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**To: Assignment Judges
Trial Court Administrators**

Directive #02-24

From: Glenn A. Grant, J.A.D.,
Acting Administrative Director

Questions may be directed to
the Criminal Practice Division
at 609-815-2900, ext. 55300.

**Subj: Criminal - Procedures for Certificates to Suspend Certain
Employment or Occupational Disabilities Related to
Criminal Convictions**

Date: March 4, 2024

As approved by the Judicial Council, this Directive promulgates procedures and forms that address applications by individuals convicted of criminal offenses who petition the court to issue a Certificate to Suspend Certain Employment or Occupational Disabilities (hereinafter “Certificates”) in accordance with N.J.S.A. 2A:168A-7 through -12.

These Certificates may be issued by the “supervising authority” pursuant to N.J.S.A. 2A:168A-7(c)(3). The court is defined as the supervising authority if the petitioner was subject to probation or was not required to serve a period of supervision, and as the State Parole Board if the petitioner served parole supervision. An applicant who is a parolee and who is seeking relief must file an application with the State Parole Board.

The attached forms include: (a) a Summary of Eligibility (Attachment 1); (b) the Application to Suspend Employment/Occupational Disabilities (Attachment 2); (c) the Certificate Suspending Employment/Occupational Disabilities (Attachment 3); (d) Notice of Ineligibility (Attachment 4); and (e) Revocation of Certificate (Attachment 5).

The procedures contained herein and the attached forms apply only to requests for Certificates filed with the courts. Attorneys, on behalf of their clients, must file all such applications on notice to the County Prosecutor or the Attorney's General Office in eCourts in the county where the person is being sentenced or was sentenced. Self-represented litigants must file all such applications, with notice to the County Prosecutor or the Attorney's General Office, in the Judiciary Electronic Document Submission (JEDS) system. JEDS may be accessed using the link provided: <https://www.njcourts.gov/self-help/jeds>

For information on filing an application with the Parole Board see www.nj.gov/parole/services/certificates.

I. Purpose of Certificate

The purpose of a Certificate is to relieve disabilities, forfeitures, or bars, except those required or established by federal law, that otherwise would apply to persons convicted of criminal offenses related to:

(1) public employment by a State, county or municipal agency, excluding elected office, or employment in law enforcement, corrections, the judiciary, a position related to homeland security or emergency management, or any position that has access to sensitive information that could threaten the public health, welfare, or safety. See N.J.S.A. 2A:168A-7(c)(1);

(2) qualification for a license or certification to practice certain professions, occupations or businesses, except the practice of law, or as a mortgage loan originator, or residential mortgage lender or residential mortgage broker as a qualified individual licensee, pursuant to the "New Jersey Residential Mortgage Lending Act." See N.J.S.A. 2A:168A-7(b)(2); or

(3) admission to an examination for that license or certification, except for the bar examination, a qualified written test for a mortgage loan originator, or residential mortgage lender or broker as a qualified individual licensee, or an examination for a law enforcement, homeland security, or emergency management position. See N.J.S.A. 2A:168A-7(b)(3).

II. Limitations

The Certificate only relieves the petitioner from disabilities, forfeitures, or bars that were the result of a criminal conviction. An employer, or a licensing or regulatory entity, may have another basis or other bases for barring a petitioner from obtaining a license or certification, or from employment in a specific profession, occupation or business. Further, the mandates in N.J.S.A. 2A:168A-7 through -12 do not apply to private employers.

III. Qualified Offenders (Eligibility)

Pursuant to N.J.S.A. 2A:168A-7(c)(2), a person is a “qualified offender” eligible for a Certificate if the person has one criminal conviction or has convictions for more than one crime charged in separate counts of one indictment or accusation. Multiple convictions charged in two indictments or two accusations, or one indictment and one accusation filed in the same court prior to entry of judgment under any of them, shall be deemed to be one conviction for purposes of Certificate eligibility. Convictions of crimes entered more than ten years prior to an application for a Certificate shall not be considered in determining whether a person has one criminal conviction.

A person seeking a Certificate at the time of sentencing is a “qualified offender” if the person will have one conviction, as described above, upon sentencing and entry of the judgment of conviction.

