

SENATE, No. 3205

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Revises certain procedures for expungement of records of conviction.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain procedures for expunging records of
2 conviction and revising various parts of the statutory law.

3

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

6

7 1. N.J.S.2C:52-1 is amended to read as follows:

8 2C:52-1 a. Except as otherwise provided in this chapter,
9 expungement shall mean the extraction, **[and]** sealing, or isolation
10 of all records on file within any court, detention or correctional
11 facility, law enforcement or criminal justice agency concerning a
12 person's detection, apprehension, arrest, detention, trial or
13 disposition of an offense within the criminal justice system.

14 b. Expunged records shall include complaints, warrants, arrests,
15 commitments, processing records, fingerprints, photographs, index
16 cards, "rap sheets" and judicial docket records.

17 (cf: P.L.1979, c.178, s.108)

18

19 2. N.J.S.2C:52-2 is amended to read as follows:

20 2C:52-2. Indictable Offenses.

21 a. In all cases, except as herein provided, a person may present
22 an expungement application to the Superior Court pursuant to this
23 **[section]** subsection if:

24 the person has been convicted of one crime under the laws of this
25 State, and does not otherwise have any **[prior or]** subsequent
26 conviction for another crime, whether within this State or any other
27 jurisdiction; or

28 the person has been convicted of one crime and less than four
29 disorderly persons or petty disorderly persons offenses under the
30 laws of this State, and does not otherwise have any **[prior or]**
31 subsequent conviction for another crime, or **[any prior or]**
32 **subsequent]** conviction for another disorderly persons or petty
33 disorderly persons offense such that the total number of convictions
34 for disorderly persons and petty disorderly persons offenses would
35 exceed three, whether any such crime or offense conviction was
36 within this State or any other jurisdiction; or

37 the person has been convicted of multiple crimes or a
38 combination of one or more crimes and one or more disorderly
39 persons or petty disorderly persons offenses under the laws of this
40 State, all of which are listed in a single judgment of conviction, and
41 does not otherwise have any **[prior or]** subsequent conviction for
42 another crime or offense in addition to those convictions included in
43 the expungement application, whether any such conviction was
44 within this State or any other jurisdiction; or

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 the person has been convicted of multiple crimes or a
2 combination of one or more crimes and one or more disorderly
3 persons or petty disorderly persons offenses under the laws of this
4 State, which crimes or combination of crimes and offenses were
5 interdependent or closely related in circumstances and were
6 committed as part of a sequence of events that took place within a
7 comparatively short period of time, regardless of the date of
8 conviction or sentencing for each individual crime or offense, and
9 the person does not otherwise have any **【prior or】** subsequent
10 conviction for another crime or offense in addition to those
11 convictions included in the expungement application, whether any
12 such conviction was within this State or any other jurisdiction.

13 The person, if eligible, may present the expungement application
14 after the expiration of a period of **【six】** five years from the date of
15 his most recent conviction, payment of fine, satisfactory completion
16 of probation or parole, or release from incarceration, whichever is
17 later. The term "fine" as used herein and throughout this section
18 means and includes any fine, restitution, and other court-ordered
19 financial assessment imposed by the court as part of the sentence
20 for the conviction, for which payment of restitution takes
21 precedence in accordance with chapter 46 of Title 2C of the New
22 Jersey Statutes. The person shall submit the expungement
23 application to the Superior Court in the county in which the
24 conviction for the crime was adjudged, which contains a separate,
25 duly verified petition as provided in N.J.S.2C:52-7 for each
26 conviction sought to be expunged, praying that the conviction, or
27 convictions if applicable, and all records and information pertaining
28 thereto be expunged. The petition for each conviction appended to
29 an application shall comply with the requirements set forth in
30 N.J.S.2C:52-1 et seq.

31 Notwithstanding the provisions concerning the **【six-year】** five-
32 year time requirement, if a fine which is **【currently】** subject at the
33 time of application to collection under the comprehensive
34 enforcement program established pursuant to P.L.1995, c.9
35 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than
36 willful noncompliance, but the time requirement of **【six】** five years
37 is otherwise satisfied, the person may submit the expungement
38 application and the court may grant an expungement, provided,
39 however, that **【if expungement is granted under this paragraph,】** the
40 court shall provide **【for the continued collection of any outstanding**
41 **amount owed that is necessary to satisfy the fine or】** the entry of
42 civil judgment in the name of the Treasurer, State of New Jersey
43 and transfer collections and disbursement responsibility to the
44 Treasurer, State of New Jersey for the outstanding amount in
45 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

46 Additionally, an application may be filed and presented, and the
47 court may grant an expungement pursuant to this section, although

