

ASSEMBLY, No. 4269

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 15, 2020

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Co-Sponsored by:

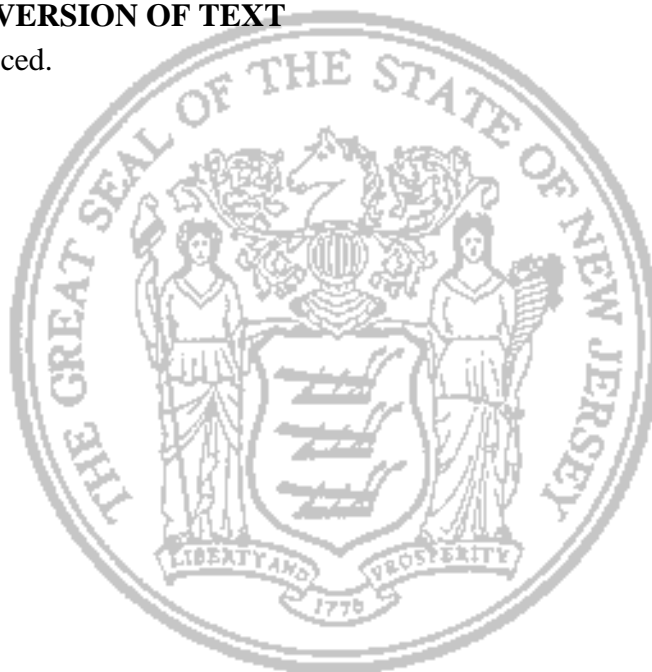
Assemblywoman Reynolds-Jackson and Assemblyman Spearman

SYNOPSIS

Provides for certain criminal and civil justice reforms, particularly with respect to legal consequences associated with certain marijuana and hashish offenses as well as broadening awareness of available expungement relief.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2020)

1 AN ACT concerning certain criminal and civil justice reforms,
2 particularly with respect to the legal consequences associated
3 with certain marijuana and hashish offenses as well as
4 broadening awareness of available expungement relief, and
5 amending and supplementing various parts of the statutory law.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. N.J.S.2C:35-5 is amended to read as follows:

11 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
12 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
13 unlawful for any person knowingly or purposely:

14 (1) To manufacture, distribute or dispense, or to possess or have
15 under his control with intent to manufacture, distribute or dispense,
16 a controlled dangerous substance or controlled substance analog; or

17 (2) To create, distribute, or possess or have under his control
18 with intent to distribute, a counterfeit controlled dangerous
19 substance.

20 b. Any person who violates subsection a. with respect to:

21 (1) Heroin, or its analog, or coca leaves and any salt, compound,
22 derivative, or preparation of coca leaves, and any salt, compound,
23 derivative, or preparation thereof which is chemically equivalent or
24 identical with any of these substances, or analogs, except that the
25 substances shall not include decocainized coca leaves or extractions
26 which do not contain cocaine or ecogine, or 3,4-
27 methylenedioxymethamphetamine or 3,4-
28 methylenedioxyamphetamine, in a quantity of five ounces or more
29 including any adulterants or dilutants is guilty of a crime of the first
30 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
31 be sentenced to a term of imprisonment by the court. The term of
32 imprisonment shall include the imposition of a minimum term
33 which shall be fixed at, or between, one-third and one-half of the
34 sentence imposed, during which the defendant shall be ineligible for
35 parole. Notwithstanding the provisions of subsection a. of
36 N.J.S.2C:43-3, a fine of up to **[\$500,000.00]** \$500,000 may be
37 imposed;

38 (2) A substance referred to in paragraph (1) of this subsection,
39 in a quantity of one-half ounce or more but less than five ounces,
40 including any adulterants or dilutants is guilty of a crime of the
41 second degree;

42 (3) A substance referred to paragraph (1) of this subsection in a
43 quantity less than one-half ounce including any adulterants or
44 dilutants is guilty of a crime of the third degree except that,

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 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
2 fine of up to **【\$75,000.00】** \$75,000 may be imposed;

3 (4) A substance classified as a narcotic drug in Schedule I or II
4 other than those specifically covered in this section, or the analog of
5 any such substance, in a quantity of one ounce or more including
6 any adulterants or dilutants is guilty of a crime of the second
7 degree;

8 (5) A substance classified as a narcotic drug in Schedule I or II
9 other than those specifically covered in this section, or the analog of
10 any such substance, in a quantity of less than one ounce including
11 any adulterants or dilutants is guilty of a crime of the third degree
12 except that, notwithstanding the provisions of subsection b. of
13 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
14 imposed;

15 (6) Lysergic acid diethylamide, or its analog, in a quantity of
16 100 milligrams or more including any adulterants or dilutants, or
17 phencyclidine, or its analog, in a quantity of 10 grams or more
18 including any adulterants or dilutants, is guilty of a crime of the
19 first degree. Except as provided in N.J.S.2C:35-12, the court shall
20 impose a term of imprisonment which shall include the imposition
21 of a minimum term, fixed at, or between, one-third and one-half of
22 the sentence imposed by the court, during which the defendant shall
23 be ineligible for parole. Notwithstanding the provisions of
24 subsection a. of N.J.S.2C:43-3, a fine of up to **【\$500,000.00】**
25 \$500,000 may be imposed;

26 (7) Lysergic acid diethylamide, or its analog, in a quantity of
27 less than 100 milligrams including any adulterants or dilutants, or
28 where the amount is undetermined, or phencyclidine, or its analog,
29 in a quantity of less than 10 grams including any adulterants or
30 dilutants, or where the amount is undetermined, is guilty of a crime
31 of the second degree;

32 (8) Methamphetamine, or its analog, or phenyl-2-propanone
33 (P2P), in a quantity of five ounces or more including any
34 adulterants or dilutants is guilty of a crime of the first degree.
35 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
36 fine of up to **【\$300,000.00】** \$300,000 may be imposed;

37 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
38 (P2P), in a quantity of one-half ounce or more but less than five
39 ounces including any adulterants or dilutants is guilty of a crime of
40 the second degree;

41 (b) Methamphetamine, or its analog, or phenyl-2-propanone
42 (P2P), in a quantity of less than one-half ounce including any
43 adulterants or dilutants is guilty of a crime of the third degree
44 except that notwithstanding the provisions of subsection b. of
45 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
46 imposed;

1 (10) (a) Marijuana in a quantity of 25 pounds or more
2 including any adulterants or dilutants, or 50 or more marijuana
3 plants, regardless of weight, or hashish in a quantity of five pounds
4 or more including any adulterants or dilutants, is guilty of a crime
5 of the first degree. Notwithstanding the provisions of subsection a.
6 of N.J.S.2C:43-3, a fine of up to **[\$300,000.00]** \$300,000 may be
7 imposed;