IV. Notice to Prosecutor

The applicant shall provide notice and a copy of the application to the County Prosecutor or the Attorney General’s Office that prosecuted their case. Notification of the pendency of an application and issuance of a certificate shall be provided by the court to that office. See N.J.S.A. 2A:168A-10.

V. Issuance of Certificate

The issuance of a Certificate depends on the qualified offender’s status when the application is filed.

(1) Applications At the Time of Sentencing (N.J.S.A. 2A:168A-8(a))

If the application is sought at the time of sentencing, a Certificate may be issued if the applicant:

- (a) is a qualified offender, who is being sentenced to a non-incarcerative sentence for a second, third, or fourth degree crime;
- (b) has established that a specific licensing or employment disqualification, forfeiture or bar, will apply to the applicant, and may endanger the applicant's ability to maintain existing public employment or employment for which the applicant has made application, or to engage in a business enterprise for which a license or certification is required;
- (c) has no pending criminal charges, and there is no information presented that such a charge is imminent; and
- (d) has established that issuance of a Certificate is consistent with the public interest.

(2) Applications For Those Sentenced to Probation or No Supervision (N.J.S.A. 2A:168A-8(b))

A Certificate may be issued for a qualified offender who is or was subject to probation or who was not required to serve a period of supervision if it is determined that:

- (a) the applicant is convicted of a second, third, or fourth degree offense and is otherwise eligible for relief under subsection N.J.S.A. 2A:168A-8(c);
- (b) the applicant has not been convicted of a crime since the conviction for which the person is under supervision, does not have a pending criminal charge, and there is no information presented that such a charge is imminent;

- (c) issuing the certificate will not pose a substantial risk to public safety; and
- (d) issuing the certificate will assist in the successful reintegration of the offender and is consistent with the public interest.

Note: Certain convictions will render the person ineligible for a Certificate, for example NERA crimes (N.J.S.A. 2C:43-7.2), second degree crimes defined in chapters 13, 14, 15, 16, 24, 27, 30, 33, 38 of Title 2C of the New Jersey Statutes, and Megan's Law crimes under N.J.S.A. 2C:7-2. See N.J.S.A. 2A:168A-8(c).

(3) Applications Three Years after Completion of the Sentence (N.J.S.A. 2A:168A-8(d))

A Certificate may be issued to a qualified offender three years after completion of the incarcerative or supervisory portion of their sentence, whichever is later, if it is determined that:

- (a) does not pose a substantial risk to public safety;
- (b) issuing the certificate does not pose a substantial risk to public safety; and;
- (c) issuing the certificate will assist in the successful reintegration of the offender and is consistent with the public interest.
- (d) the conviction is not subject to any of the disqualifying convictions enumerated in N.J.S.A. 2A:168A-8(e).

VI. Revocation of Certificate

Pursuant to N.J.S.A. 2A:168A-11, a Certificate shall no longer be valid if the person is subsequently indicted for a first- or second-degree crime or convicted of a

crime. Upon presentation of proof that the criminal charges or indictment have been dismissed, or of an acquittal after trial, the court may reinstate a revoked Certificate.

A Certificate may also be revoked at any time upon application of the prosecutor or on the court's own initiative when information is received that circumstances have materially changed such that the Certificate would no longer be authorized or is no longer in the public interest. See N.J.S.A. 2A:168A-11(c).

A copy of the Certificate or notice of ineligibility or revocation of same shall be sent to the Administrative Office of the Courts, Criminal Practice Division, by email to AOC-CrimPrac.mbx@njcourts.gov.

Any questions regarding the Directive and the attached forms may be directed to the Criminal Practice Division at 609-815-2900, ext. 55300, or by email to AOC-CrimPrac.mbx@njcourts.gov.

G.A.G.