1 less than **[six]** five years have expired in accordance with the time
2 requirements when the court finds:

3 (1) the fine is satisfied but less than **[six]** five years have
4 expired from the date of satisfaction, and the time requirement of
5 **[six]** five years is otherwise satisfied, and the court finds that the
6 person substantially complied with any payment plan ordered
7 pursuant to N.J.S.2C:46-1 et seq., or could not do so due to
8 compelling circumstances affecting his ability to satisfy the fine; or

9 (2) at least **[five]** four but less than **[six]** five years have
10 expired from the date of the most recent conviction, payment of
11 fine, satisfactory completion of probation or parole, or release from
12 incarceration, whichever is later; and

13 the person has not been otherwise convicted of a crime,
14 disorderly persons offense, or petty disorderly persons offense since
15 the time of the most recent conviction; and the court finds in its
16 discretion that expungement is in the public interest, giving due
17 consideration to the nature of the offense or offenses, and the
18 applicant's character and conduct since the conviction or
19 convictions.

20 In determining whether compelling circumstances exist for the
21 purposes of paragraph (1) of this subsection, a court may consider
22 the amount of the fine or fines imposed, the person's age at the time
23 of the offense or offenses, the person's financial condition and other
24 relevant circumstances regarding the person's ability to pay.

25 b. “Clean slate” expungement. In all cases, except as otherwise
26 provided in this subsection, a person may present an expungement
27 application to the Superior Court pursuant to this subsection if the
28 person has been convicted of multiple crimes or a combination of
29 one or more crimes and one or more disorderly persons or petty
30 disorderly persons offenses under the laws of this State and is not
31 otherwise eligible under subsection a. of this section.

32 The person, if eligible, may present the expungement application
33 after the expiration of a period of ten years from the date of his
34 most recent conviction, payment of fine, satisfactory completion of
35 probation or parole, or release from incarceration, whichever is
36 later. The term “fine” as used herein and throughout this section
37 means and includes any fine, restitution, and other court-ordered
38 financial assessment imposed by the court as part of the sentence
39 for the conviction, for which payment of restitution takes
40 precedence in accordance with chapter 46 of Title 2C of the New
41 Jersey Statutes. The person shall submit the expungement
42 application to the Superior Court in the county in which the
43 conviction for the most recent crime was adjudged, which contains
44 a separate, duly verified petition as provided in N.J.S.2C:52-7 for
45 each conviction sought to be expunged, praying that the conviction
46 or convictions, and all records and information pertaining thereto,
47 be expunged. The petition for each conviction appended to an

1 application shall comply with the requirements set forth in
2 N.J.S.2C:52-1 et seq.

3 Notwithstanding the provisions concerning the ten-year time
4 requirement, if a fine which is currently subject to collection under
5 the comprehensive enforcement program established pursuant to
6 P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons
7 other than willful noncompliance, but the time requirement of ten
8 years is otherwise satisfied, the person may submit the
9 expungement application and the court may grant an expungement,
10 provided, however, that if expungement is granted under this
11 subsection, the court shall provide for the entry of civil judgment in
12 the name of the Treasurer, State of New Jersey and transfer
13 collection and disbursement responsibility to the Treasurer, State of
14 New Jersey for the outstanding amount in accordance with section 8
15 of P.L.2017, c.244 (C.2C:52-23.1).

16 Records of conviction pursuant to statutes repealed by this Code
17 for the crimes of murder, manslaughter, treason, anarchy,
18 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,
19 robbery, embracery, or a conspiracy or any attempt to commit any
20 of the foregoing, or aiding, assisting or concealing persons accused
21 of the foregoing crimes, shall not be expunged.

22 Records of conviction for the following crimes specified in the
23 New Jersey Code of Criminal Justice shall not be subject to
24 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except
25 death by auto as specified in N.J.S.2C:11-5 and strict liability
26 vehicular homicide as specified in section 1 of P.L.2017, c.165
27 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993,
28 c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77
29 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or
30 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3
31 (Aggravated Criminal Sexual Contact); if the victim is a minor,
32 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the
33 victim is a minor and the offender is not the parent of the victim,
34 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False
35 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson
36 and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering
37 the welfare of a child by engaging in sexual conduct which would
38 impair or debauch the morals of the child, or causing the child other
39 harm); paragraph (4) of subsection b. of N.J.S.2C:24-4
40 (Photographing or filming a child in a prohibited sexual act or for
41 portrayal in a sexually suggestive manner); paragraph (3) of
42 subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to
43 engage in a prohibited sexual act or the simulation of an act, or to
44 be portrayed in a sexually suggestive manner); subparagraph (a) of
45 paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing,
46 possessing with intent to distribute or using a file-sharing program
47 to store items depicting the sexual exploitation or abuse of a child);
48 subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4

1 (Possessing or viewing items depicting the sexual exploitation or
2 abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1)
3 (Leader of a child pornography network); N.J.S.2C:28-1 (Perjury);
4 N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of
5 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's
6 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);
7 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing
8 or Possessing Chemical Weapons, Biological Agents or Nuclear or
9 Radiological Devices); and conspiracies or attempts to commit such
10 crimes.

