Sponsored by:
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District 31 (Hudson)

Co-Sponsored by:
Senators Gopal and Turner

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

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning certain criminal and civil justice reforms, particularly addressing the legal consequences associated with certain marijuana and hashish offenses as well as raising awareness of available expungement relief, and amending and supplementing various parts of the statutory law.

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

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

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

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

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

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

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

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

   (3) A substance referred to paragraph (1) of this subsection in a quantity less than one-half ounce including any adulterants or 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.
notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
fine of up to $75,000.00 may be imposed;

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

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

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

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

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

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

(b) Methamphetamine, or its analog, or phenyl-2-propanone
(P2P), in a quantity of less than one-half ounce including any
adulterants or dilutants is guilty of a crime of the third degree
except that notwithstanding the provisions of subsection b. of
N.J.S.2C:43-3, a fine of up to $75,000.00 may be
imposed;
(10) (a) Marijuana in a quantity of 25 pounds or more
including any adulterants or dilutants, or 50 or more marijuana
plants, regardless of weight, or hashish in a quantity of five pounds
or more including any adulterants or dilutants, is guilty of a crime
of the first degree. Notwithstanding the provisions of subsection a.
of N.J.S.2C:43-3, a fine of up to $300,000 may be imposed;
(b) Marijuana in a quantity of five pounds or more but less than
25 pounds including any adulterants or dilutants, or 10 or more but
fewer than 50 marijuana plants, regardless of weight, or hashish in a
quantity of one pound or more but less than five pounds, including
any adulterants and dilutants, is guilty of a crime of the second
degree;
(11) Marijuana in a quantity of more than one ounce pound
[or more] but less than five pounds including any adulterants or
dilutants, or hashish in a quantity of five more than 80 grams [or
more] but less than one pound including any adulterants or
dilutants, is guilty of a crime of the third degree except that,
notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
fine of up to $25,000 may be imposed;
(12) Marijuana in a quantity of one pound or less [than one
ounce] including any adulterants or dilutants, or hashish in a
quantity of 80 grams or less [than five grams] including any
adulterants or dilutants, is guilty of a crime of the fourth degree
an unlawful act;
(a) The odor of marijuana or hashish, or burnt marijuana or
hashish, shall not constitute reasonable articulable suspicion to
initiate a search of a person to determine a violation of paragraph
(12) of this subsection. A person who violates this paragraph shall
not be subject to arrest, detention, or otherwise be taken into
custody, unless the person is being arrested, detained, or otherwise
taken into custody for also committing another violation of law for
which that action is legally permitted or required;
(b) (i) A first violation of paragraph (12) of this subsection is
subject to a written warning, which also indicates that any
subsequent violation is subject to a civil penalty or imposition of
community service, and a second or subsequent violation is subject
to a civil penalty of $25, or the performance of community service
in lieu of payment of the penalty, which may be imposed without
requiring a finding that a person does not have the ability to pay the
penalty in full, notwithstanding the provisions of section 1 of
P.L.2009, c.317 (C.2B:12-23.1). Whenever community service is
not imposed, the civil penalty shall be recovered by and in the name
of the State in a summary proceeding in accordance with the
10 et seq.), by the local municipality before the municipal court
having jurisdiction, and remitted in accordance with that act.
Whenever community service is imposed in lieu of payment of the penalty, the value of each hour of service shall be considered to be not less than the State minimum wage established by the “New Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.), or federal minimum wage established by 29 U.S.C. s.206, or any successor State or federal law, whichever wage is higher, and the community service imposed shall not exceed $25 in value;

(ii) A person shall not be deprived of any legal or civil right, privilege, benefit, or opportunity provided pursuant to any law solely by reason of committing a violation of paragraph (12) of this subsection, nor shall committing one or more violations modify any legal or civil right, privilege, benefit, or opportunity provided pursuant to any law, including, but not limited to, the granting, renewal, forfeiture, or denial of a license, permit, or certification, qualification for and the receipt, alteration, continuation, or denial of any form of financial assistance, housing assistance, or other social services, rights of or custody by a biological parent, or adoptive or foster parent, or other legal guardian of a child or newborn infant, or pregnant woman, in any action or proceeding by the Division of Child Protection and Permanency in the Department of Children and Families, or qualification, approval, or disapproval to serve as a foster parent or other legal guardian;