8 (b) Marijuana in a quantity of five pounds or more but less than
9 25 pounds including any adulterants or dilutants, or 10 or more but
10 fewer than 50 marijuana plants, regardless of weight, or hashish in a
11 quantity of one pound or more but less than five pounds, including
12 any adulterants and dilutants, is guilty of a crime of the second
13 degree;

14 (11) Marijuana in a quantity of one **[ounce]** pound or more but
15 less than five pounds including any adulterants or dilutants, or
16 hashish in a quantity of **[five grams]** one-half pound or more but
17 less than one pound including any adulterants or dilutants, is guilty
18 of a crime of the third degree except that, notwithstanding the
19 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
20 **[\$25,000.00]** \$25,000 may be imposed;

21 (12) (a) Marijuana in a quantity of two ounces or more but
22 less than one pound including any adulterants or dilutants, or
23 hashish in a quantity of five grams or more but less than one-half
24 pound including any adulterants or dilutants, is guilty of a
25 disorderly persons offense for a first offense, and guilty of a crime
26 of the fourth degree for a second or subsequent offense;

27 (b) Marijuana in a quantity of less than **[one ounce]** two
28 ounces including any adulterants or dilutants, or hashish in a
29 quantity of less than five grams including any adulterants or
30 dilutants, is **[guilty of a crime of the fourth degree]** an unlawful act
31 subject to a civil penalty of \$50. The civil penalty provided for in
32 this subparagraph shall be collected pursuant to the “Penalty
33 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.),
34 in a summary proceeding before the municipal court having
35 jurisdiction. A penalty recovered under the provisions of this
36 paragraph shall be recovered by and in the name of the State by the
37 local municipality. The penalty shall be paid into the treasury of
38 the municipality in which the violation occurred for the general use
39 of the municipality;

40 (13) Any other controlled dangerous substance classified in
41 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
42 third degree, except that, notwithstanding the provisions of
43 subsection b. of N.J.S.2C:43-3, a fine of up to **[\$25,000.00]**
44 \$25,000 may be imposed; or

45 (14) Any Schedule V substance, or its analog, is guilty of a
46 crime of the fourth degree except that, notwithstanding the

1 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
2 **【\$25,000.00】** \$25,000 may be imposed.

3 c. Where the degree of the offense for violation of this section
4 depends on the quantity of the substance, the quantity involved
5 shall be determined by the trier of fact. Where the indictment or
6 accusation so provides, the quantity involved in individual acts of
7 manufacturing, distribution, dispensing or possessing with intent to
8 distribute may be aggregated in determining the grade of the
9 offense, whether distribution or dispensing is to the same person or
10 several persons, provided that each individual act of manufacturing,
11 distribution, dispensing or possession with intent to distribute was
12 committed within the applicable statute of limitations.
13 (cf: P.L.2000, c.136, s.1)

14

15 2. N.J.S.2C:35-10 is amended to read as follows:

16 2C:35-10. Possession, Use or Being Under the Influence, or
17 Failure to Make Lawful Disposition.

18 a. It is unlawful for any person, knowingly or purposely, to
19 obtain, or to possess, actually or constructively, a controlled
20 dangerous substance or controlled substance analog, unless the
21 substance was obtained directly, or pursuant to a valid prescription
22 or order form from a practitioner, while acting in the course of his
23 professional practice, or except as otherwise authorized by
24 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this
25 section with respect to:

26 (1) A controlled dangerous substance, or its analog, classified in
27 Schedule I, II, III or IV other than those specifically covered in this
28 section, is guilty of a crime of the third degree except that,
29 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
30 fine of up to **【\$35,000.00】** \$35,000 may be imposed;

31 (2) Any controlled dangerous substance, or its analog, classified
32 in Schedule V, is guilty of a crime of the fourth degree except that,
33 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
34 fine of up to **【\$15,000.00】** \$15,000 may be imposed;

35 (3) Possession of more than **【50 grams】** two ounces of
36 marijuana, including any adulterants or dilutants, or more than five
37 grams of hashish is guilty of a crime of the fourth degree, except
38 that, notwithstanding the provisions of subsection b. of
39 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed; or

40 (4) Possession of **【50 grams】** two ounces or less of marijuana,
41 including any adulterants or dilutants, or five grams or less of
42 hashish is an unlawful act subject to a 【disorderly person】 civil
43 penalty of \$50, but this amount of marijuana or hashish is presumed
44 to be the lawful possession of medical cannabis or a medical
45 cannabis product in accordance with the “Jake Honig Compassionate
46 Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) or
47 P.L.2015, c.158 (C.18A:40-12.22 et al.), and the State shall establish

1 by a preponderance of evidence that the substance possessed was
2 not medical cannabis or a medical cannabis product in order to
3 impose the \$50 civil penalty for possession of marijuana or hashish
4 pursuant to this paragraph. The civil penalty provided for in this
5 paragraph shall be collected pursuant to the “Penalty Enforcement
6 Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
7 proceeding before the municipal court having jurisdiction. A
8 penalty recovered under the provisions of this paragraph shall be
9 recovered by and in the name of the State by the local municipality.
10 The penalty shall be paid into the treasury of the municipality in
11 which the violation occurred for the general use of the municipality.

12 Any person who commits any offense **【defined in】** set forth in
13 paragraphs (1) through (3) of this 【section】 subsection while on any
14 property used for school purposes which is owned by or leased to
15 any elementary or secondary school or school board, or within
16 1,000 feet of any such school property or a school bus, or while on
17 any school bus, and who is not sentenced to a term of
18 imprisonment, shall, in addition to any other sentence which the
19 court may impose, be required to perform not less than 100 hours of
20 community service.

21 b. Any person who uses or who is under the influence of any
22 controlled dangerous substance, or its analog, for a purpose other
23 than the treatment of sickness or injury as lawfully prescribed or
24 administered by a physician is a disorderly person.

25 In a prosecution under this subsection, it shall not be necessary
26 for the State to prove that the accused did use or was under the
27 influence of any specific drug, but it shall be sufficient for a
28 conviction under this subsection for the State to prove that the
29 accused did use or was under the influence of some controlled
30 dangerous substance, counterfeit controlled dangerous substance, or
31 controlled substance analog, by proving that the accused did
32 manifest physical and physiological symptoms or reactions caused
33 by the use of any controlled dangerous substance or controlled
34 substance analog.

35 c. Any person who knowingly obtains or possesses a controlled
36 dangerous substance or controlled substance analog in violation of
37 subsection a. of this section and who fails to voluntarily deliver the
38 substance to the nearest law enforcement officer is guilty of a
39 disorderly persons offense. Nothing in this subsection shall be
40 construed to preclude a prosecution or conviction for any other
41 offense defined in this title or any other statute.