11 Records of conviction for any crime committed by a person
12 holding any public office, position or employment, elective or
13 appointive, under the government of this State or any agency or
14 political subdivision thereof and any conspiracy or attempt to
15 commit such a crime shall not be subject to expungement if the
16 crime involved or touched such office, position or employment.

17 c. **【**In the case of conviction for the sale or distribution of a
18 controlled dangerous substance or possession thereof with intent to
19 sell, expungement shall be denied except where the crimes involve:

20 (1) Marijuana, where the total quantity sold, distributed or
21 possessed with intent to sell was less than one ounce;

22 (2) Hashish, where the total quantity sold, distributed or
23 possessed with intent to sell was less than five grams; or

24 (3) Any controlled dangerous substance provided that the
25 conviction is of the third or fourth degree, where the court finds that
26 expungement is consistent with the public interest, giving due
27 consideration to the nature of the offense and the petitioner's
28 character and conduct since conviction. **】** (Deleted by amendment,
29 P.L. c.) (pending before the Legislature as this bill)

30 d. In the case of a State licensed physician or podiatrist
31 convicted of an offense involving drugs or alcohol or pursuant to
32 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the
33 **【**court**】** prosecutor shall notify the State Board of Medical
34 Examiners upon receipt of a petition for expungement of the
35 conviction and records and information pertaining thereto.

36 (cf: P.L.2017, c.244, s.1)

37

38 3. N.J.S.2C:52-3 is amended to read as follows:

39 2C:52-3. Disorderly persons offenses and petty disorderly
40 persons offenses.

41 a. Applicability. Any person who has been convicted of one or
42 more disorderly persons or petty disorderly persons offenses under
43 the laws of this State who has not been convicted of any crime,
44 whether within this State or any other jurisdiction, may present an
45 expungement application to the Superior Court pursuant to this
46 section. Any person who has been convicted of one or more
47 disorderly persons or petty disorderly persons offenses under the
48 laws of this State who has also been convicted of one or more

1 crimes shall not be eligible to apply for an expungement pursuant to
2 this section, but may present an expungement application to the
3 Superior Court pursuant to N.J.S.2C:52-2.

4 b. Eligibility. Any person who has been convicted of one or
5 more disorderly persons or petty disorderly persons offenses under
6 the laws of this State who has not been convicted of any crime,
7 whether within this State or any other jurisdiction, may present an
8 expungement application to the Superior Court pursuant to this
9 section if:

10 the person has been convicted, under the laws of this State, on
11 the same or separate occasions of no more than **[four]** five
12 disorderly persons offenses, no more than **[four]** five petty
13 disorderly persons offenses, or a combination of no more than
14 **[four]** five disorderly persons and petty disorderly persons offenses,
15 and the person does not otherwise have any **[prior or]** subsequent
16 conviction for a disorderly persons or petty disorderly persons
17 offense, whether within this State or any other jurisdiction, such
18 that the total number of convictions for disorderly persons and petty
19 disorderly persons offenses would exceed **[four]** five; or

20 the person has been convicted of multiple disorderly persons
21 offenses or multiple petty disorderly persons offenses under the
22 laws of this State, or a combination of multiple disorderly persons
23 and petty disorderly persons offenses under the laws of this State,
24 which convictions were entered on the same day, and does not
25 otherwise have any **[prior or]** subsequent conviction for another
26 offense in addition to those convictions included in the
27 expungement application, whether any such conviction was within
28 this State or any other jurisdiction; or

29 the person has been convicted of multiple disorderly persons
30 offenses or multiple petty disorderly persons offenses under the
31 laws of this State, or a combination of multiple disorderly persons
32 and petty disorderly persons offenses under the laws of this State,
33 which offenses or combination of offenses were interdependent or
34 closely related in circumstances and were committed as part of a
35 sequence of events that took place within a comparatively short
36 period of time, regardless of the date of conviction or sentencing for
37 each individual offense, and the person does not otherwise have any
38 prior or subsequent conviction for another offense in addition to
39 those convictions included in the expungement application, whether
40 within this State or any other jurisdiction.