(c) All local and county law enforcement authorities shall, following the submission process used for the uniform crime reporting system established by P.L.1966, c.37 (C.52:17B-5.1 et seq.), submit a quarterly report to the Uniform Crime Reporting Unit, within the Division of State Police in the Department of Law and Public Safety, or to another designated recipient determined by the Attorney General, containing the number of violations of paragraph (12) of this subsection committed within their respective jurisdictions, plus the race, ethnicity, gender, and age of each person committing a violation, and the disposition of each person’s violation. These violations and associated information, along with a quarterly summary of violations investigated, and associated information collected, by the Division of State Police for the same period shall be summarized by county and municipality in an annual report, and both quarterly summaries and annual reports shall be made available at no cost to the public on the Division of State Police’s Internet website;

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

(14) Any Schedule V substance, or its analog, is guilty of a crime of the fourth degree except that, notwithstanding the
provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
[$25,000.00] $25,000 may be imposed.
c. Where the degree of the offense for violation of this section
depends on the quantity of the substance, the quantity involved
shall be determined by the trier of fact, other than with respect to a
first violation of paragraph (12) of subsection b. of this section
which is subject to a written warning as set forth in that paragraph.
Where the indictment or accusation so provides, the quantity
involved in individual acts of manufacturing, distribution,
dispensing or possessing with intent to distribute may be aggregated
in determining the grade of the offense, whether distribution or
dispensing is to the same person or several persons, provided that
each individual act of manufacturing, distribution, dispensing or
possession with intent to distribute was committed within the
applicable statute of limitations.
(cf: P.L.2000, c.136, s.1)

2. N.J.S.2C:35-10 is amended to read as follows:
2C:35-10. Possession, Use or Being Under the Influence, or
Failure to Make Lawful Disposition.
a. It is unlawful for any person, knowingly or purposely, to
obtain, or to possess, actually or constructively, a controlled
dangerous substance or controlled substance analog, unless the
substance was obtained directly, or pursuant to a valid prescription
or order form from a practitioner, while acting in the course of his
professional practice, or except as otherwise authorized by
P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this
section with respect to:
(1) A controlled dangerous substance, or its analog, classified in
Schedule I, II, III or IV other than those specifically covered in this
section, is guilty of a crime of the third degree except that,
notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
fine of up to [$35,000.00] $35,000 may be imposed;
(2) Any controlled dangerous substance, or its analog, classified
in Schedule V, is guilty of a crime of the fourth degree except that,
notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
fine of up to [$15,000.00] $15,000 may be imposed;
(3) Possession of more than [50 grams] one pound of
marijuana, including any adulterants or dilutants, or more than
[five] 80 grams of hashish is [guilty of a crime of the fourth
degree, except that, notwithstanding the provisions of subsection b.
of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed] a
disorderly person; or
(4) Possession of [50 grams] one pound or less of marijuana,
including any adulterants or dilutants, or [five] 80 grams or less of
hashish is [a disorderly person] an unlawful act;
(a) The odor of marijuana or hashish, or burnt marijuana or hashish, shall not constitute reasonable articulable suspicion to initiate a search of a person to determine a violation of paragraph (4) of this subsection. A person who violates this paragraph shall not be subject to arrest, detention, or otherwise be taken into custody, unless the person is being arrested, detained, or otherwise taken into custody for also committing another violation of law for which that action is legally permitted or required;

(b) (i) A first violation of paragraph (4) of this subsection is subject to a written warning, which also indicates that any subsequent violation is subject to a civil penalty or imposition of community service, and a second or subsequent violation is subject to a civil penalty of $25, or the performance of community service in lieu of payment of the penalty, which may be imposed without requiring a finding that a person does not have the ability to pay the penalty in full, notwithstanding the provisions of section 1 of P.L.2009, c.317 (C.2B:12-23.1). Whenever community service is not imposed, the civil penalty shall be recovered by and in the name of the State in a summary proceeding in accordance with the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), by the local municipality before the municipal court having jurisdiction, and remitted in accordance with that act. Whenever community service is imposed in lieu of payment of the penalty, the value of each hour of service shall be considered to be not less than the State minimum wage established by the “New Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.), or federal minimum wage established by 29 U.S.C. s.206, or any successor State or federal law, whichever wage is higher, and the community service imposed shall not exceed $25 in value;