42 (cf: P.L.1997, c.181, s.6)

43

44 3. (New section) a. Except to the extent required to dismiss,
45 withdraw, or terminate the charge, no court shall have jurisdiction
46 over any charge, including any charge of delinquency, based on the
47 distribution of marijuana or hashish in violation of paragraph (12)
48 of subsection b. of N.J.S.2C:35-5, or the possession of marijuana or

1 hashish in violation of paragraph (4) of subsection a. of
2 N.J.S.2C:35-10, that occurred prior to the effective date of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), unless a
4 final judgment of conviction or adjudication of delinquency has
5 been entered on or before that effective date. These non-
6 prosecutable charges and cases shall be expeditiously dismissed,
7 which may be accomplished by appropriate action by a law
8 enforcement agency, or on a motion to the court which would
9 otherwise have jurisdiction over a case, or the court's own motion,
10 based upon guidelines or directives issued by the Attorney General,
11 the Administrative Director of the Courts, and the Supreme Court.

12 b. A charge, including any charge of delinquency, conviction,
13 or adjudication of delinquency, based on a violation of any of the
14 following laws that occurred prior to, on, or after the effective date
15 of P.L. , c. (C.) (pending before the Legislature as this bill),
16 shall not be considered whenever the Pretrial Services Program
17 established by the Administrative Office of the Courts pursuant to
18 section 11 of P.L.2014, c.31 (C.2A:162-25) conducts a risk
19 assessment on an eligible defendant for the purpose of making
20 recommendations to the court concerning an appropriate pretrial
21 release decision in accordance with sections 1 through 11 of
22 P.L.2014, c.31 (C.2A:162-15 et seq.): a violation of paragraph (11)
23 of subsection b. of N.J.S.2C:35-5; or a lesser amount of marijuana or
24 hashish in violation of paragraph (12) of subsection b. of that section;
25 or a violation of either of those paragraphs and a violation of
26 subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection
27 a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or
28 possessing or having under control with intent to distribute, on or
29 within 1,000 feet of any school property, or on or within 500 feet of
30 the real property comprising a public housing facility, public park, or
31 public building; or for obtaining, possessing, using, being under the
32 influence of, or failing to make lawful disposition of marijuana or
33 hashish in violation of paragraph (3) or (4) of subsection a., or
34 subsection b., or subsection c. of N.J.S.2C:35-10; or for a violation of
35 any of those provisions and a violation of N.J.S.2C:36-2 for using or
36 possessing with intent to use drug paraphernalia with the marijuana or
37 hashish.

38 c. (1) Regarding a conviction or adjudication of delinquency
39 entered prior to the effective date of P.L. , c. (C.) (pending
40 before the Legislature as this bill), it shall be grounds for post-
41 conviction relief that the conviction or adjudication of delinquency
42 involved unlawful distribution of, or possessing or having under
43 control with intent to distribute, marijuana or hashish in violation of
44 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of
45 marijuana or hashish in violation of paragraph (12) of subsection b. of
46 that section, or a violation of either of those paragraphs and a violation
47 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
48 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for

1 distributing, or possessing or having under control with intent to
2 distribute, on or within 1,000 feet of any school property, or on or
3 within 500 feet of the real property comprising a public housing
4 facility, public park, or public building, or obtaining, possessing,
5 using, being under the influence of, or failing to make lawful
6 disposition of marijuana or hashish in violation of paragraph (3) or
7 (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-
8 10, or a violation involving marijuana or hashish as described herein
9 and using or possessing with intent to use drug paraphernalia with
10 that marijuana or hashish in violation of N.J.S.2C:36-2, alone or in
11 combination with each other, if a final judgment of conviction or
12 adjudication of delinquency had not been entered on or before that
13 effective date.

14 (2) Notwithstanding any court rule limiting the time period
15 within which a motion to reduce or change a sentence may be filed,
16 any person who, on the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill), is serving a sentence of
18 incarceration, probation, parole or other form of community
19 supervision solely as a result of the person's conviction or
20 adjudication of delinquency for one or more crimes or offenses
21 enumerated in paragraph (1) of this subsection may move to have
22 the person's sentence reviewed by the court. If the court finds that
23 the sentence under review is based solely upon a conviction or
24 adjudication of delinquency for one or more crimes or offenses
25 enumerated in paragraph (1) of this subsection, the court shall order
26 appropriate relief.

27 (3) No fee shall be charged to a person seeking post-conviction
28 relief pursuant to this subsection.

29

30 4. (New section) Other than the consequences of any sentence
31 set forth in a judgment of conviction, including a term of
32 imprisonment and any court-ordered financial assessment, unless
33 otherwise provided by law, any arrest, charge, conviction, and
34 adjudication of delinquency that occurred prior to the effective date
35 of P.L. , c. (C.) (pending before the Legislature as this bill),
36 and any proceedings related thereto, for unlawful distribution of, or
37 possessing or having under control with intent to distribute,
38 marijuana or hashish in violation of paragraph (11) of subsection b. of
39 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation
40 of paragraph (12) of subsection b. of that section, or a violation of
41 either of those paragraphs and a violation of subsection a. of section 1
42 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of
43 P.L.1997, c.327 (C.2C:35-7.1), for distributing, or possessing or
44 having under control with intent to distribute, on or within 1,000 feet
45 of any school property, or on or within 500 feet of the real property
46 comprising a public housing facility, public park, or public building,
47 or obtaining, possessing, using, being under the influence of, or
48 failing to make lawful disposition of marijuana or hashish in

1 violation of paragraph (3) or (4) of subsection a., or subsection b., or
2 subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or
3 hashish as described herein and using or possessing with intent to use
4 drug paraphernalia with that marijuana or hashish in violation of
5 N.J.S.2C:36-2 shall be deemed not to have occurred, and the person
6 involved in that violation may answer any questions relating to their
7 occurrence accordingly, except that such information shall be
8 revealed by that person if seeking employment within the judicial
9 branch or with a law enforcement or corrections agency and such
10 information shall continue to provide a disability as otherwise
11 provided by law.

12
13 5. N.J.S.2C:52-30 is amended to read as follows:

14 2C:52-30. Except as otherwise provided in this chapter, **any**

15 a. Any person who reveals to another the existence of an arrest,
16 conviction or related legal proceeding with knowledge that the
17 records and information pertaining thereto have been expunged or
18 sealed is a disorderly person. Notwithstanding the provisions of
19 **section** N.J.S.2C:43-3, the maximum fine which can be imposed
20 for violation of this section is \$200.00 \$2,000.

21 b. (1) Any person or entity regularly engaged in the business of
22 collecting, assembling, evaluating or disseminating criminal records
23 on individuals for a fee shall regularly update the records to ensure
24 accuracy, promptly delete a record that has been expunged or
25 sealed, provide clients with the date collected and explain to clients
26 that records are valid only as of the date collected.

27 (2) Any person or entity regularly engaged in the business of
28 collecting, assembling, evaluating or disseminating criminal records
29 on individuals for a fee, which disseminates a criminal record that
30 has been expunged or sealed and knows or should have known at
31 the time of dissemination that the record has been expunged or
32 sealed is liable to the individual who is the subject of the criminal
33 record for damages totaling \$5,000 or the actual damages caused by
34 the violation, whichever is greater, plus costs and attorney fees.