Attachments:

- Attachment #1 – Summary of Eligibility
- Attachment #2 – Application to Suspend Employment/Occupational Disabilities
- Attachment #3 – Certificate Suspending Employment/Occupational Disabilities
- Attachment #4 – Notice of Ineligibility
- Attachment #5 – Revocation of Certificate

cc: Chief Justice Stuart Rabner
Criminal Division Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
Criminal Division Managers and Assistants
Justin Moles, Manager, Criminal Practice

Attachment 1

Summary of Eligibility:

Issuance & Revocation of Certificates to
Suspend Certain Employment or Occupational
Disabilities Related to Criminal Convictions



Summary of Eligibility:

Issuance & Revocation of Certificates to Suspend Certain Employment or Occupational Disabilities Related to Criminal Convictions

(N.J.S.A. 2A:168A-7 through N.J.S.A. 2A:168A-12)

Rev. 03/2024

Summary of Eligibility: Certificate to Suspend Employment/Occupational Disabilities

I. Purpose:

A certificate can suspend one or more disabilities, forfeitures or bars to:

- A. Public employment by a State, County or Municipal agency excluding elected office, or employment in law enforcement, corrections, the judiciary, positions related to homeland security or emergency management, or any position that has access to sensitive information that could threaten the public health, welfare, or safety.
- B. Qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law, or as a mortgage loan originator, or residential mortgage lender or residential mortgage broker as a qualified individual licensee, pursuant to the "New Jersey Residential Mortgage Lending Act."
- C. Admission to an examination to qualify for a license or certification except for the bar examination, a qualified written test for a mortgage loan originator, or residential mortgage lender or broker as a qualified individual licensee, or an examination for a law enforcement, homeland security, or emergency management position.

II. Limitations:

The Certificate only relieves the petitioner from disabilities, forfeitures or bars that were the result of a criminal conviction. An employer, or a licensing or regulatory entity, may have another basis or other bases for barring a petitioner from obtaining a license or certification, or from employment in a specific profession, occupation or business. Further, the mandates in N.J.S.A. 2A:168A-7 through -12 do not apply to private employers.

III. Qualified Offenders (Eligibility):

- A. A person with one criminal conviction or who has convictions for more than one crime charged in separate counts of one indictment or accusation.
- B. Multiple convictions charged in two indictments or two accusations, or one indictment and one accusation filed in the same court prior to entry of judgment under any of them shall be deemed to be one conviction.

- C. Convictions of crimes entered more than 10 years prior to an application for a Certificate shall not be considered in determining whether a person has one criminal conviction.
- D. A person seeking relief at sentencing who will have one conviction upon sentencing and issuance of the judgment of conviction.

IV. Notice:

In all cases, the applicant shall provide a copy of the application to the County Prosecutor or Attorney General's Office that prosecuted the case. Notification of the pendency of an application and issuance of a Certificate shall be provided by the Court to that office.

V. Issuance:

- A. The Court may issue a Certificate at the time of sentencing if the applicant:
 - 1. is a qualified offender being sentenced to a non-incarcerative sentence for a second, third, or fourth degree crime;
 - 2. has established **a specific** licensing or employment disqualification, forfeiture, or bar will apply and may endanger their ability to maintain existing public employment or employment for which he has made application, or to engage in a business for which license or certification is required;
 - 3. has no pending criminal charges and there is no information presented that such charges are imminent; and
 - 4. has established that issuance of the Certificate is consistent with the public interest.

Certificates issued pursuant to this section shall apply only to the specific disability, forfeiture or bar that is affected, which must be specifically described in the Certificate.

- B. The Court may issue a certificate to a qualified offender who is or had previously been under Probation supervision or was not required to serve any period of supervision if:
 - 1. the applicant is convicted of a second, third, or fourth degree offense;
 - 2. the applicant has not been convicted of a crime since the conviction for which the person is under supervision, does not have a pending criminal charge, and there is no information presented that such a charge is imminent;

3. issuing the Certificate will not pose a substantial risk to public safety; and
4. issuing the certificate will assist in the successful reintegration of the offender and is consistent with the public interest.
5. the applicant was not convicted of an offense enumerated in N.J.S.A. 2A:168A-8(c). (See Section D Exclusions from Relief below).

Certificates issued pursuant to this section may suspend disabilities, forfeitures and bars generally within the limits of this Act, or only certain disabilities, forfeitures and bars specifically named in the certificate.

C. A Certificate may be issued to a qualified offender three years after completion of the incarcerative or supervisory portion of their sentence, whichever is later, if:

- (a) does not pose a substantial risk to public safety;
- (b) will assist in the successful reintegration of the person and is consistent with public interest;
- (c) has remained without criminal involvement since the conviction, including that the person has not subsequently been convicted of a crime, has no pending charges for any crime, and there is no information presented that such a charge is imminent; and
- (d) the conviction is not subject to any of the disqualifying convictions enumerated in N.J.S.A. 2A:168A-8(e). (See Section D below).