(ii) A person shall not be deprived of any legal or civil right, privilege, benefit, or opportunity provided pursuant to any law solely by reason of committing a violation of paragraph (4) of this subsection, nor shall committing one or more violations modify any legal or civil right, privilege, benefit, or opportunity provided pursuant to any law, including, but not limited to, the granting, renewal, forfeiture, or denial of a license, permit, or certification, qualification for and the receipt, alteration, continuation, or denial of any form of financial assistance, housing assistance, or other social services, rights of or custody by a biological parent, or adoptive or foster parent, or other legal guardian of a child or newborn infant, or pregnant woman, in any action or proceeding by the Division of Child Protection and Permanency in the Department of Children and Families, or qualification, approval, or disapproval to serve as a foster parent or other legal guardian;

(c) All local and county law enforcement authorities shall, following the submission process used for the uniform crime reporting system established by P.L.1966, c.37 (C.52:17B-
5.1 et seq.), submit a quarterly report to the Uniform Crime Reporting Unit, within the Division of State Police in the Department of Law and Public Safety, or to another designated recipient determined by the Attorney General, containing the number of violations of paragraph (4) of this subsection committed within their jurisdictions, plus the race, ethnicity, gender, and age of each person committing a violation, and the disposition of each person’s violation. These violations and associated information, along with a quarterly summary of violations investigated, and associated information collected, by the Division of State Police for the same period shall be summarized by county and municipality in an annual report, and both quarterly summaries and annual reports shall be made available at no cost to the public on the Division of State Police’s Internet website.

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

b. (1) Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, not including marijuana or hashish, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person.

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

(2) Notwithstanding that using or being under the influence of marijuana or hashish is not a punishable offense pursuant to this subsection, the smoking of marijuana or hashish may be prohibited or otherwise regulated on or in any property by the person or entity that owns or controls that property, including multifamily housing that is a multiple dwelling as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of a condominium, as those terms are defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a mobile home park as defined in section 3 of P.L.1983, c.386.
3. N.J.S.2C:36-2 is amended to read as follows:

2C:36-2. a. Use or possession with intent to use, disorderly persons offense. It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title, other than when used, or possessed with intent to use, for ingesting, inhaling, or otherwise introducing marijuana or hashish into the human body. Any person who violates this section is guilty of a disorderly persons offense.

b. Notwithstanding that using or possessing with intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana or hashish into the human body is not a punishable offense pursuant to this section, the use of drug paraphernalia for that purpose may be prohibited or otherwise regulated on or in any property by the person or entity that owns or controls that property, including multifamily housing that is a multiple dwelling as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of a condominium, as those terms are defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a mobile home park as defined in section 3 of P.L.1983, c.386 (C.40:55D-102), which site is leased to the owner of a manufactured home, as defined in that section, that is installed thereon.

(cf: P.L.2007, c.31, s.3)

4. (New section) a. Except to the extent required to dismiss, withdraw, or terminate the charge, no court shall have jurisdiction over any charge, including any charge of delinquency, based on manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or obtaining or possessing marijuana or hashish in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10, that
occurred prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), unless a final judgment of conviction or adjudication of delinquency has been entered on or before that effective date. These non-prosecutable charges and cases shall be expeditiously dismissed, which may be accomplished by appropriate action by a law enforcement agency, or on a motion to the court which would otherwise have jurisdiction over a case, or the court’s own motion, based upon guidelines, administrative directives, and court orders issued by the Attorney General, the Administrative Director of the Courts, and the Supreme Court, as appropriate.

b. (1) Regarding a conviction or adjudication of delinquency entered prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), it shall be grounds for post-conviction relief that the conviction or adjudication of delinquency involved manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish, alone or in combination with each other, if a final judgment of conviction or adjudication of delinquency had not been entered on or before that effective date.

