

SENATE, No. 3553

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 5, 2019

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

SYNOPSIS

Bars the denial of expungement application in certain instances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning expungement in certain instances and amending
2 N.J.S.2C:52-14.

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:52-14 is amended to read as follows:

8 2C:52-14. A petition for expungement filed pursuant to this
9 chapter shall be denied when:

10 a. Any statutory prerequisite, including any provision of this
11 chapter, is not fulfilled or there is any other statutory basis for
12 denying relief.

13 b. The need for the availability of the records outweighs the
14 desirability of having a person freed from any disabilities as
15 otherwise provided in this chapter. An application may be denied
16 under this subsection only following objection of a party given
17 notice pursuant to N.J.S.2C:52-10 and the burden of asserting such
18 grounds shall be on the objector, except that in regard to
19 expungement sought for third or fourth degree drug offenses
20 pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the
21 court shall consider whether this factor applies regardless of
22 whether any party objects on this basis.

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

28 d. The arrest or conviction sought to be expunged is, at the
29 time of hearing, the subject matter of civil litigation between the
30 petitioner or his legal representative and the State, any
31 governmental entity thereof or any State agency and the
32 representatives or employees of any such body. This subsection
33 shall not apply when the person is seeking the expungement of
34 records pursuant to N.J.S.2C:52-6.

35 e. A person has had a previous criminal conviction expunged
36 regardless of the lapse of time between the prior expungement, or
37 sealing under prior law, and the present petition. This provision
38 shall not apply:

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

41 (2) When the person is seeking the expungement of records
42 pursuant to N.J.S.2C:52-6.

43 f. (Deleted by amendment, P.L.2017, c.244)
44 (cf:P.L.2017, c.244, s.5)

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 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 The statutory grounds for denial of an application for
7 expungement are enumerated in N.J.S.2C:52-14. Subsection d. of
8 N.J.S.2C:52-14 directs that a petition for expungement shall be
9 denied when the arrest or conviction sought to be expunged is, at
10 the time of hearing, the subject matter of civil litigation between the
11 petitioner or his legal representative and the State, any
12 governmental entity thereof or any State agency and the
13 representatives or employees of any such body.

14 This bill amends subsection d. of N.J.S.2C:52-14 to bar the
15 denial of relief in cases that qualify for relief under N.J.S.2C:52-6.
16 N.J.S.2C:52-6 is concerned with an arrest or charge that does not
17 result in a conviction, and permits a person against whom charges
18 are dismissed to apply for an expungement.

19 In dismissal-based expungement cases, the ability to obtain an
20 expungement does not need to be impacted by whether or not a civil
21 action is pending, since the ability to file for an expungement is
22 expressly permitted at the time of the dismissal of charges, and
23 access to expunged records remains available even after an
24 expungement is granted, for good cause shown.