L.1988, c.45, s.2)

46 2. Section 4 of P.L.1988, c.45 (C.30:4-3.7) is amended to read
47 as follows:

48 4. a. Upon receipt of [the] an applicant or employee's
49 criminal history record information [for an applicant] from the
50 Federal Bureau of Investigation [and] or the Division of State
51 Police, as applicable, the commissioner shall notify the applicant
52 or employee, in writing, of the applicant's or employee's
53 qualification or disqualification for employment under this act.
54 If the applicant or employee is disqualified, the conviction or

1 convictions which constitute the basis for the disqualification
2 shall be identified in the written notice.

3 b. The applicant or employee shall have 30 days from the date
4 of written notice of disqualification to petition the commissioner
5 for a hearing on the accuracy of the criminal history record
6 information or to establish his rehabilitation under subsection b.
7 of section 2 of this act. The commissioner may refer any case
8 arising hereunder to the Office of Administrative Law for
9 administrative proceedings pursuant to P.L.1978, c.67
10 (C.52:14F-1 et seq.).

11 c. The commissioner shall not maintain any individual's
12 criminal history record information or evidence of rehabilitation
13 submitted under this section for more than six months from the
14 date of a final determination by the commissioner as to the
15 individual's qualification or disqualification to be an employee
16 pursuant to this act.

17 d. The Commissioner of Human Services shall initiate a
18 criminal history record background check on all current
19 employees no later than 120 days after the effective date of this
20 act.

21 (cf: P.L.1988, c.45, s.4)

22 3. This act shall take effect immediately.

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27 _____
28 Permits provisional employment of persons in State facilities
29 pending outcome of federal criminal history record background
check.

SENATE, No. 920

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1992

By Senators CODEY and PALAIA

1 AN ACT concerning the provisional employment of certain
2 employees in State facilities and amending P.L.1988, c.45.

3

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

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

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

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

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

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

27 (2) In any other state or jurisdiction, of conduct which, if
28 committed in New Jersey, would constitute any of the crimes or
29 disorderly persons offenses described in paragraph (1) of this
30 subsection.

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

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

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

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

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

12 c. If a prospective employee of a facility refuses to consent
13 to, or cooperate in, the securing of a criminal history record
14 background check, the commissioner shall direct the principal
15 administrator not to consider the person for employment at the
16 facility. The prospective employee shall, however, retain any
17 available right of review by the Merit System Board in the
18 Department of Personnel.

19 d. If a current employee of a facility refuses to consent to, or
20 cooperate in, the securing of a criminal history record
21 background check, the commissioner shall direct the principal
22 administrator to immediately remove the person from his position
23 at the facility and to terminate the person's employment at the
24 facility. The employee shall, however, retain any available right
25 of review by the Merit System Board in the Department of
26 Personnel.

27 e. Notwithstanding the provisions of subsection a. of this
28 section to the contrary, a facility may provisionally employ an
29 individual whose State Bureau of Identification criminal history
30 record background check does not contain any information that
31 would disqualify the individual from employment at the facility,
32 pending a determination that no criminal history record
33 background information which would disqualify the individual
34 exists on file in the Federal Bureau of Investigation,
35 Identification Division. An individual who is provisionally
36 employed pursuant to this subsection shall perform his duties at
37 the facility under the direct supervision of a superior who acts in
38 a supervisory capacity over that individual until the
39 determination concerning the federal information is complete.

40 (cf: P.L.1988, c.45, s.2)

41 2. Section 4 of P.L.1988, c.45 (C.30:4-3.7) is amended to read
42 as follows:

43 4. a. Upon receipt of [the] an applicant or employee's
44 criminal history record information [for an applicant] from the
45 Federal Bureau of Investigation [and] or the Division of State
46 Police, as applicable, the commissioner shall notify the applicant
47 or employee, in writing, of the applicant's or employee's
48 qualification or disqualification for employment under this act.
49 If the applicant or employee is disqualified, the conviction or
50 convictions which constitute the basis for the disqualification
51 shall be identified in the written notice.