35 (cf: N.J.S.2C:52-30)

36
37 6. (New section) The Administrative Director of the Courts
38 shall maintain and provide information to any person upon request
39 about the expungement process and legal services programs
40 Statewide and in each county which may be available to assist the
41 person with an expedited expungement pursuant to section 5 of
42 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
43 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3).

44
45 7. (New section) a. (1) The Administrative Director of the
46 Courts shall develop and maintain a multilingual public awareness
47 campaign to promote awareness of the expungement process,
48 including an expedited expungement pursuant to section 5 of

1 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
2 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3), and the
3 expungement e-filing system established pursuant to section 11 of
4 P.L.2019, c.269 (C.2C:52-10.1), as well as information on State,
5 local, non-profit and other private job training programs in
6 consultation with the Department of Labor and Workforce
7 Development, with a focus on assisting those persons eligible for
8 the expedited expungement or “clean slate” expungement of their
9 records pursuant to section 5 of P.L.2019, c.269 (C.2C:52-5.1) or a
10 “clean slate” expungement pursuant to section 7 of P.L.2019, c.269
11 (C.2C:52-5.3), respectively.

12 (2) The public awareness campaign shall, at a minimum, utilize
13 electronic and print media, and shall make available electronically
14 on an Internet website a petition form and a list of the supporting
15 information necessary for an expungement, including an expedited
16 or “clean slate” expungement pursuant to section 5 of
17 P.L.2019, c.269 (C.2C:52-5.1) or section 7 of P.L.2019, c.269
18 (C.2C:52-5.3), respectively, using the expungement e-filing system
19 once established pursuant to section 11 of P.L.2019, c.269 (C.2C:52-
20 10.1).

21 (3) The petition and supporting information shall, at a minimum,
22 be made available in English and Spanish.

23 b. The Administrative Director of the Courts shall include in the
24 annual report on the activities of the Administrative Office of the
25 Courts, prepared pursuant to N.J.S.2A:12-5, information about the
26 activities and accomplishments of the public awareness campaign
27 developed and maintained pursuant to subsection a. of this section,
28 beginning no later than one year after the effective date of
29 P.L. , c. (C.) (pending before the Legislature as this
30 bill).

31

32 8. (New section) a. An employer shall not be permitted to
33 consider when making an employment decision, require any
34 applicant to disclose or reveal, or take any adverse action against
35 any applicant for employment on the basis of, any arrest, charge,
36 conviction, or adjudication of delinquency, or civil penalty if the act
37 was an unlawful act and not a crime or offense, for manufacturing,
38 distributing, or dispensing, or possessing or having under control with
39 intent to manufacture, distribute, or dispense, marijuana or hashish in
40 violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a
41 lesser amount of marijuana or hashish in violation of paragraph (12) of
42 subsection b. of that section, or a violation of either of those
43 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
44 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
45 (C.2C:35-7.1) for distributing, or possessing or having under control
46 with intent to distribute, on or within 1,000 feet of any school
47 property, or on or within 500 feet of the real property comprising a
48 public housing facility, public park, or public building, or for

1 obtaining, possessing, using, being under the influence of, or failing
2 to make lawful disposition of marijuana or hashish in violation of
3 paragraph (3) or (4) of subsection a., or subsection b., or subsection c.
4 of N.J.S.2C:35-10, or for a violation of any of those provisions and a
5 violation of N.J.S.2C:36-2 for using or possessing with intent to use
6 drug paraphernalia with the marijuana or hashish, or an arrest, charge,
7 conviction, or adjudication of delinquency under the laws of another
8 state or of the United States of a crime, offense, or other unlawful
9 act, which, if committed in this State, would be a violation of any of
10 the aforementioned crimes, offenses, or unlawful acts, regardless of
11 when any such arrest, charge, conviction, or adjudication of
12 delinquency, or imposition of a civil penalty occurred, unless the
13 employment sought or being considered is for a position in law
14 enforcement, corrections, the judiciary, homeland security, or
15 emergency management.

16 b. Any employer who commits an act in violation of this
17 section shall be liable for a civil penalty in an amount not to exceed
18 \$1,000 for the first violation, \$5,000 for the second violation, and
19 \$10,000 for each subsequent violation, which shall be collectible by
20 the Commissioner of Labor and Workforce Development in a
21 summary proceeding pursuant to the "Penalty Enforcement Law of
22 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The penalties set
23 forth in this subsection shall be the sole remedy provided for
24 violations of this section.

25 c. Nothing set forth in this section shall be construed as
26 creating or establishing a standard of care or duty for employers
27 with respect to any other law. Evidence that an employer has
28 violated, or is alleged to have violated, the provisions of this
29 section, shall not be admissible in any legal proceeding with respect
30 to any law or claim other than a proceeding to enforce the
31 provisions of this section. Nothing set forth in this section shall be
32 construed as creating, establishing, or authorizing a private cause of
33 action by an aggrieved person against an employer who has
34 violated, or is alleged to have violated, the provisions of this
35 section.

36
37 9. (New section) a. A person that makes a mortgage loan in
38 this State shall not discriminate against an applicant in accepting an
39 application, granting, withholding, extending, modifying or
40 renewing, or in the fixing of the rates, terms, conditions, or
41 provisions of any mortgage loan based on an applicant's arrest,
42 charge, conviction, or adjudication of delinquency, or civil penalty if
43 the act was an unlawful act and not a crime or offense, for
44 manufacturing, distributing, or dispensing, or possessing or having
45 under control with intent to manufacture, distribute, or dispense,
46 marijuana or hashish in violation of paragraph (11) of subsection b. of
47 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation
48 of paragraph (12) of subsection b. of that section, or a violation of

1 either of those paragraphs and a violation of subsection a. of section 1
2 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of
3 P.L.1997, c.327 (C.2C:35-7.1) for distributing, or possessing or having
4 under control with intent to distribute, on or within 1,000 feet of any
5 school property, or on or within 500 feet of the real property
6 comprising a public housing facility, public park, or public building,
7 or for obtaining, possessing, using, being under the influence of, or
8 failing to make lawful disposition of marijuana or hashish in
9 violation of paragraph (3) or (4) of subsection a., or subsection b., or
10 subsection c. of N.J.S.2C:35-10, or for a violation of any of those
11 provisions and a violation of N.J.S.2C:36-2 for using or possessing
12 with intent to use drug paraphernalia with the marijuana or hashish, or
13 an arrest, charge, conviction, or adjudication of delinquency under the
14 laws of another state or of the United States of a crime, offense, or
15 other unlawful act, which, if committed in this State, would be a
16 violation of any of the aforementioned crimes, offenses, or unlawful
17 acts, regardless of when any such arrest, charge, conviction, or
18 adjudication of delinquency, or imposition of a civil penalty occurred.

