

**EXPLANATION:** This Ordinance amends Chapter 147 of the Code of the Township of Hillsborough, titled “Criminal History Background Checks”, Sections 3A, 3C, 4A, 4B, 5A, 6A, 6B, and adds a new Section 147-7, titled “Appeal Procedure.”

**TOWNSHIP OF HILLSBOROUGH  
ORDINANCE 2008-51**

**AN ORDINANCE AMENDING CHAPTER 147 OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, TITLED “CRIMINAL HISTORY BACKGROUND CHECKS”, SECTIONS 3C, 4A, 4B, 5A, 6A, 6B, AND BY ADDING A NEW SECTION 147-7, TITLED “APPEAL PROCEDURE.”**

**WHEREAS**, it is the desire of the Township Committee of the Township of Hillsborough to amend Chapter 147 of the Code of the Township of Hillsborough, titled “Criminal History Background Checks”, Sections 3C, 4A, 4B, 5A, 6A, 6B, and by adding a new Section 147-7, titled “Appeal procedure.”

**BE IT ORDAINED** by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, as follows:

Section 1. Section 147-3 of the Code of the Township of Hillsborough, titled “Conditions under which a person is disqualified from service”, is hereby amended by repealing Paragraph A and replacing it with the following:

A person shall, subject to the appeal procedure provided by Section 147-7, be disqualified from serving as an employer or volunteer involved with Township sponsored programs involving minors if that person’s criminal history background check reveals a record of conviction of any of the following crimes or offenses:

The remainder of Section 147-3A remains the same.

Section 2. Section 147-3 of the Code of the Township of Hillsborough, titled “Conditions under which a person is disqualified from service”, is hereby amended by adding the following sentence at the end of Paragraph C:

The specific criminal violation is not identified on the notification.

Section 3. Section 147-4 of the Code of the Township of Hillsborough, titled “Submissions; exchange of background check information”, is hereby amended by deleting the last sentence at the end of Paragraph A as follows:

The Township shall submit this documentation to the Police Chief of the Township, or his designee, who shall coordinate the background check.

Section 4. Section 147-4 of the Code of the Township of Hillsborough, titled “Submissions; exchange of background check information”, is hereby amended by deleting Paragraph B in its entirety and changing Paragraph C to Paragraph B.

Section 5. Section 147-5 of the Code of the Township of Hillsborough, titled “Limitations on access and use of criminal history record background checks”, is hereby amended by changing Paragraphs A and B to Paragraphs B and C and adding a new Paragraph A as follows:

- A. It shall be the responsibility of the prospective employee or volunteer to obtain their criminal history from the SBI that identifies the specific criminal violation(s) and deliver it to the Appeals Committee for the purpose of an appeal or presenting a challenge to the accuracy of the report.

Section 6. Section 147-6 of the Code of the Township of Hillsborough, titled “Employee or volunteer may challenge accuracy of report”, is hereby amended by deleting “Chief of Police, or his designee,” in the first sentence of Paragraph A, and substituting “Appeals Committee” in its place.

Section 7. Section 147-6 of the Code of the Township of Hillsborough, titled “Employee or volunteer may challenge accuracy of report”, is hereby amended by deleting “Chief of Police, or his designee, in his sole discretion” in Paragraph B, and substituting “Appeals Committee, in its discretion”, in its place.

Section 8. Section 147 of the Code of the Township of Hillsborough, titled “Criminal History Background Checks”, is hereby amended by adding a new Section 147-7 as follows:

**§ 147-7. Appeal procedure.**

- A. Any person whose criminal history background check disqualifies that person from employment or from volunteering may appeal his or her disqualification on the basis that the person has been rehabilitated.
- B. An appeal based on rehabilitation shall be made to an Appeals Committee, which shall consist of the Chair of the Recreation Commission, the Township Chief of Police, and the Township Administrator. Any such appeal must be made within thirty (30) days of receipt of the notice of disqualification.

- C. In determining whether a person has affirmatively demonstrated rehabilitation, the Appeals Committee may consider the following factors:
- (1) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
  - (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 person 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 other evidence of rehabilitation, including a certificate of rehabilitation issued pursuant to N.J.S.A. 2A:168A-7 et seq., good conduct in prison or 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 those who have had the person under their supervision.
- D. If the Appeals Committee determines that the disqualified person has been successfully rehabilitated, it shall enter that person's name on the list of qualified employees and volunteers maintained by the Director of Parks and Recreation.
- E. A person is not eligible for a certificate of rehabilitation pursuant to N.J.S.A. 2A:168A-7 if that person has been convicted of:
- (1) a first degree crime;
  - (2) an offense to which N.J.S.A. 2C:43-7.2 (eligibility for parole; persons convicted of certain violent crimes) applies;
  - (3) a second degree offense defined in Chapters 13 (kidnapping and related offenses; coercion); 14 (sexual offenses); 15 (robbery); 16 (bias crimes); 24 (offenses against the family, children and incompetents); 27 (bribery and corrupt influence); 30 (misconduct

in office; abuse of office); 33 (riot, disorderly conduct and related offenses); and 38 (September 11<sup>th</sup>, 2001 Anti-Terrorism Act);

- (4) a violation of N.J.S.A. 2C:24-4a or of N.J.S.A. 2C:24-4b(4) (endangering the welfare of children);
- (5) a crime requiring registration pursuant to N.J.S.A. 2C:7-2 (Megan's Law);
- (6) a crime committed against a public entity or against a public officer;
- (7) a crime enumerated in N.J.S.A. 43:1-3.1b(2) (theft by deception) committed by a public employee, which involves or touches 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;
- (8) any crime committed against a person sixteen (16) years of age or younger, or a disabled or handicapped person; or
- (9) a conspiracy or attempt to commit any of the crimes described in Section 147-7E.

Section 9. Severability.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

Section 10. Effective Date.

This Ordinance shall take effect as provided by law.

**ATTEST:**

**HILLSBOROUGH TOWNSHIP COMMITTEE**

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Kevin P. Davis, Clerk

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Anthony Ferrera, Mayor

*Introduced: 11/25/08*

*Published: 12/04/08*

*Public Hearing: 12/23/08*

*Adopted: 12/23/08*  
*Published: 01/01/09*