52 b. The applicant or employee shall have 30 days from the date
53 of written notice of disqualification to petition the commissioner
54 for a hearing on the accuracy of the criminal history record

1 information or to establish his rehabilitation under subsection b.
2 of section 2 of this act. The commissioner may refer any case
3 arising hereunder to the Office of Administrative Law for
4 administrative proceedings pursuant to P.L.1978, c.67
5 (C.52:14F-1 et seq.).

6 c. The commissioner shall not maintain any individual's
7 criminal history record information or evidence of rehabilitation
8 submitted under this section for more than six months from the
9 date of a final determination by the commissioner as to the
10 individual's qualification or disqualification to be an employee
11 pursuant to this act.

12 d. The Commissioner of Human Services shall initiate a
13 criminal history record background check on all current
14 employees no later than 120 days after the effective date of this
15 act.

16 (cf: P.L.1988, c.45, s.4)

17 3. This act shall take effect immediately.

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STATEMENT

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22 This bill would permit State facilities for the developmentally
23 disabled and mentally ill to provisionally hire individuals who do
24 not have any State convictions that would disqualify them from
25 employment while awaiting receipt of criminal history record
26 background information from the federal government.

27 The current requirement, that an individual cannot be hired
28 until he has cleared both a State and federal background check,
29 has caused long delays in the hiring of individuals because the
30 federal background check takes several months to complete.
31 Under this bill, the individuals who are hired provisionally pending
32 the federal background check will work under the direct
33 supervision of a superior who acts in a supervisory capacity over
34 that individual until the Commissioner of Human Services is able
35 to assess if they qualify for employment at the facility based on
36 both the State and federal background check.

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41 Permits provisional employment of persons in State facilities
42 pending outcome of federal criminal history record background
43 check.

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 920

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Senate Health and Human Services Committee favorably reports Senate Bill No. 920 with committee amendments.

As amended by committee, this bill would permit State facilities for the developmentally disabled and mentally ill to provisionally hire individuals, for up to six months, who do not have any State convictions that would disqualify them from employment while awaiting receipt of criminal history record background information from the federal government. The bill would require the individual to submit a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense that is described in P.L.1988, c.45 (C.30:4-3.4 et seq.).

The current requirement, that an individual cannot be hired until he has cleared both a State and federal background check, has caused long delays in the hiring of individuals because the federal background check takes several months to complete. Under this bill, the individuals who are hired provisionally pending the federal background check will work under the direct supervision of a superior who acts in a supervisory capacity over that individual until the Commissioner of Human Services is able to assess if they qualify for employment at the facility based on both the State and federal background check.

The committee amended the bill to add the requirements that the individual can be hired provisionally for only up to six months and that the individual must sign a sworn statement.

SENATE SHH COMMITTEE

AMENDMENTS

to

SENATE, No. 920

(Sponsored by Senators Codey and Palaia)

ADOPTED
JUN 15 1992

REPLACE SECTION 1 TO READ:

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

2. a. A facility shall not employ any individual unless the Commissioner of the Department of Human Services has first determined, consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being employed at the facility. An individual shall be disqualified from employment under this act if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

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

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

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

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

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

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

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense; and

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

c. If a prospective employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator not to consider the person for employment at the facility. The prospective employee shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

d. If a current employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator to immediately remove the person from his position at the facility and to terminate the person's employment at the facility. The employee shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

e. Notwithstanding the provisions of subsection a. of this section to the contrary, a facility may provisionally employ an individual¹ [whose] for a period not to exceed six months if that individual's¹ State Bureau of Identification criminal history record background check does not contain any information that would disqualify the individual from employment at the facility¹ and if the individual submits to the commissioner a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act¹, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties at the facility under the direct supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal information is complete.