D. Exclusions From Relief: (Not applicable if the application is made at the time of sentencing. See Section V.A).

1. Anyone convicted of a first-degree crime.
2. Anyone convicted of an offense covered by the No Early Release Act (N.J.S.A. 2C:43-7.2).
3. Anyone convicted of a second-degree offense defined in Title 2C Chapters 13, 14, 15, 16, 24, 27, 30, 33 or 38¹.
4. Anyone convicted of Endangering the Welfare of Children (N.J.S.A. 2C:24-4a or N.J.S.A. 2C:24 – 4 b(4)).

¹ This exclusion does not apply to applicants if three years have passed since the completion of the incarceration or supervisory portion of the sentence, whichever is later.

5. Anyone convicted of a crime requiring Registration of Sex Offenders (N.J.S.A. 2C:7-2).
6. Anyone convicted of a crime committed against a public entity or a public officer¹.
7. A public employee convicted of the following offenses contained in N.J.S.A. 43:1-3.1b which involved or touched upon the employee's office, position or employment, such that the crime was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person.
 - a. Criminal Coercion N.J.S.A. 2C:13-5a(4).
 - b. Theft by Deception N.J.S.A 2C:20-4 if the amount exceeds \$10,000.
 - c. Theft by Extortion N.J.S.A 2C:20-5d.
 - d. Theft by Failure to Make Required Disposition of Property Received N.J.S.A 2C:20-9 if the amount exceeds \$10,000.
 - e. Commercial Bribery N.J.S.A 2C:21-10.
 - f. Money Laundering N.J.S.A 2C:21-25.
 - g. False Contract Payment Claims N.J.S.A 2C:21-34.
 - h. Bribery in Official Matters N.J.S.A 2C:27-2.
 - i. Threats and other Improper Influence in Official and Political Matters
N.J.S.A 2C:27-3.
 - j. Unlawful Official Business Transaction Where Interest is Involved
N.J.S.A 2C:27-9.
 - k. Acceptance or Receipt of Unlawful Benefit by Public Servant for Official Behavior
N.J.S.A 2C:27-10.
 - l. Offer of Unlawful Benefit to Public Servant for Official Behavior
N.J.S.A 2C:27-11.
 - m. Perjury N.J.S.A 2C:28-1.
 - n. Tampering with Witnesses N.J.S.A 2C:28-5.
 - o. Tampering with Public Records or Information N.J.S.A 2C:28-7.
 - p. Compounding N.J.S.A 2C:29-4.
 - q. Official Misconduct N.J.S.A 2C:30-2.

- r. Speculating or Wagering on Official Action or Information N.J.S.A 2C:30-3.
 - s. Pattern of Official Misconduct N.J.S.A 2C:30-7.
8. Anyone convicted of a crime against a person 16 years of age or younger or a disabled or handicapped person.
 9. Anyone convicted of a conspiracy or attempt to commit any of the crimes described in this section.

VI. Revocation of Certificate:

- A. A Certificate shall no longer be valid if the person is indicted for a first or second degree crime or convicted of a crime.
- B. A Certificate may be revoked at any time upon application of the prosecutor or on the Court's own initiative when information is received that circumstances have materially changed such that the relief would not be authorized or is no longer in the public interest.
- C. Upon presentation of satisfactory proof that the criminal charges or indictment have been dismissed, or of an acquittal after trial, a revoked Certificate may be reinstated by the Court.

Superior Court of New Jersey

Instructions for Completing Application to Suspend Employment/Occupational Disabilities Related to Criminal Convictions

1. Attorneys, on behalf of their clients, must file all such applications on notice to the County Prosecutor or the Attorney's General Office in eCourts in the county where the person is being sentenced or was sentenced. Self-represented litigants must file all such applications on notice to the County Prosecutor or the Attorney's General Office in the Judiciary Electronic Document Submission (JEDS) system. JEDS can be accessed using the link provided: <https://www.njcourts.gov/self-help/jeds>.
2. Provide a copy to the law enforcement agency that prosecuted your case (County Prosecutor or Attorney General's Office).
3. If you are seeking suspension of a disability as a result of a conviction for which you have yet to be sentenced, please submit this application prior to your sentence date in order to reduce any delay in processing.

