

ASSEMBLY BILL No. 444
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 444 (First Reprint) with my recommendations for reconsideration.

This bill would require members of boards of education and charter school boards of trustees to undergo criminal history background investigations, and would disqualify any person from serving on these boards if convicted of certain crimes and offenses. The intention of the bill is to hold board members to the same standards as school employees, *i.e.*, the individuals they hire and oversee. Currently, N.J.S.A. 18A:6-7.1, which governs criminal record checks for school employees, provides that an individual employed by a board of education will be disqualified from employment or service if the individual's criminal history record check reveals any one of several identified crimes or offenses. These include, for example: any crime of the first or second degree; a crime involving the use of force; certain drug offenses; and various third degree crimes.

While this proposed legislation is similar to N.J.S.A. 18A:6-7.1, there are two notable discrepancies between this bill and the existing statute. First, N.J.S.A. 18A:6-7.1 includes as a disqualifying offense for all school employees the third degree crime of "bias intimidation" (N.J.S.2C:16-1). This crime was added to N.J.S.A. 18A:6-7.1 as a result of the recently enacted amendments to the Anti-bullying law, but was not included as a disqualifying offense in this proposed legislation. Second, the bill includes as a disqualifying conviction "any crime of the fourth degree involving a victim

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

who is a minor." This crime, however, is not listed in N.J.S.A. 18A:6-7.1 as a disqualifying offense.

Therefore, I recommend that the bill be amended to correct these discrepancies. In order to ensure that school board members and members of charter school boards of trustees are held to the same standards as school employees, as was clearly the intent of this bill, the list of disqualifying crimes and offenses for both school employees and board members must be identical.

Accordingly, I herewith return Assembly Bill No. 444 (First Reprint) and recommend that it be amended as follows:

Page 3, Section 1, Line 4: After "N.J.S.2C:29-5" delete ";"

Page 3, Section 1, Line 5: Insert "Bias intimidation"
N.J.S.2C:16-1;"

Page 7, Line 15:

Insert "9. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows: A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer 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 the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

4

7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, kidnapping, stalking, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person
N.J.S.2C:12-2

Terroristic threats
N.J.S.2C:12-3

Criminal restraint
N.J.S.2C:13-2

Luring, enticing child into motor vehicle, structure or isolated area P.L.1993, c.291 (C.2C:13-6)

Causing or risking widespread injury or damage N.J.S.2C:17-2

Criminal mischief
N.J.S.2C:17-3

Burglary N.J.S.2C:18-2

Usury N.J.S.2C:21-19

Threats and other improper influence

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

5

N.J.S.2C:27-3

Perjury and false
swearing N.J.S.2C:28-3

Resisting arrest
N.J.S.2C:29-2

Escape N.J.S.2C:29-5;

Bias intimidation
N.J.S.2C:16-1; [or]

(3) Any crime of the
fourth degree involving
a victim who is a minor;
or

([3]4) Conspiracy to
commit or an attempt to
commit any of the crimes
described in this act.

d. For the purposes of
this section, a
conviction exists if the
individual has at any
time been convicted
under the laws of this
State or under any
similar statutes of the
United States or any
other state for a
substantially equivalent
crime or other offense.

e. Notwithstanding the
provisions of this
section, an individual
shall not be
disqualified from
employment or service
under this act on the
basis of any conviction
disclosed by a criminal
record check performed
pursuant to this act
without an opportunity
to challenge the
accuracy of the
disqualifying criminal
history record.

f. When charges are
pending for a crime or
any other offense
enumerated in this
section, the employing
board of education shall
be notified that the
candidate shall not be
eligible for employment
until the commissioner
has made a determination
regarding qualification
or disqualification upon
adjudication of the
pending charges.

g. This section shall

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

6

first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

Page 7, Section 9, Line 16:

Delete "9" and insert
"10"

Respectfully,

/s/ Chris Christie
Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa
Chief Counsel to the Governor