41 The person, if eligible, may present the expungement application
42 after the expiration of a period of five years from the date of his
43 most recent conviction, payment of fine, satisfactory completion of
44 probation or release from incarceration, whichever is later. The
45 term "fine" as used herein and throughout this section means and
46 includes any fine, restitution, and other court-ordered financial
47 assessment imposed by the court as part of the sentence for the
48 conviction, for which payment of restitution takes precedence in

1 accordance with chapter 46 of Title 2C of the New Jersey Statutes.
2 The person shall submit the expungement application to the
3 Superior Court in the county in which the most recent conviction
4 for a disorderly persons or petty disorderly persons offense was
5 adjudged, which contains a separate, duly verified petition as
6 provided in N.J.S.2C:52-7 for each conviction sought to be
7 expunged, praying that the conviction, or convictions if applicable,
8 and all records and information pertaining thereto be expunged.
9 The petition for each conviction appended to an application shall
10 comply with the requirements of N.J.S.2C:52-1 et seq.

11 c. For any person who may be eligible for an expungement
12 pursuant to subsection b. of this section, the Superior Court in the
13 county in which the most recent conviction for a disorderly persons
14 or petty disorderly persons offense was adjudged shall, within 30
15 days of the person filing the application, notify relevant law
16 enforcement and criminal justice agencies pursuant to subsection d.
17 of this section.

18 d. (1) For any person who may be eligible after the effective
19 date of P.L. , c. (C.) (pending before the Legislature as this
20 bill) and who has filed an expungement application, the court shall
21 provide information to accompany the notice to law enforcement
22 and criminal justice agencies, which shall include the information
23 required by N.J.S.2C:52-7 for each conviction eligible to be
24 expunged, to relevant law enforcement and criminal justice
25 agencies, as set forth in N.J.S.2C:52-10, within 30 days of the filing
26 of the expungement application.

27 (2) Upon receipt of the information from the courts pursuant to
28 paragraph (1) of this subsection, the Superintendent of State Police,
29 the Attorney General, and the county prosecutor of any county in
30 which the person was adjudged a disorderly person or petty
31 disorderly person shall, within 30 days, notify the Administrative
32 Office of the Courts of any inaccurate or incomplete data contained
33 in the information provided by the Administrative Office of the
34 Courts or of any other basis for ineligibility under this section.

35 (3) Unless the relevant law enforcement and criminal justice
36 agencies, in response to the information received from the
37 Administrative Office of the Courts, provide information about any
38 inaccurate or incomplete data, or any other basis for ineligibility,
39 the Administrative Office of the Courts shall promptly provide
40 notice of the person's eligibility and the Superior Court shall issue
41 an order listing the conviction or convictions to be expunged.

42 e. Notwithstanding the provisions of the five-year time
43 requirement, an application may be filed and presented to the
44 Superior Court in the county in which the most recent conviction
45 for a disorderly persons or petty disorderly persons offense was
46 adjudged, which contains a separate, duly verified petition as
47 provided in N.J.S.2C:52-7 for each conviction sought to be

1 expunged, and the court may grant an expungement pursuant to this
2 section, when the court finds:

3 (1) the fine is satisfied but less than five years have expired
4 from the date of satisfaction, and the five-year time requirement is
5 otherwise satisfied, and the court finds that the person substantially
6 complied with any payment plan ordered pursuant to N.J.S.2C:46-1
7 et seq., or could not do so due to compelling circumstances
8 affecting his ability to satisfy the fine; or

9 (2) at least three but less than five years have expired from the
10 date of the most recent conviction, payment of fine, satisfactory
11 completion of probation or parole, or release from incarceration,
12 whichever is later; and

13 the person has not been otherwise convicted of a crime,
14 disorderly persons offense, or petty disorderly persons offense since
15 the time of the most recent conviction; and the court finds in its
16 discretion that expungement is in the public interest, giving due
17 consideration to the nature of the offense or offenses, and the
18 applicant's character and conduct since the conviction or
19 convictions.

20 In determining whether compelling circumstances exist for the
21 purposes of paragraph (1) of this subsection, a court may consider
22 the amount of the fine or fines imposed, the person's age at the time
23 of the offense or offenses, the person's financial condition and other
24 relevant circumstances regarding the person's ability to pay.

25 (cf: P.L.2017, c.244, s.2)

26

27 4. N.J.S.2C:52-6 is amended to read as follows:

28 2C:52-6. Arrests not resulting in conviction.

29 a. When a person has been arrested or held to answer for a
30 crime, disorderly persons offense, petty disorderly persons offense,
31 or municipal ordinance violation under the laws of this State or of
32 any governmental entity thereof and proceedings against the person
33 were dismissed, the person was acquitted, or the person was
34 discharged without a conviction or finding of guilt, the Superior
35 Court shall, at the time of dismissal, acquittal, or discharge, or, in
36 any case set forth in paragraph (1) of this subsection, **【**upon receipt
37 of an application from the person,**】** order the expungement of all
38 records and information relating to the arrest or charge.