(cf: P.L.1988, c.45, s.2)

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 920

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1992

The Assembly Health and Human Services Committee favorably reports Senate Bill No. 920 [1R].

This bill would permit State facilities for the developmentally disabled and mentally ill to provisionally hire individuals, for up to six months, who do not have any State convictions that would disqualify them from employment while awaiting receipt of criminal history record background information from the federal government. The bill would require the individual to submit a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense that is described in P.L.1988, c.45 (C.30:4-3.4 et seq.).

The current requirement, that an individual cannot be hired until he has cleared both a State and federal background check, has caused long delays in the hiring of individuals because the federal background check takes several months to complete. Under this bill, the individuals who are hired provisionally pending the federal background check will work under the direct supervision of a superior who acts in a supervisory capacity over that individual until the Commissioner of Human Services is able to assess if they qualify for employment at the facility based on both the State and federal background check.

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1992

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10 determined, consistent with the requirements and standards of
11 this act, that no criminal history record information exists on file
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13 in the State Bureau of Identification in the Division of State
14 Police, which would disqualify that individual from being
15 employed at the facility. An individual shall be disqualified from
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17 record check reveals a record of conviction of any of the
18 following crimes and offenses:

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25 those crimes and disorderly persons offenses set forth in
26 N.J.S.2C:24-1 et seq.; or

27 (2) In any other state or jurisdiction, of conduct which, if
28 committed in New Jersey, would constitute any of the crimes or
29 disorderly persons offenses described in paragraph (1) of this
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32 section, no individual shall be disqualified from employment
33 under this act on the basis of any conviction disclosed by a
34 criminal history record check performed pursuant to this act if
35 the individual has affirmatively demonstrated to the
36 Commissioner of Human Services clear and convincing evidence
37 of his rehabilitation. In determining whether an individual has
38 affirmatively demonstrated rehabilitation, the following factors
39 shall be considered:

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

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¹ Senate SHH committee amendments adopted June 15, 1992.

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2 (4) The date of the offense;
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5 (7) Any social conditions which may have contributed to the
6 offense; and
7 (8) Any evidence of rehabilitation, including good conduct in
8 prison or in the community, counseling or psychiatric treatment
9 received, acquisition of additional academic or vocational
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11 programs, or the recommendation of persons who have had the
12 individual under their supervision.

13 c. If a prospective employee of a facility refuses to consent
14 to, or cooperate in, the securing of a criminal history record
15 background check, the commissioner shall direct the principal
16 administrator not to consider the person for employment at the
17 facility. The prospective employee shall, however, retain any
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30 individual¹ [whose] for a period not to exceed six months if that
31 individual's¹ State Bureau of Identification criminal history
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33 would disqualify the individual from employment at the facility
34 ¹and if the individual submits to the commissioner a sworn
35 statement attesting that the individual has not been convicted of
36 any crime or disorderly persons offense as described in this act¹,
37 pending a determination that no criminal history record
38 background information which would disqualify the individual
39 exists on file in the Federal Bureau of Investigation,
40 Identification Division. An individual who is provisionally
41 employed pursuant to this subsection shall perform his duties at
42 the facility under the direct supervision of a superior who acts in
43 a supervisory capacity over that individual until the
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49 criminal history record information [for an applicant] from the
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51 Police, as applicable, the commissioner shall notify the applicant
52 or employee, in writing, of the applicant's or employee's
53 qualification or disqualification for employment under this act.
54 If the applicant or employee is disqualified, the conviction or

1 convictions which constitute the basis for the disqualification
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4 of written notice of disqualification to petition the commissioner
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6 information or to establish his rehabilitation under subsection b.
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9 administrative proceedings pursuant to P.L.1978, c.67
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18 criminal history record background check on all current
19 employees no later than 120 days after the effective date of this
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21 (cf: P.L.1988, c.45, s.4)

22 3. This act shall take effect immediately.

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28 pending outcome of federal criminal history record background
29 check.