(2) Notwithstanding any court rule limiting the time period within which a motion to reduce or change a sentence may be filed, any person who, on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), is serving a sentence of incarceration, probation, parole or other form of community supervision solely as a result of the person’s conviction or adjudication of delinquency for one or more crimes or offenses enumerated in paragraph (1) of this subsection may move to have the person’s sentence reviewed by the court. If the court finds that the sentence under review is based solely upon a conviction or adjudication of delinquency for one or more crimes or offenses enumerated in paragraph (1) of this subsection, the court shall order appropriate relief.
(3) No fee shall be charged to a person seeking post-conviction relief pursuant to this subsection.

5. (New section) Other than the consequences of any sentence set forth in a judgment of conviction, including a term of imprisonment and any court-ordered financial assessment, unless otherwise provided by law, any arrest, charge, conviction, and adjudication of delinquency that occurred prior to the effective date of P.L. 1987, c. (C. ) (pending before the Legislature as this bill), and any proceedings related thereto, for manufacturing, distributing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish, shall be deemed not to have occurred, and the person involved in that violation may answer any questions relating to their occurrence accordingly, except that such information shall be revealed by that person if seeking employment within the judicial branch or with a law enforcement or corrections agency and such information shall continue to provide a disability as otherwise provided by law.

6. Section 6 of P.L.2019, c.269 (C.2C:52-5.2) is amended to read as follows:

a. (1) No later than three months after the effective date of this section, the Administrative Office of the Courts shall develop and maintain a system for sealing records from the public, upon order of a court, pertaining to offenses , delinquent acts, or unlawful acts subject to a civil penalty, or community service in lieu of payment of a penalty, involving marijuana or hashish as described in this section. Once the system is developed, unless otherwise provided by law, a court shall order the nondisclosure to the public of the records of the court and probation services, and records of law enforcement agencies with respect to any arrest, conviction, or adjudication of delinquency, or imposition of a
civil penalty or community service, and any proceedings related
thereto, upon disposition of any case occurring on or after the
development of the system for sealing records that solely includes
the following convictions [or] adjudications of delinquency, or
imposition of civil penalties or community service:
    (a) any number of offenses for, [or] delinquent acts which if
committed by an adult would constitute, [unlawful distribution of]
or unlawful acts subject to a civil penalty, or community service in
lieu of payment of a penalty for, manufacturing, distributing, or
dispensing, or possessing or having under control with intent to
manufacture, distribute, or dispense, marijuana or hashish in
violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or a
violation of that paragraph and a violation of subsection a. of
section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section
1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or possessing or
having under control with intent to distribute, on or within 1,000
feet of any school property, or on or within 500 feet of the real
property comprising a public housing facility, public park, or public
building; or
    (b) any number of offenses for, [or] delinquent acts which if
committed by an adult would constitute, or unlawful acts subject to
a civil penalty, or community service in lieu of payment of a
penalty for, obtaining [or] possessing, using, being under the
influence of, or failing to make lawful disposition of marijuana or
hashish in violation of paragraph (3) or (4) of subsection a. [or]
subsection b., or subsection c. of N.J.S.2C:35-10 [or];
    (c) [any number of offenses for, or delinquent acts which if
committed by an adult would constitute, a violation involving
marijuana or hashish as described in subparagraph (a) or (b) of this
paragraph and using or possessing with intent to use drug
paraphernalia with that marijuana or hashish in violation of
N.J.S.2C:36-2.] (Deleted by amendment, P.L. , c. (pending
before the Legislature as this bill)
(2) If the disposition of the case includes a court-ordered
financial assessment subject to collection under the comprehensive
enforcement program established pursuant to P.L.1995, c.9
(C.2B:19-1 et al.), then at the time of issuing the sealing order, the
court shall also enter a civil judgment for the unpaid portion of the
court-ordered financial assessment in the name of the Treasurer,
State of New Jersey and transfer collections and disbursement
responsibility to the State Treasurer for the outstanding amount in
accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The
term "court-ordered financial assessment" as used herein means and
includes any fine, fee, penalty, restitution, and other form of
financial assessment imposed by the court as part of the sentence
for the conviction or convictions that are the subject of the sealing
order, for which payment of restitution takes precedence in
accordance with chapter 46 of Title 2C of the New Jersey Statutes.