39 (1) If proceedings took place in municipal court, the municipal
40 court shall **【**provide the person, upon request, with appropriate
41 documentation to**】** transmit to the Superior Court **【**to**】** a request to
42 expunge **【**expungement**】** pursuant to procedures developed by the
43 Administrative Office of the Courts. Upon receipt of the
44 documentation, the Superior Court shall enter an ex parte order
45 expunging all records and information relating to the person's arrest
46 or charge.

1 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14
2 shall not apply to an expungement pursuant to this subsection and
3 no fee shall be charged to the person making such application.

4 (3) An expungement under this subsection shall not be ordered
5 where the dismissal, acquittal, or discharge resulted from a plea
6 bargaining agreement involving the conviction of other charges.
7 This bar, however, shall not apply once the conviction is itself
8 expunged.

9 (4) The Superior Court shall forward a copy of the expungement
10 order to the appropriate court and to the prosecutor. The prosecutor
11 shall promptly distribute copies of the expungement order to
12 appropriate law enforcement agencies and correctional institutions
13 who have custody and control of the records specified in the order
14 so that they may comply with the requirements of N.J.S.2C:52-15.

15 (5) An expungement related to a dismissal, acquittal, or
16 discharge ordered pursuant to this subsection shall not bar any
17 future expungement.

18 (6) Where a dismissal of an offense is based on an eligible
19 servicemember's successful participation in a Veterans Diversion
20 Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county
21 prosecutor, on behalf of the eligible servicemember, may move
22 before the court for the expungement of all records and information
23 relating to the arrest or charge, and the diversion at the time of
24 dismissal pursuant to this section.

25 b. When a person did not apply or a prosecutor did not move
26 on behalf of an eligible servicemember for an expungement of an
27 arrest or charge not resulting in a conviction pursuant to subsection
28 a. of this section, the person may at any time following the
29 disposition of proceedings, present a duly verified petition as
30 provided in N.J.S.2C:52-7 to the Superior Court in the county in
31 which the disposition occurred praying that records of such arrest
32 and all records and information pertaining thereto be expunged. No
33 fee shall be charged to the person for applying for an expungement
34 of an arrest or charge not resulting in a conviction pursuant to this
35 subsection.

36 c. (1) Any person who has had charges dismissed against him
37 pursuant to a program of supervisory treatment pursuant to
38 N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-
39 1, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-
40 13.1 et al.), shall be barred from the relief provided in this section
41 until six months after the entry of the order of dismissal.

42 (2) A servicemember who has successfully participated in a
43 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-
44 23 et al.) may apply for expungement pursuant to this section at any
45 time following the order of dismissal if an expungement was not
46 granted at the time of dismissal.

47 d. Any person who has been arrested or held to answer for a
48 crime shall be barred from the relief provided in this section where

1 the dismissal, discharge, or acquittal resulted from a determination
2 that the person was insane or lacked the mental capacity to commit
3 the crime charged.

4 (cf: P.L.2017, c.42, s.7)

5
6 5. N.J.S.2C:52-8 is amended to read as follows:

7 2C:52-8. Statements to accompany petition. There shall be
8 attached to a petition for expungement:

9 a. A statement with the affidavit or verification that there are
10 no disorderly persons, petty disorderly persons or criminal charges
11 pending against the petitioner at the time of filing of the petition for
12 expungement.

13 b. In those instances where the petitioner is seeking the
14 expungement of a criminal conviction **【**, or the expungement of
15 convictions**】** pursuant to **【**N.J.S.2C:52-3 for multiple disorderly
16 persons or petty disorderly persons offenses, all of which were
17 entered the same day, or which were interdependent or closely
18 related in circumstances and were committed as part of a sequence
19 of events that took place within a comparatively short period of
20 time**】** N.J.S.2C:52-2, a statement with affidavit or verification that
21 he has never been granted expungement, sealing or similar relief
22 regarding a criminal conviction **【**or convictions for multiple
23 disorderly persons or petty disorderly persons offenses, all of which
24 were entered the same day, or which were interdependent or closely
25 related in circumstances and were committed as part of a sequence
26 of events that took place within a comparatively short period of
27 time**】** by any court in this State or other state or by any Federal
28 court. "Sealing" refers to the relief previously granted pursuant to
29 P.L.1973, c.191 (C.2A:85-15 et seq.).

30 c. In those instances where a person has received a dismissal of
31 a criminal charge because of acceptance into a supervisory
32 treatment or any other diversion program, a statement with affidavit
33 or verification setting forth the nature of the original charge, the
34 court of disposition and date of disposition.