19 b. Any applicant who has been discriminated against as a result
20 of a violation of this section may bring an action in New Jersey in a
21 court of competent jurisdiction. Upon finding that a person is in
22 violation of this section, the court may award actual damages,
23 reasonable attorneys' fees, and court costs.

24 c. The Commissioner of Banking and Insurance shall have the
25 power to:

26 (1) Make such investigations into any matter pertaining to this
27 section, including the power to hold hearings and issue subpoenas
28 to compel the attendance of witnesses and the production of
29 evidence. In case of a failure of any person to comply with any
30 subpoena, the Superior Court may issue an order requiring the
31 attendance of such person and the giving of testimony or production
32 of evidence. Any person failing to obey the court's order may be
33 punished for contempt.

34 (2) Order a person found to be in violation of this section to
35 cease its unlawful practices, subject to review, hearing, and relief in
36 the Superior Court. A person that continues to violate the
37 provisions of this act after having been ordered by the
38 commissioner to cease such practices shall be liable to a penalty of
39 \$10,000 for each offense instead of the penalty for a continuous
40 violation set forth in section 10 of P.L.1977, c.1 (C.17:16F-
41 10). This penalty may be collected in a summary proceeding
42 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
43 c.274 (C.2A:58-10 et seq.). Except as set forth herein, the penalty
44 provided by this section shall be in addition to and not in lieu of any
45 other provision of law applicable upon a person's failure to comply
46 with an order of the commissioner.

1 10. (New section) a. A person alleging discrimination in public
2 or private housing, real property, or a place of public accommodation,
3 based on a prior arrest, charge, conviction, or adjudication of
4 delinquency, or civil penalty if the act was an unlawful act and not a
5 crime or offense, for manufacturing, distributing, or dispensing, or
6 possessing or having under control with intent to manufacture,
7 distribute, or dispense, marijuana or hashish in violation of paragraph
8 (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana
9 or hashish in violation of paragraph (12) of subsection b. of that
10 section, or a violation of either of those paragraphs and a violation of
11 subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection
12 a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or
13 possessing or having under control with intent to distribute, on or
14 within 1,000 feet of any school property, or on or within 500 feet of
15 the real property comprising a public housing facility, public park, or
16 public building, or for obtaining, possessing, using, being under the
17 influence of, or failing to make lawful disposition of marijuana or
18 hashish in violation of paragraph (3) or (4) of subsection a., or
19 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation of
20 any of those provisions and a violation of N.J.S.2C:36-2 for using or
21 possessing with intent to use drug paraphernalia with the marijuana or
22 hashish, or an arrest, charge, conviction, or adjudication of
23 delinquency under the laws of another state or of the United States
24 of a crime, offense, or other unlawful act, which, if committed in
25 this State, would be a violation of any of the aforementioned crimes,
26 offenses, or unlawful acts, regardless of when any such arrest, charge,
27 conviction, or adjudication of delinquency, or imposition of a civil
28 penalty occurred, may institute a civil action in the Superior Court for
29 relief. All remedies available in common law tort actions shall be
30 available to a prevailing plaintiff. The court may also order any or all
31 of the following relief:

32 (1) an assessment of a civil fine of not less than \$1,000 and not
33 more than \$2,000 for the first violation of any of the provisions of this
34 section, and not more than \$5,000 for each subsequent violation;

35 (2) an injunction to restrain the continued violation of subsection
36 a. of this section;

37 (3) if the discrimination impacted the person's employment, and if
38 applicable:

39 (a) reinstatement of the person to the same position of
40 employment or to a position equivalent to that which the person held
41 prior to unlawful discharge or retaliatory action;

42 (b) reinstatement of full fringe benefits and seniority rights; and

43 (c) compensation for any lost wages, benefits and other
44 remuneration; and

45 (4) payment of reasonable costs and attorney's fees.

46 b. An action brought under this section shall be commenced
47 within one year of the date of the alleged violation.

1 c. The private cause of action provided for in this section shall be
2 the sole remedy for a violation of this section.

3
4 11. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read
5 as follows:

6 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and
7 supplemented:

8 "Biotechnology" means any technique that uses living organisms,
9 or parts of living organisms, to make or modify products, to improve
10 plants or animals, or to develop micro-organisms for specific uses;
11 including the industrial use of recombinant DNA, cell fusion, and
12 novel bioprocessing techniques.

13 "Custodian of a government record" or "custodian" means in the
14 case of a municipality, the municipal clerk and in the case of any other
15 public agency, the officer officially designated by formal action of that
16 agency's director or governing body, as the case may be.

17 "Government record" or "record" means any paper, written or
18 printed book, document, drawing, map, plan, photograph, microfilm,
19 data processed or image processed document, information stored or
20 maintained electronically or by sound-recording or in a similar device,
21 or any copy thereof, that has been made, maintained or kept on file in
22 the course of his or its official business by any officer, commission,
23 agency or authority of the State or of any political subdivision thereof,
24 including subordinate boards thereof, or that has been received in the
25 course of his or its official business by any such officer, commission,
26 agency, or authority of the State or of any political subdivision thereof,
27 including subordinate boards thereof. The terms shall not include
28 inter-agency or intra-agency advisory, consultative, or deliberative
29 material.

30 A government record shall not include the following information
31 which is deemed to be confidential for the purposes of P.L.1963, c.73
32 (C.47:1A-1 et seq.) as amended and supplemented:

33 information received by a member of the Legislature from a
34 constituent or information held by a member of the Legislature
35 concerning a constituent, including but not limited to information in
36 written form or contained in any e-mail or computer data base, or in
37 any telephone record whatsoever, unless it is information the
38 constituent is required by law to transmit;

39 any memorandum, correspondence, notes, report or other
40 communication prepared by, or for, the specific use of a member of the
41 Legislature in the course of the member's official duties, except that
42 this provision shall not apply to an otherwise publicly-accessible
43 report which is required by law to be submitted to the Legislature or its
44 members;

45 any copy, reproduction or facsimile of any photograph, negative or
46 print, including instant photographs and videotapes of the body, or any
47 portion of the body, of a deceased person, taken by or for the medical
48 examiner at the scene of death or in the course of a post mortem

1 examination or autopsy made by or caused to be made by the medical
2 examiner except:

3 when used in a criminal action or proceeding in this State which
4 relates to the death of that person,

5 for the use as a court of this State permits, by order after good
6 cause has been shown and after written notification of the request for
7 the court order has been served at least five days before the order is
8 made upon the county prosecutor for the county in which the post
9 mortem examination or autopsy occurred,

10 for use in the field of forensic pathology or for use in medical or
11 scientific education or research, or

12 for use by any law enforcement agency in this State or any other
13 state or federal law enforcement agency;

14 criminal investigatory records;