The Treasurer may specify, and the Administrative Office of the
Courts shall collaborate with, the technical and informational
standards required to effectuate the transfer of the collection and
disbursement responsibilities. Notwithstanding any provision in this
law or any other law to the contrary, the court shall have sole
discretion to amend the judgment.

b. Notice of the sealing order issued pursuant to subsection a.
of this section shall be provided to:
(1) The Attorney General, county prosecutor, or municipal
prosecutor handling the case; and
(2) The State Police and any local law enforcement agency
having custody of the files and records.

c. Upon the entry of a sealing order issued pursuant to
subsection a. of this section, the proceedings in the case shall be
sealed and all index references shall be marked "not available" or
"no record." Law enforcement agencies shall reply to requests for
information or records of a person subject to a sealing order that
there is no information or records. The person may also reply to
any inquiry that there is no information or record, except that
information subject to a sealing order shall be revealed by that
person if seeking employment within the judicial branch or with a
law enforcement or corrections agency, and the information shall
continue to provide a disability to the extent provided by law.

d. Records subject to a sealing order issued pursuant to
subsection a. of this section may be maintained for purposes of
prior offender status, identification, and law enforcement purposes,
provided that the records shall not be [considered whenever the
Pretrial Services Program established by the Administrative Office
of the Courts pursuant to section 11 of P.L.2014, c.31 (C.2A:162-
25) conducts a risk assessment on an eligible defendant for the
purpose of making recommendations to the court concerning an
appropriate pretrial release decision in accordance with sections 1
through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) or] used for
sentencing purposes in any other case.
(cf: P.L.2019, c.269, s.6)

7. Section 3 of P.L.2014, c.31 (C.2A:162-17) is amended to
read as follows:

3. Except as otherwise provided under sections 4 and 5 of
hearing on pretrial detention, a court shall make, pursuant to this
section, a pretrial release decision for an eligible defendant without
unnecessary delay, but in no case later than 48 hours after the
eligible defendant's commitment to jail.

a. The court shall order the pretrial release of the eligible
defendant on personal recognizance or on the execution of an
unsecured appearance bond when, after considering all the
circumstances, the Pretrial Services Program's risk assessment and recommendations on conditions of release prepared pursuant to section 11 of P.L.2014, c.31 (C.2A:162-25), and any information that may be provided by a prosecutor or the eligible defendant, the court finds that the release would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process.

b. (1) If the court does not find, after consideration, that the release described in subsection a. of this section will reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, the court may order the pretrial release of the eligible defendant subject to the following:

(a) the eligible defendant shall not commit any offense during the period of release;
(b) the eligible defendant shall avoid all contact with an alleged victim of the crime;
(c) the eligible defendant shall avoid all contact with all witnesses who may testify concerning the offense that are named in the document authorizing the eligible defendant's release or in a subsequent court order; and
(d) any one or more non-monetary conditions as set forth in paragraph (2) of this subsection.

(2) The non-monetary condition or conditions of a pretrial release ordered by the court pursuant to this paragraph shall be the least restrictive condition, or combination of conditions, that the court determines will reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, which may include that the eligible defendant:

(a) remain in the custody of a designated person, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is able to reasonably assure the court that the eligible defendant will appear in court when required, will not pose a danger to the safety of any other person or the community, and will not obstruct or attempt to obstruct the criminal justice process;
(b) maintain employment, or, if unemployed, actively seek employment;
(c) maintain or commence an educational program;
(d) abide by specified restrictions on personal associations, place of abode, or travel;
(e) report on a regular basis to a designated law enforcement agency, or other agency, or pretrial services program;
(f) comply with a specified curfew;
(g) refrain from possessing a firearm, destructive device, or other dangerous weapon;
(h) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner, except that, the court’s order shall not refrain the eligible defendant from using marijuana or hashish;
(i) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;
(j) return to custody for specified hours following release for employment, schooling, or other limited purposes;
(k) be placed in a pretrial home supervision capacity with or without the use of an approved electronic monitoring device. The court may order the eligible defendant to pay all or a portion of the costs of the electronic monitoring, but the court may waive the payment for an eligible defendant who is indigent and who has demonstrated to the court an inability to pay all or a portion of the costs; or
(l) satisfy any other condition that is necessary to reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, which shall not include any prohibition or restriction concerning:
(a) manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or
(b) the presence of any cannabinoid metabolites in any bodily fluids of the eligible defendant.