35 d. A statement as to whether the petitioner has legally changed
36 their name, the date of judgment of name change, and the previous
37 legal name.

38 (cf: P.L.2017, c.244, s.4)

39
40 6. N.J.S.2C:52-14 is amended to read as follows:

41 2C:52-14. A petition for expungement filed pursuant to this
42 chapter shall be denied when:

43 a. Any statutory prerequisite, including any provision of this
44 chapter, is not fulfilled or there is any other statutory basis for
45 denying relief.

46 b. The need for the availability of the records outweighs the
47 desirability of having a person freed from any disabilities as

1 otherwise provided in this chapter. An application may be denied
2 under this subsection only following objection of a party given
3 notice pursuant to N.J.S.2C:52-10 and the burden of asserting such
4 grounds shall be on the objector~~],~~ except that in regard to
5 expungement sought for third or fourth degree drug offenses
6 pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the
7 court shall consider whether this factor applies regardless of
8 whether any party objects on this basis~~].~~

9 c. In connection with a petition under N.J.S.2C:52-6, the
10 acquittal, discharge or dismissal of charges resulted from a plea
11 bargaining agreement involving the conviction of other charges.
12 This bar, however, shall not apply once the conviction is itself
13 expunged.

14 d. The arrest or conviction sought to be expunged is, at the
15 time of hearing, the subject matter of civil litigation between the
16 petitioner or his legal representative and the State, any
17 governmental entity thereof or any State agency and the
18 representatives or employees of any such body.

19 e. ~~【A person has had a previous criminal conviction expunged~~
20 ~~regardless of the lapse of time between the prior expungement, or~~
21 ~~sealing under prior law, and the present petition. This provision~~
22 ~~shall not apply:~~

23 (1) When the person is seeking the expungement of a municipal
24 ordinance violation or,

25 (2) When the person is seeking the expungement of records
26 pursuant to N.J.S.2C:52-6.~~】~~ (Deleted by amendment, P.L. c.)
27 (pending before the Legislature as this bill)

28 f. ~~(Deleted by amendment, P.L.2017, c.244)~~
29 ~~(cf: P.L.2017, c.244, s.5)~~

30
31 7. N.J.S.2C:52-15 is amended to read as follows:

32 2C:52-15. a. Except as provided in subsection b. of this section,
33 if an order of expungement of records of arrest or conviction under
34 this chapter is granted by the court, all the records specified in said
35 order shall be removed from the files of the agencies which have
36 been noticed of the pendency of petitioner's motion and which are,
37 by the provisions of this chapter, entitled to notice, and shall be
38 placed in the control of a person who has been designated by the
39 head of each such agency which, at the time of the hearing,
40 possesses said records. That designated person shall, except as
41 otherwise provided in this chapter, ensure that such records or the
42 information contained therein are not released for any reason and
43 are not utilized or referred to for any purpose. In response to
44 requests for information or records of the person who was arrested
45 or convicted, all noticed officers, departments and agencies shall
46 reply, with respect to the arrest, conviction or related proceedings
47 which are the subject of the order, that there is no record
48 information.

1 b. Records of the Probation Division of the Superior Court
2 related to restitution, a fine, or other court-ordered financial
3 assessment that remains due at the time the court grants an
4 expungement [may be retained as confidential, restricted-access
5 records in the Judiciary's automated system to facilitate the
6 collection and distribution of any outstanding assessments by the
7 comprehensive enforcement program established pursuant to
8 P.L.1995, c.9 (C.2B:19-1 et al.) as ordered by the court. The
9 Administrative Director of the Courts shall ensure that such records
10 are not released to the public. Such records shall be removed from
11 the Judiciary's automated system upon satisfaction of court-ordered
12 financial assessments or by order of the court] shall be transferred
13 to the New Jersey Department of Treasury for the collection and
14 disbursement of future payments and satisfaction of judgments.
15 (cf: P.L.2017, c.244, s.6)

16

17 8. Section 8 of P.L.2017, c.244 (C.2C:52-23.1) is amended to
18 read as follows:

19 8. a. Notwithstanding any provision in this act to the contrary,
20 expunged records may be used by the [comprehensive enforcement
21 program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.)]
22 Treasurer, State of New Jersey to collect restitution, fines and other
23 court-ordered financial assessments that remain due at the time an
24 expungement is granted by the court. Information regarding the
25 nature of such financial assessments or their derivation from
26 expunged criminal convictions shall not be disclosed to the public.
27 Any record of a civil judgment for the unpaid portion of court-
28 ordered financial obligations that may be docketed after the court
29 has granted an expungement of the underlying criminal conviction
30 shall be entered in the name of the Treasurer, State of New Jersey.
31 The State Treasurer shall thereafter administer such judgments [in
32 cooperation with the comprehensive enforcement program] without
33 disclosure of any information related to the underlying criminal
34 nature of the assessments.

