

[First Reprint]

**ASSEMBLY, No. 3579**

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**STATE OF NEW JERSEY**

**210th LEGISLATURE**

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INTRODUCED MAY 15, 2003

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman DOUGLAS H. FISHER**

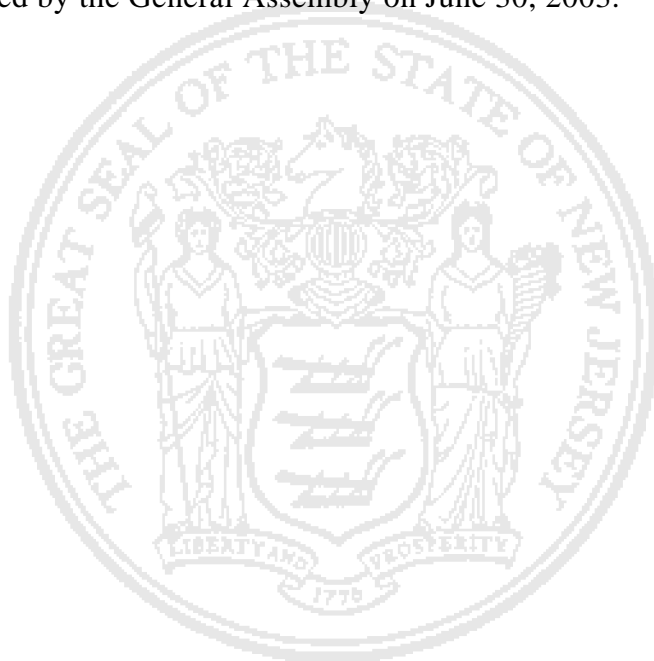
**District 3 (Salem, Cumberland and Gloucester)**

**SYNOPSIS**

Requires independent contractors to submit to background checks to work within certain industries.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 30, 2003.



1 AN ACT concerning criminal history record background checks and  
2 supplementing P.L.2001, c.246 (C.App.A:9-64 et seq.).

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. As used in this act:

8 "Applicant" means a person 18 years of age or older who is being  
9 considered for employment by an independent contractor to work in  
10 a critical position within a designated facility;

11 "Critical position" means a position with duties or responsibilities  
12 which may affect the public safety or national security as determined  
13 by the Attorney General pursuant to section 3 of this act;

14 "Designated facility" means "facility" as defined in section 3 of  
15 P.L.1985, c.403 (C.13:1K-21), except that, as used in this act,  
16 "designated facility" shall also include a research and development  
17 laboratory, which means a specially designated area used primarily for  
18 research, development, and testing activity, and not primarily involved  
19 in the production of goods for commercial sale, in which  
20 extraordinarily hazardous substances are used by or under the  
21 supervision of a technically qualified person; and

22 "Independent contractor" means a person, firm, company or  
23 organization which enters into a contract to work within, supply or  
24 deliver materials to a designated facility.

25  
26 2. The Department of Law and Public Safety <sup>1</sup>or a private vendor  
27 approved by the department<sup>1</sup> shall perform criminal history record  
28 background checks on applicants to be employed by independent  
29 contractors. <sup>1</sup>Upon application by an independent contractor, the  
30 Attorney General may authorize the use of an approved private vendor  
31 to conduct a criminal history record background check of an applicant,  
32 in lieu of a criminal history record background check conducted by the  
33 department.<sup>1</sup> An independent contractor shall not hire an applicant  
34 unless it is determined that no criminal record information exists on  
35 file in the Federal Bureau of Investigation, Identification Division, or  
36 in the State Bureau of Identification in the Division of State Police  
37 which would disqualify the individual from being employed pursuant  
38 to the provisions of this act. <sup>1</sup>The Attorney General shall develop the  
39 criteria for qualification of all applicants.<sup>1</sup>

40  
41 3. The Attorney General shall determine the titles and positions  
42 which shall be designated as critical positions. These positions shall  
43 include any title or position in which the duties or responsibilities may  
44 potentially affect the public safety or national security or in which the  
45 applicant may have access to information which may potentially affect

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted June 30, 2003.

1 the public safety or national security. These positions may include, but  
2 are not limited to, positions involving information management,  
3 preserving and ensuring the public safety, or contractors' access to  
4 information or facilities which could be utilized to compromise the  
5 public safety and national security. The Domestic Security  
6 Preparedness Task Force established pursuant to section 4 of  
7 P.L.2001, c.246 (C.App.A:9-67) shall review the determination of the  
8 Attorney General concerning the designation of critical positions.

9  
10 4. An applicant subject to the provisions of section 2 of this act  
11 shall submit to being fingerprinted in accordance with applicable State  
12 and federal laws, rules and regulations. An applicant who refuses to  
13 consent to, or cooperate in, the securing of a criminal history record  
14 background check shall not be considered for employment. The  
15 Department of Law and Public Safety <sup>1</sup>or an approved private vendor<sup>1</sup>  
16 is authorized to request and receive criminal history record  
17 information from the Federal Bureau of Investigation, Identification  
18 Section and the Division of State Police, Bureau of Identification for  
19 use in making the determinations provided for in section 2 of this act.  
20 No criminal history record background check shall be performed  
21 pursuant to this act unless the applicant shall have furnished written  
22 consent to such check. The independent contractor shall bear the cost  
23 for the applicant's criminal history record check.

24  
25 5. a. Upon receipt of an applicant's criminal history record  
26 information, the department <sup>1</sup>or the approved private vendor<sup>1</sup> shall  
27 notify the applicant, in writing, as to whether the applicant is qualified  
28 or disqualified for employment pursuant to this act. The Attorney  
29 General shall determine the basis for disqualification for a title or  
30 position. If the applicant is disqualified for employment, the  
31 conviction or convictions which constitute the basis for the  
32 disqualification shall be identified in the written notice.

33 b. An applicant shall have 20 days from the date of written notice  
34 of disqualification to file an appeal <sup>1</sup>with the department<sup>1</sup> for a review  
35 <sup>1</sup>[on] of<sup>1</sup> the accuracy of the criminal history record information or  
36 to establish rehabilitation pursuant to regulations <sup>1</sup>[promulgated]  
37 adopted<sup>1</sup> by the Attorney General.

38 c. The department <sup>1</sup>or the approved private vendor shall not  
39 maintain an applicant's criminal history record information submitted  
40 under this act for more than six months from the date of the final  
41 disposition of the applicant's disqualification.

42  
43 6. All identification credentials for an employee who was subject  
44 to a criminal history record background check pursuant to the  
45 provisions of this act shall indicate that a criminal history record  
46 background check has been performed for the employee.

- 1       7. The Attorney General <sup>1</sup>~~may promulgate~~ shall adopt rules and<sup>1</sup>  
2 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
3 c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act <sup>1</sup>,  
4 including rules and regulations concerning access to and dissemination  
5 of information obtained as a result of conducting a criminal history  
6 record background check<sup>1</sup>.  
7  
8       8. This act shall take effect immediately.