c. (1) If the court does not find, after consideration, that the release described in subsection a. or b. of this section will reasonably assure the eligible defendant's appearance in court when required, the court may order the pretrial release of the eligible defendant on monetary bail, other than an unsecured appearance bond. The court may only impose monetary bail pursuant to this subsection to reasonably assure the eligible defendant's appearance. The court shall not impose the monetary bail to reasonably assure the protection of the safety of any other person or the community or that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, or for the purpose of preventing the release of the eligible defendant.
(2) If the eligible defendant is unable to post the monetary bail imposed by the court pursuant to this subsection, and for that reason
remains detained in jail, the provisions of section 8 of P.L.2014, c.31 (C.2A:162-22) shall apply to the eligible defendant.

d. (1) If the court does not find, after consideration, that the release described in subsection a., b., or c. will reasonably assure the eligible defendant’s appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, the court may order the pretrial release of the eligible defendant using a combination of non-monetary conditions as set forth in subsection b. of this section, and monetary bail as set forth in subsection c. of this section.

(2) If the eligible defendant is unable to post the monetary bail imposed by the court in combination with non-monetary conditions pursuant to this subsection, and for that reason remains detained in jail, the provisions of section 8 of P.L.2014, c.31 (C.2A:162-22) shall apply to the eligible defendant.

e. For purposes of the court’s consideration for pretrial release described in this section, with respect to whether the particular method of release will reasonably assure that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, this reasonable assurance may be deemed to exist if the prosecutor does not provide the court with information relevant to the risk of whether the eligible defendant will obstruct or attempt to obstruct the criminal justice process.

(cf: P.L.2014, c.31, s.3)

8. Section 6 of P.L.2014, c.31 (C.2A:162-20) is amended to read as follows:

6. In determining in a pretrial detention hearing whether no amount of monetary bail, non-monetary conditions or combination of monetary bail and conditions would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, or that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, the court may take into account information concerning:

a. The nature and circumstances of the offense charged;

b. The weight of the evidence against the eligible defendant, except that the court may consider the admissibility of any evidence sought to be excluded;

c. The history and characteristics of the eligible defendant, including:

(1) the eligible defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings, except with respect to these factors, the court shall not consider an
unlawful act of manufacturing, distributing, or dispensing, or
possessing or having under control with intent to manufacture, 
distribute, or dispense, marijuana or hashish in violation of 
paragraph (12) of subsection b. of N.J.S.2C:35-5, or possessing 
marijuana or hashish in violation of paragraph (4) of subsection a. of 
N.J.S.2C:35-10, committed on or after the effective date of 
P.L. , c. (C. ) (pending before the Legislature as this bill), for 
which a written warning was issued, or a civil penalty or community 
service in lieu of payment of a penalty was imposed; and

(2) whether, at the time of the current offense or arrest, the 
eligible defendant was on probation, parole, or on other release 
pending trial, sentencing, appeal, or completion of sentence for an 
offense under federal law, or the law of this or any other state;

d. The nature and seriousness of the danger to any other person 
or the community that would be posed by the eligible defendant's 
release, if applicable;

e. The nature and seriousness of the risk of obstructing or 
attempting to obstruct the criminal justice process that would be 
posed by the eligible defendant's release, if applicable; and

f. The release recommendation of the pretrial services program 
obtained using a risk assessment instrument under section 11 of 

(cf: P.L.2014, c.31, s.6)