If you have any questions regarding this application please contact the Criminal Division. A directory for the Criminal Division can be found at www.njcourts.gov/public/directories.html.

Attachment 2

Application to Suspend Certain Employment/ Occupational Disabilities Related to Criminal Convictions (CN 12535)



New Jersey Judiciary
Criminal Division
**Application to Suspend Employment/Occupational Disabilities Related to
Criminal Convictions**

Name

Address: Street	City	State	Zip Code
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Telephone

I am seeking suspension of the following employment/occupational disabilities related to my criminal conviction.

Reason(s) for seeking suspension (attach separate page if necessary)

Employment/occupational disability is due to the following conviction:

Date of Sentence:	Indictment/Accusation/Complaint Number:
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Charge(s):

_____ s/ _____ J.S.C.

cc: Prosecutor (County Prosecutor or Attorney General)

Attachment 3

Certificate Suspending Employment/Occupational Disabilities Related to Criminal Convictions (CN 12537)

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
_____ County

Indictment Number: _____

SBI Number: _____

Certificate

**Suspending Employment/
Occupational Disabilities Related
to Criminal Convictions**

Application having been made by the above captioned defendant for relief from certain employment or occupational disabilities related to a criminal conviction, and notice having been given to the County Prosecutor, and the Court having found that the defendant is a qualified offender pursuant to N.J.S.A. 168A-7 et. seq. and that the relief sought is consistent with the public interest,

THEREFORE, the court **GRANTS** the applicant’s request to be relieved from the following employment or occupational disabilities, forfeitures or bars that were imposed as a result of a conviction in the above captioned matter:

This certificate shall further act as presumptive evidence of the above captioned subject’s rehabilitation when considered in regard to public employment or in conjunction with any licensing or certification process to which this applies, which in any particular case may or may not be overcome by other evidence or information. This certificate shall not prevent any judicial, administrative, licensing or other body, board, authority or public official from relying on grounds other than the fact of the referenced criminal conviction in exercising any discretionary authority, if any, to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege or to determine eligibility or suitability for employment.

This certificate is not binding upon a private employer. A private employer may, in its sole and complete discretion, consider this certificate in making employment decisions.

_____ s/ _____
Date J.S.C.

Any questions regarding this certificate should be directed to:

Name: Telephone:

cc: Defendant
Prosecutor or Attorney General
Administrative Office of the Courts Criminal Practice Division

Attachment 4

Notice of Ineligibility - Suspending
Employment/Occupational Disabilities
Related to Criminal Convictions
(CN 12536)



Superior Court of New Jersey
Notice of Ineligibility
Suspending Employment/Occupational Disabilities Related to
Criminal Convictions

Applicant Name

Address: Street

City

State

Zip Code

Your application to suspend employment or occupational disabilities relating to your conviction on _____.

Indictment/Accusation/Complaint Number _____ has been reviewed by the court.

Based on the information provided in your application and the eligibility criteria set forth in N.J.S.A. 2A:168A-7 et. seq., your application is denied for the following reason(s):

_____ s/ _____
Date J.S.C.

Any questions regarding this Notice should be directed to:

Name:

Telephone:

cc: Defendant
Prosecutor or Attorney General
Administrative Office of the Courts Criminal Practice Division

Attachment 5

Revocation of Certificate (NJSA 2A:168A-11)
- Suspending Employment/Occupational
Disabilities Related to Criminal Convictions
(CN 12538)

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part

_____ County

Indictment Number: _____

SBI Number: _____

Revocation of Certificate
(N.J.S.A. 2A:168A-11)

**Suspending Employment/
Occupational Disabilities Related
to Criminal Convictions**

On _____ the Court issued a certificate to you granting suspension of certain employment/ occupational disabilities related to your conviction on the above captioned Indictment/Accusation/Complaint Number.

- Upon application of the prosecutor
- Upon the court's own initiative

The court hereby revokes the certificate for the following reason(s).

Date

s/

J.S.C.

A person who knowingly uses or attempt to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a disqualification shall be guilty of a disorderly persons offense pursuant to N.J.S.A. 2A:168A-11.

cc: Defendant
Prosecutor or Attorney General
Administrative Office of the Courts Criminal Practice Division