15 the portion of any criminal record concerning a person's detection,
16 apprehension, arrest, detention, trial or disposition for unlawful
17 distribution of, or possessing or having under control with intent to
18 distribute, marijuana or hashish in violation of paragraph (11) of
19 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
20 hashish in violation of paragraph (12) of subsection b. of that section,
21 or a violation of either of those paragraphs and a violation of
22 subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection
23 a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or
24 possessing or having under control with intent to distribute, on or
25 within 1,000 feet of any school property, or on or within 500 feet of
26 the real property comprising a public housing facility, public park, or
27 public building, or for obtaining, possessing, using, being under the
28 influence of, or failing to make lawful disposition of marijuana or
29 hashish in violation of paragraph (3) or (4) of subsection a., or
30 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation of
31 any of those provisions and a violation of N.J.S.2C:36-2 for using or
32 possessing with intent to use drug paraphernalia with the marijuana or
33 hashish;

34 on and after the effective date of P.L. , c. (C.) (pending
35 before the Legislature as this bill), any record concerning a person's
36 commission of an unlawful act of manufacturing, distributing, or
37 dispensing, or possessing or having under control with intent to
38 manufacture, distribute, or dispense, marijuana or hashish in
39 violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or
40 possessing marijuana or hashish in violation of paragraph (4) of
41 subsection a. of N.J.S.2C:35-10, for which a civil penalty was
42 imposed;

43 victims' records, except that a victim of a crime shall have access
44 to the victim's own records;

45 any written request by a crime victim for a record to which the
46 victim is entitled to access as provided in this section, including, but
47 not limited to, any law enforcement agency report, domestic violence
48 offense report, and temporary or permanent restraining order;

1 personal firearms records, except for use by any person authorized
2 by law to have access to these records or for use by any government
3 agency, including any court or law enforcement agency, for purposes
4 of the administration of justice;

5 personal identifying information received by the Division of Fish
6 and Wildlife in the Department of Environmental Protection in
7 connection with the issuance of any license authorizing hunting with a
8 firearm. For the purposes of this paragraph, personal identifying
9 information shall include, but not be limited to, identity, name,
10 address, social security number, telephone number, fax number,
11 driver's license number, email address, or social media address of any
12 applicant or licensee;

13 trade secrets and proprietary commercial or financial information
14 obtained from any source. For the purposes of this paragraph, trade
15 secrets shall include data processing software obtained by a public
16 body under a licensing agreement which prohibits its disclosure;

17 any record within the attorney-client privilege. This paragraph
18 shall not be construed as exempting from access attorney or consultant
19 bills or invoices except that such bills or invoices may be redacted to
20 remove any information protected by the attorney-client privilege;

21 administrative or technical information regarding computer
22 hardware, software and networks which, if disclosed, would jeopardize
23 computer security;

24 emergency or security information or procedures for any buildings
25 or facility which, if disclosed, would jeopardize security of the
26 building or facility or persons therein;

27 security measures and surveillance techniques which, if disclosed,
28 would create a risk to the safety of persons, property, electronic data or
29 software;

30 information which, if disclosed, would give an advantage to
31 competitors or bidders;

32 information generated by or on behalf of public employers or
33 public employees in connection with any sexual harassment complaint
34 filed with a public employer or with any grievance filed by or against
35 an individual or in connection with collective negotiations, including
36 documents and statements of strategy or negotiating position;

37 information which is a communication between a public agency
38 and its insurance carrier, administrative service organization or risk
39 management office;

40 information which is to be kept confidential pursuant to court
41 order;

42 any copy of form DD-214, NGB-22, or that form, issued by the
43 United States Government, or any other certificate of honorable
44 discharge, or copy thereof, from active service or the reserves of a
45 branch of the Armed Forces of the United States, or from service in the
46 organized militia of the State, that has been filed by an individual with
47 a public agency, except that a veteran or the veteran's spouse or
48 surviving spouse shall have access to the veteran's own records;

1 any copy of an oath of allegiance, oath of office or any affirmation
2 taken upon assuming the duties of any public office, or that oath or
3 affirmation, taken by a current or former officer or employee in any
4 public office or position in this State or in any county or municipality
5 of this State, including members of the Legislative Branch, Executive
6 Branch, Judicial Branch, and all law enforcement entities, except that
7 the full name, title, and oath date of that person contained therein shall
8 not be deemed confidential;

9 that portion of any document which discloses the social security
10 number, credit card number, unlisted telephone number or driver
11 license number of any person; except for use by any government
12 agency, including any court or law enforcement agency, in carrying
13 out its functions, or any private person or entity acting on behalf
14 thereof, or any private person or entity seeking to enforce payment of
15 court-ordered child support; except with respect to the disclosure of
16 driver information by the New Jersey Motor Vehicle Commission as
17 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that
18 a social security number contained in a record required by law to be
19 made, maintained or kept on file by a public agency shall be disclosed
20 when access to the document or disclosure of that information is not
21 otherwise prohibited by State or federal law, regulation or order or by
22 State statute, resolution of either or both houses of the Legislature,
23 Executive Order of the Governor, rule of court or regulation
24 promulgated under the authority of any statute or executive order of
25 the Governor;

26 a list of persons identifying themselves as being in need of special
27 assistance in the event of an emergency maintained by a municipality
28 for public safety purposes pursuant to section 1 of P.L.2017, c.266
29 (C.40:48-2.67); and

30 a list of persons identifying themselves as being in need of special
31 assistance in the event of an emergency maintained by a county for
32 public safety purposes pursuant to section 6 of P.L.2011, c.178
33 (C.App.A:9-43.13).

34 A government record shall not include, with regard to any public
35 institution of higher education, the following information which is
36 deemed to be privileged and confidential:

37 pedagogical, scholarly and/or academic research records and/or the
38 specific details of any research project conducted under the auspices of
39 a public higher education institution in New Jersey, including, but not
40 limited to research, development information, testing procedures, or
41 information regarding test participants, related to the development or
42 testing of any pharmaceutical or pharmaceutical delivery system,
43 except that a custodian may not deny inspection of a government
44 record or part thereof that gives the name, title, expenditures, source
45 and amounts of funding and date when the final project summary of
46 any research will be available;

1 test questions, scoring keys and other examination data pertaining
2 to the administration of an examination for employment or academic
3 examination;

4 records of pursuit of charitable contributions or records containing
5 the identity of a donor of a gift if the donor requires non-disclosure of
6 the donor's identity as a condition of making the gift provided that the
7 donor has not received any benefits of or from the institution of higher
8 education in connection with such gift other than a request for
9 memorialization or dedication;

10 valuable or rare collections of books and/or documents obtained by
11 gift, grant, bequest or devise conditioned upon limited public access;

12 information contained on individual admission applications; and

13 information concerning student records or grievance or
14 disciplinary proceedings against a student to the extent disclosure
15 would reveal the identity of the student.