9. Section 10 of P.L.2014, c.31 (C.2A:162-24) is amended to 
read as follows:

10. a. Upon motion of a prosecutor, when an eligible defendant 
is released from custody before trial pursuant to section 3 or 8 of 
P.L.2014, c.31 (C.2A:162-17 or C.2A:162-22), the court, upon a 
finding that the eligible defendant while on release has violated a 
restricting order or condition of release, or upon a finding of 
probable cause to believe that the eligible defendant has committed 
a new crime while on release, may not revoke the eligible 
defendant's release and order that the eligible defendant be detained 
pending trial unless the court, after considering all relevant 
circumstances including but not limited to the nature and 
seriousness of the violation or criminal act committed, finds clear 
and convincing evidence that no monetary bail, non-monetary 
conditions of release or combination of monetary bail and 
conditions would reasonably assure the eligible defendant's 
appearance in court when required, the protection of the safety of 
any other person or the community, or that the eligible defendant 
will not obstruct or attempt to obstruct the criminal justice process.

b. A court shall not revoke an eligible defendant's release and 
order that the eligible defendant be detained pending trial based on:

(1) Manufacturing, distributing, or dispensing, or possessing or 
having under control with intent to manufacture, distribute, or 
dispense, marijuana or hashish in violation of paragraph (12) of
subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish
in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or

(2) The presence of any cannabinoid metabolites in any bodily
fluids of the eligible defendant, detected as a result of the
administration of a drug test or any other means.

(cf: P.L.2014, c.31, s.10)

10. Section 11 of P.L.2014, c.31 (C.2A:162-25) is amended to
read as follows:

11. a. The Administrative Director of the Courts shall establish
and maintain a Statewide Pretrial Services Program which shall
provide pretrial services to effectuate the purposes of sections 1
through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).

b. The Pretrial Services Program shall, after an eligible
defendant is temporarily detained pursuant to subsection a. of
section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
a complaint-warrant, conduct a risk assessment on that eligible
defendant for the purpose of making recommendations to the court
concerning an appropriate pretrial release decision, including
whether the eligible defendant shall be: released on the eligible
defendant's own personal recognizance or on execution of an
unsecured appearance bond; released on a non-monetary condition
or conditions as set forth under subsection b. of section 3 of
P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
an unsecured appearance bond; released on a combination of
monetary bail and non-monetary conditions set forth under section
3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
necessary to effectuate the purposes of sections 1 through 11 of
P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
completed and presented to the court so that the court can, without
unnecessary delay, but in no case later than 48 hours after the
eligible defendant's commitment to jail, make a pretrial release
decision on the eligible defendant pursuant to section 3 of P.L.2014,
c.31 (C.2A:162-17).

c. The pretrial risk assessment shall be conducted using a risk
assessment instrument approved by the Administrative Director of
the Courts that meets the requirements of this subsection.

(1) (a) The approved risk assessment instrument shall be
objective, standardized, and developed based on analysis of
empirical data and risk factors relevant to the risk of failure to
appear in court when required and the danger to the community
while on pretrial release. The risk assessment instrument shall not
be required to include factors specifically pertaining to the risk for
obstructing or attempting to obstruct the criminal justice process.

(b) The approved risk assessment instrument shall not consider a
charge, including any charge of delinquency, conviction, or
adjudication of delinquency, or civil penalty or community service
imposed in lieu of a civil penalty if the act was an unlawful act and not
a crime or offense, based on a violation of any of the following, as risk factors relevant to the risk of failure to appear in court when required and the danger to the community while on pretrial release: manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section; or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building; or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10; or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish.

(2) The approved risk assessment instrument shall gather demographic information about the eligible defendant including, but not limited to, race, ethnicity, gender, financial resources, and socio-economic status. Recommendations for pretrial release shall not be discriminatory based on race, ethnicity, gender, or socio-economic status.

d. In addition to the pretrial risk assessments made pursuant to this section, the Pretrial Services Program shall monitor appropriate eligible defendants released on conditions as ordered by the court. (cf: P.L.2014, c.31, s.11)

11. N.J.S.2C:45-1 is amended to read as follows:

2C:45-1. Conditions of Suspension or Probation.

a. (1) When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

(2) The following shall not be prohibited or restricted based on any conditions imposed pursuant to this section:

(a) Manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or possession of marijuana or
hashish in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or

(b) The presence of any cannabinoid metabolites in any bodily fluids of the person.

b. The court, as a condition of its order, may require the defendant:

(1) To support his dependents and meet his family responsibilities;
(2) To find and continue in gainful employment;
(3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
(4) To pursue a prescribed secular course of study or vocational training;
(5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
(6) To refrain from frequenting unlawful or disreputable places or conspiring with disreputable persons;
(7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;
(8) (Deleted by amendment, P.L.1991, c.329);
(9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
(10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;
(11) To pay a fine;
(12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;
(13) To require the performance of community-related service; and
(14) To be subject to Internet access conditions pursuant to paragraph (2) of subsection d. of this section.