35 b. The court, after providing appropriate due process, may
36 nullify an expungement granted to a person pursuant to subsection
37 a. of N.J.S.2C:52-2 if the person willfully fails to comply with an
38 established payment plan or otherwise cooperate with the
39 comprehensive enforcement program to facilitate the collection of
40 any outstanding restitution, fines, and other court-ordered
41 assessments, provided that prior to nullifying the expungement the
42 person shall be afforded an opportunity to comply with or
43 restructure the payment plan, or otherwise cooperate to facilitate the
44 collection of outstanding restitution, fines, and other court-ordered
45 assessments. In the event of nullification, the court may restore the
46 previous expungement granted if the person complies with the
47 payment plan or otherwise cooperates to facilitate the collection of

1 any outstanding restitution, fines, and other court-ordered
2 assessments.

3 (cf: P.L.2017, c.244, s.8)

4

5 9. N.J.S.2C:52-29 is repealed.

6

7 10. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill would revise procedures for expunging criminal and
13 other records and information.

14 The bill amends N.J.S.2C:52-2 to provide that the following
15 categories of persons are eligible for expungement:

16 - a person who has been convicted of one crime, and does not
17 otherwise have any subsequent conviction for another crime;

18 - a person who has been convicted of one crime and less than
19 four disorderly persons or petty disorderly persons offenses, and
20 does not otherwise have any subsequent conviction for another
21 crime or for another disorderly persons or petty disorderly persons
22 offense such that the total number of convictions for offenses
23 exceeds three;

24 - a person who has been convicted of multiple crimes, or a
25 combination of multiple crimes and disorderly persons or petty
26 disorderly persons offenses, all of which are listed in a single
27 judgment of conviction, and the person does not otherwise have any
28 subsequent conviction for another crime or offense in addition to
29 those convictions included in the person's expungement
30 application; or

31 - a person who has been convicted of multiple crimes or a
32 combination of multiple crimes and disorderly persons or petty
33 disorderly persons offenses, which crimes or combination of crimes
34 and offenses were interdependent or closely related in
35 circumstances and were committed as part of a sequence of events
36 that took place within a comparatively short period of time (a so-
37 called "crime spree"), regardless of the date of conviction or
38 sentencing for each individual crime or offense, and the person does
39 not otherwise have any subsequent conviction for another crime or
40 offense in addition to those convictions included in the person's
41 expungement application.

42 If a person with one or more criminal convictions is eligible as
43 described above for expungement relief, the expungement
44 application may generally proceed so long as one of the following
45 time period requirements is met:

46 - five years have passed with respect to all aspects of satisfying
47 the most recent conviction (five years from the date of conviction,

1 payment of fine, satisfactory completion of probation or parole, and
2 release from incarceration);

3 - the payment of a fine, which is currently subject to collection
4 under the State's comprehensive enforcement program established
5 pursuant to P.L.1995, c.9 (C.2B:19-1 et seq.), is not yet satisfied
6 due to reasons other than willful misconduct, but the five-year time
7 requirement is otherwise met.

8 - the fine is satisfied, but five years have not passed since doing
9 so, and the five-year time requirement is otherwise met; or

10 - at least four but less than five years have passed with respect to
11 all aspects of satisfying the conviction (this expedited expungement
12 would also require the person to show that it is in the public interest
13 to permit such expungement). Under the bill, in that instance, the
14 court shall provide for the entry of civil judgment in the name of the
15 State Treasurer and transfer the collection and disbursement
16 responsibility to the State Treasurer for the outstanding amount in
17 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

18 The bill further amends N.J.S.2C:52-2 to provide for a "clean
19 slate" expungement. Under this provision, in applicable cases, a
20 person may present an expungement application to the Superior
21 Court if the person has been convicted of multiple crimes or a
22 combination of one or more crimes and one or more disorderly
23 persons or petty disorderly persons offenses, but is not eligible for
24 an expungement under the above provisions.