16 "Personal firearms record" means any information contained in a
17 background investigation conducted by the chief of police, the county
18 prosecutor, or the Superintendent of State Police, of any applicant for a
19 permit to purchase a handgun, firearms identification card license, or
20 firearms registration; any application for a permit to purchase a
21 handgun, firearms identification card license, or firearms registration;
22 any document reflecting the issuance or denial of a permit to purchase
23 a handgun, firearms identification card license, or firearms
24 registration; and any permit to purchase a handgun, firearms
25 identification card license, or any firearms license, certification,
26 certificate, form of register, or registration statement. For the purposes
27 of this paragraph, information contained in a background investigation
28 shall include, but not be limited to, identity, name, address, social
29 security number, phone number, fax number, driver's license number,
30 email address, social media address of any applicant, licensee,
31 registrant or permit holder.

32 "Public agency" or "agency" means any of the principal
33 departments in the Executive Branch of State Government, and any
34 division, board, bureau, office, commission or other instrumentality
35 within or created by such department; the Legislature of the State and
36 any office, board, bureau or commission within or created by the
37 Legislative Branch; and any independent State authority, commission,
38 instrumentality or agency. The terms also mean any political
39 subdivision of the State or combination of political subdivisions, and
40 any division, board, bureau, office, commission or other
41 instrumentality within or created by a political subdivision of the State
42 or combination of political subdivisions, and any independent
43 authority, commission, instrumentality or agency created by a political
44 subdivision or combination of political subdivisions.

45 "Law enforcement agency" means a public agency, or part thereof,
46 determined by the Attorney General to have law enforcement
47 responsibilities.

1 "Constituent" means any State resident or other person
2 communicating with a member of the Legislature.

3 "Member of the Legislature" means any person elected or selected
4 to serve in the New Jersey Senate or General Assembly.

5 "Criminal investigatory record" means a record which is not
6 required by law to be made, maintained or kept on file that is held by a
7 law enforcement agency which pertains to any criminal investigation
8 or related civil enforcement proceeding.

9 "Victim's record" means an individually-identifiable file or
10 document held by a victims' rights agency which pertains directly to a
11 victim of a crime except that a victim of a crime shall have access to
12 the victim's own records.

13 "Victim of a crime" means a person who has suffered personal or
14 psychological injury or death or incurs loss of or injury to personal or
15 real property as a result of a crime, or if such a person is deceased or
16 incapacitated, a member of that person's immediate family.

17 "Victims' rights agency" means a public agency, or part thereof,
18 the primary responsibility of which is providing services, including but
19 not limited to food, shelter, or clothing, medical, psychiatric,
20 psychological or legal services or referrals, information and referral
21 services, counseling and support services, or financial services to
22 victims of crimes, including victims of sexual assault, domestic
23 violence, violent crime, child endangerment, child abuse or child
24 neglect, and the Victims of Crime Compensation Board, established
25 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the
26 Victims of Crime Compensation Office pursuant to P.L.2007, c.95
27 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
28 (cf: P.L.2019, c.255, s.4)

29
30 12. This act shall take effect on the 90th day following
31 enactment, except that the Attorney General, Administrative
32 Director of the Courts, and the Supreme Court may take any
33 anticipatory action as may be necessary to effectuate the provisions
34 of this act.

35

36

37 STATEMENT

38

39 This bill would provide for various "social justice" reforms,
40 some based on criminal justice and others based on civil justice,
41 which would reduce the legal consequences associated with certain
42 marijuana and hashish offenses as well as broaden awareness of
43 available expungement relief, concerning both marijuana and
44 hashish offenses and more generally.

45 Regrading Marijuana and Hashish Offenses

46 The bill would address the manufacturing, distributing, or
47 dispensing, or possessing or having under control with intent to
48 manufacture, distribute, or dispense (hereafter shortened to just

1 distributing, which includes possessing or having under control)
2 less than five pounds of marijuana or less than one pound of
3 hashish, by either regrading the offense or altering the threshold
4 amounts for grading an offense.

5 Under current law, distribution of less than five pounds, but at
6 least one ounce or more, of marijuana, or distribution of less than
7 one pound, but at least five grams or more, of hashish, is punishable
8 as a crime of the third degree; this crime can be punished by a term
9 of imprisonment of three to five years, a fine of up to \$25,000, or
10 both. Distribution of any smaller amounts, that is, less than one
11 ounce of marijuana or less than five grams of hashish, is punishable
12 as a crime of the fourth degree; this crime can be punished by a
13 term of imprisonment of up to 18 months, a fine of up to \$10,000,
14 or both. See N.J.S.2C:35-10, subsection b., paragraphs (11) and
15 (12).

16 The bill would either regrade or alter the threshold amounts for
17 grading an unlawful distribution offense involving less than five
18 pounds of marijuana or less than one pound of hashish as follows:

19 - one pound or more but less than five pounds of marijuana, or
20 one-half pound or more but less than one pound of hashish would
21 be a crime of the third degree (three to five years imprisonment; up
22 to \$25,000 fine; or both);

23 - two ounces or more but less than one pound of marijuana, or
24 five grams or more but less than one-half pound of hashish would
25 be a disorderly persons offense based on a first offense (up to six
26 months imprisonment; up to \$1,000 fine; or both), and would be a
27 crime of the fourth degree for a second or subsequent offense (up to
28 18 months imprisonment; up to \$10,000 fine; or both); and

29 - less than two ounces of marijuana, or less than five grams of
30 hashish would be an unlawful act subject only to a civil penalty of
31 \$50. This penalty would be recovered in a summary proceeding
32 before the municipal court having jurisdiction, and would get paid
33 into the treasury of the municipality in which the violation occurred
34 for the general use of the municipality.

35 The bill would also regrade or alter the threshold amounts for
36 grading the unlawful possession of marijuana or hashish. First, the
37 maximum amount constituting a small amount marijuana possession
38 violation under paragraph (4) of subsection a. of N.J.S.2C:35-10
39 would increase from 50 grams (1.76 ounce) or less to two ounces or
40 less (the amount constituting a small amount hashish possession
41 violation under this paragraph would remain the same, at five grams
42 or less). Second, possession of this amount of marijuana or hashish
43 would be reduced from a fourth degree crime or disorderly persons
44 offense, depending upon the amount possessed in accordance with
45 the pre-reform possession categories, to an unlawful act subject
46 only to a civil penalty of \$50; and the bill would establish a legal
47 presumption that the possession of such amount of marijuana or
48 hashish is the authorized possession of medical cannabis or a

1 medical cannabis product in accordance with the “Jake Honig
2 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307
3 (C.24:6I-1 et al.), or the authorized possession of such amount in
4 accordance with P.L.2015, c.158 (C.18A:40-12.22 et al.). If the
5 presumption can be overcome, by a preponderance of evidence, that
6 a substance possessed was illegal marijuana or hashish, the \$50
7 civil penalty may be imposed. The civil penalty would be
8 recovered in a summary proceeding before the municipal court
9 having jurisdiction, and would get paid into the treasury of the
10 municipality in which the violation occurred for the general use of
11 the municipality.

12 Reducing the Legal Consequences of Certain Marijuana and
13 Hashish Offenses

14 No court would have jurisdiction over any charge, including any
15 charge of delinquency, except to the extent required to dismiss,
16 withdraw, or terminate the charge, based on a prior small amount
17 distribution or possession violation that would now only be
18 punishable by a civil penalty, unless a final judgment of conviction
19 or adjudication of delinquency had been entered on or before the
20 bill’s effective date. These non-prosecutable charges and cases
21 would be expeditiously dismissed, which could be accomplished by
22 appropriate action by a law enforcement agency, or on a motion to
23 the court with jurisdiction over a case, or the court’s own motion,
24 based upon guidelines or directives issued by the Attorney General,
25 the Administrative Director of the Courts, and the Supreme Court.

26 Any past, present, or future charge, conviction, or adjudication
27 of delinquency for an even broader array of marijuana and hashish
28 offenses would not be considered whenever the Pretrial Services
29 Program established by the Administrative Office of the Courts
30 conducted a risk assessment on a person for the purpose of making
31 recommendations to a court about an appropriate pretrial release or
32 pretrial detention decision for that individual in accordance with
33 sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).
34 These non-considered offenses would include:

- 35 - unlawful distribution of less than five pounds of marijuana, or
36 less than one pound of hashish, in violation of paragraph (11) or (12)
37 of subsection b. of N.J.S.2C:35-5, or a violation of either of those
38 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
39 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
40 (C.2C:35-7.1), for distributing on or within 1,000 feet of any school
41 property, or on or within 500 feet of the real property comprising a
42 public housing facility, public park, or public building;
43 - obtaining, possessing, using, being under the influence of, or
44 failing to make lawful disposition of any amount of marijuana or
45 hashish in violation of paragraph (3) or (4) of subsection a., subsection
46 b., or subsection c. of N.J.S.2C:35-10; or

1 - a violation involving any of the aforementioned offenses and
2 using or possessing with intent to use drug paraphernalia with that
3 marijuana or hashish in violation of N.J.S.2C:36-2.

4 The bill would also establish grounds for post-conviction relief
5 due to a past conviction or adjudication of delinquency for any of
6 the above described marijuana or hashish offenses, which would
7 permit an opportunity to have a sentence reduced or changed as
8 permitted by the court.

9 New Form of “Virtual” Expungement for Certain Marijuana and
10 Hashish Offenses

11 Beginning immediately upon the enactment of the bill, any arrest,
12 charge, conviction, or adjudication of delinquency, and proceedings
13 related thereto, for any of the above described broad list of marijuana
14 or hashish offenses that occurred prior to the bill’s effective date
15 would be deemed not to have occurred (other than, generally, with
16 respect to the consequences of any sentence set forth in a judgment of
17 conviction), providing such legal relief without need to petition a
18 court for an expungement order granting such result. While persons
19 would be able to respond to questions about such past occurrences
20 accordingly, information about such would still need to be revealed if
21 seeking employment within the judicial branch or with a law
22 enforcement or corrections agency, and the record would be subject to
23 review in accordance with N.J.S.2C:52-15 et seq.

24 Reforms Applicable to All Expungements

25 Penalties for Wrongful Dissemination of Expunged Records or
26 Information

27 The bill would increase the maximum fine, from \$200 to \$2,000,
28 which could be imposed on a person who reveals to another the
29 existence of an arrest, conviction, or related legal proceeding with
30 knowledge that the record or information has been expunged or
31 sealed. A person could also be subject to a term of imprisonment of
32 up to six month because such an act is categorized as a disorderly
33 persons offense. See N.J.S.2C:52-30.

34 In addition, the bill provides that any person or entity regularly
35 engaged in the business of collecting, assembling, evaluating or
36 disseminating records on individuals for a fee would be required to
37 regularly update their records to ensure accuracy, promptly delete a
38 record that has been expunged or sealed, provide clients with the
39 date collected and explain to clients that records are valid only as of
40 the date collected. Any such regularly-engaged person or entity
41 who disseminates a record that has been expunged or sealed, and
42 knows or should have known at the time of dissemination that the
43 record has been expunged or sealed, would be liable to the
44 individual who is the subject of the record for a damages totaling
45 \$5,000 or the actual damages caused by the violation, whichever is
46 greater, plus costs and attorney fees.

47 Promoting Awareness of the Expungement Process

48 The Administrative Director of the Courts would:

1 - develop and maintain information, to be provided to a person
2 upon request, about the expungement process and legal services
3 programs Statewide and in each county which may be available to
4 assist the person with an expedited expungement, pursuant to
5 section 5 of P.L.2019, c.269 (C.2C:52-5.1), for the various
6 marijuana and hashish distribution, possession, and drug paraphernalia
7 offenses described above under the statement subheading for
8 Reducing the Legal Consequences of Certain Marijuana and
9 Hashish Offenses, or a “clean slate” expungement, which generally
10 addresses a person’s entire criminal record, pursuant to section 7 of
11 P.L.2019, c.269 (C.2C:52-5.3); and

12 - develop a multilingual public awareness campaign to promote
13 awareness of the expungement process, as well as information on
14 State, local, nonprofit and other private job training programs in
15 consultation with the Department of Labor and Workforce
16 Development, with a focus on assisting those persons eligible for an
17 expedited expungement or “clean slate” expungement.

18 Civil Justice Reforms

19 In addition to the above described criminal justice relief largely
20 focused on marijuana and hashish offenses and broadening
21 awareness of the expungement process for clearing records, the bill
22 would provide an array of civil protections against discrimination
23 targeting persons with an arrest, charge, conviction, or adjudication
24 of delinquency involving any of the aforementioned marijuana and
25 hashish distribution, possession, and drug paraphernalia crimes or
26 offenses (see list under statement heading Reducing the Legal
27 Consequences of Certain Marijuana and Hashish Offenses), or
28 targeting persons with a civil penalty for committing an unlawful
29 act of distribution or possession with marijuana or hashish. These
30 protections would include monetary penalties, enforceable by the
31 State, against employers regarding employment actions or persons
32 involved with mortgage lending activities, as well as a private cause
33 of action for discrimination in public or private housing, real
34 property, or any place of public accommodation.

35 Lastly, the bill would make confidential, and no longer a
36 government record subject to public inspection under P.L.1963,
37 c.73 (C.47:1A-1 et seq.), the portion of any criminal record
38 concerning a person’s detection, apprehension, arrest, detention,
39 trial or disposition for any of the aforementioned crimes or
40 offenses, or any record concerning a person’s commission of any of
41 the aforementioned unlawful acts subject to a civil penalty.