25 Under this new provision, the person, if eligible, may present the
26 expungement application after the expiration of a period of ten
27 years from the date of his most recent conviction, payment of fine,
28 satisfactory completion of probation or parole, or release from
29 incarceration, whichever is later. The term "fine" means and
30 includes any fine, restitution, and other court-ordered financial
31 assessment imposed by the court as part of the sentence for the
32 conviction, for which payment of restitution takes precedence in
33 accordance with chapter 46 of Title 2C of the New Jersey Statutes.
34 The person shall submit the expungement application to the
35 Superior Court in the county in which the conviction for the most
36 recent crime was adjudged, which contains a separate, duly verified
37 petition as provided in N.J.S.2C:52-7 for each conviction sought to
38 be expunged, praying that the conviction or convictions, and all
39 records and information pertaining thereto, be expunged. The
40 petition for each conviction appended to an application shall
41 comply with the requirements set forth in N.J.S.2C:52-1 et seq.

42 Under the bill, notwithstanding the provisions concerning the
43 ten-year time requirement, if a fine which is currently subject to
44 collection under the comprehensive enforcement program
45 established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet
46 satisfied due to reasons other than willful noncompliance, but the
47 time requirement of ten years is otherwise satisfied, the person may
48 submit the expungement application and the court may grant an

1 expungement. Under the bill, if expungement is granted, the court
2 shall provide for the entry of civil judgment in the name of the State
3 Treasurer and transfer the collection and disbursement
4 responsibility to the State Treasurer for the outstanding amount in
5 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

6 The bill deletes the provision in N.J.S.2C:52-2 concerning the
7 expungement of convictions for the sale and distribution of a
8 controlled dangerous substance, and possession with intent to
9 distribute. This subsection barred expungement in these categories
10 except in cases involving small amounts of marijuana and hashish,
11 or any controlled dangerous substance where the conviction is of
12 the third or fourth degree. The effect of deleting this provision is
13 that for purposes of expungement, convictions for controlled
14 dangerous substance crimes will be treated the same as other crimes
15 and offenses in terms of eligibility.

16 The bill amends N.J.S.2C:52-3 to provide that the following
17 categories of persons are eligible for expungement:

18 - a person who has been convicted on the same or separate
19 occasions of no more than five disorderly persons offenses, no more
20 than five petty disorderly persons offenses, or a combination of no
21 more than five disorderly persons and petty disorderly persons
22 offenses, and the person does not otherwise have any prior or
23 subsequent conviction for a disorderly persons or petty disorderly
24 persons offense such that the total number of convictions for such
25 offenses exceeds five;

26 - a person who has been convicted of multiple disorderly persons
27 offenses or multiple petty disorderly persons offenses, or a
28 combination of multiple disorderly persons and petty disorderly
29 persons offenses, which convictions were entered the same day, and
30 the person does not otherwise have any prior or subsequent
31 conviction for another offense in addition to those convictions
32 included in the person's expungement application; or

33 - a person who has been convicted of multiple disorderly persons
34 offenses or multiple petty disorderly persons offenses, or a
35 combination of multiple disorderly persons and petty disorderly
36 persons offenses, all of which were part of a "crime spree"
37 (described in the same manner as above with respect to a spree
38 which resulted in multiple criminal convictions).

39 The bill's provisions provide for an automatic expungement of
40 disorderly persons and petty disorderly person offenses as follows:

41 For any eligible person who files an application for
42 expungement, the Superior Court in the county in which the most
43 recent conviction was adjudged would, within 30 days of the person
44 filing the application, notify relevant law enforcement and criminal
45 justice agencies, including the Superintendent of State Police and
46 the Attorney General, and the Administrative Office of the Courts
47 would include the information required by N.J.S.2C:52-7 for each
48 conviction eligible to be expunged. Upon receipt of the information

1 from the Administrative Office of the Courts the relevant law
2 enforcement and criminal justice agencies would, within 30 days,
3 notify the Administrative Office of the Courts of any inaccurate or
4 incomplete data contained in the information provided by the
5 Administrative Office of the Courts or of any other basis for
6 ineligibility under the bill. Unless the relevant law enforcement and
7 criminal justice agencies provide information about any inaccurate
8 or incomplete data, or any other basis for ineligibility, the
9 Administrative Office of the Courts would promptly provide notice
10 of the person's eligibility and the Superior Court would issue an
11 order listing the conviction or convictions to be expunged.

12 The bill does not change the five-year time requirement for
13 expungements for disorderly persons and petty disorderly persons
14 convictions.

15 The bill would revise the requirements for the statement which
16 accompanies a petition for expungement in N.J.S.2C:52-8, and the
17 grounds for denial of an application in N.J.S.2C:52-14, consistent
18 with the revisions to N.J.S.2C:52-2 and N.J.S.2C:52-3.

19 The bill would transfer fine collection and disbursement
20 functions to the State Treasurer in instances where expungement is
21 granted under N.J.S.2C:52-2, but a fine has not been paid in full.

22 The bill repeals N.J.S.2C:52-29 which provided for an
23 application fee paid to the State Treasurer to defer administrative
24 costs in processing an expungement application.