In addition to any condition of probation, the court may enter an order prohibiting a defendant who is convicted of a sex offense from having any contact with the victim including, but not limited to, entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or victim's relatives in any way, and may order other protective relief as provided in section 2 of P.L.2007, c.133 (C.2C:14-12).

c. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to make restitution.
d. (1) In addition to any condition imposed pursuant to subsection b. or c., the court shall order a person placed on probation to pay a fee, not exceeding $25.00 per month for the probationary term, to probation services for use by the State, except as provided in subsection g. of this section. This fee may be waived in cases of indigency upon application by the chief probation officer to the sentencing court.

(2) In addition to any conditions imposed pursuant to subsection b. or c., the court may order a person who has been convicted or adjudicated delinquent of a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as provided in subsections c. and d. of section 2 of P.L.1994, c.133 (C.2C:7-2), or who has been convicted or adjudicated delinquent for a violation of N.J.S.2C:34-3 to be subject to any of the following Internet access conditions:

(a) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court, except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's probation officer;

(b) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a probation officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(c) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(d) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

e. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding 90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the
term of imprisonment served hereunder shall be credited toward
service of such subsequent sentence. A term of imprisonment
imposed under this section shall be governed by the "Parole Act of
1979," P.L.1979, c.441 (C.30:4-123.45 et al.).
Whenever a person is serving a term of parole as a result of a
sentence of incarceration imposed as a condition of probation,
supervision over that person shall be maintained pursuant to the
provisions of the law governing parole. Upon termination of the
period of parole supervision provided by law, the county probation
department shall assume responsibility for supervision of the person
under sentence of probation. Nothing contained in this section shall
prevent the sentencing court from at any time proceeding under the
provisions of this chapter against any person for a violation of
probation.

f. The defendant shall be given a copy of the terms of his
probation or suspension of sentence and any requirements imposed
pursuant to this section, stated with sufficient specificity to enable
him to guide himself accordingly. The defendant shall
acknowledge, in writing, his receipt of these documents and his
consent to their terms.

g. Of the moneys collected under the provisions of subsection
d. of this section, $15.00 of each monthly fee collected before
January 1, 1995 shall be deposited in the temporary reserve fund
created by section 25 of P.L.1993, c.275, and $10.00 of each shall
be deposited into a "Community Service Supervision Fund" which
shall be established by each county. The moneys in the
"Community Service Supervision Fund" shall be expended only in
accordance with the provisions of State law as shall be enacted to
provide for expenditures from this fund for the purpose of
supervising and monitoring probationers performing community
service to ensure, by whatever means necessary and appropriate,
that probationers are performing the community service ordered by
the court and that the performance is in the manner and under the
terms ordered by the court.
(cf: P.L.2007, c.219, s.4)

12. N.J.S.2C:45-3 is amended to read as follows:
2C:45-3. a. At any time before the discharge of the defendant or
the termination of the period of suspension or probation:
(1) The court may summon the defendant to appear before it or
may issue a warrant for his arrest;
(2) A probation officer or peace officer, upon request of the
chief probation officer or otherwise having probable cause to
believe that the defendant has failed to comply with a requirement
imposed as a condition of the order or that he has committed
another offense, may arrest him without a warrant;
(3) The court, if there is probable cause to believe that the
defendant has committed another offense or if he has been held to
answer therefor, may commit him without bail, pending a
determination of the charge by the court having jurisdiction
thereof;

(4) The court, if satisfied that the defendant has inexcusably
failed to comply with a substantial requirement imposed as a
condition of the order or if he has been convicted of another
offense, may revoke the suspension or probation and sentence or
resentence the defendant, as provided in this section. No revocation
of suspension or probation shall be based on: (a) failure to pay a
fine or make restitution, unless the failure was willful; (b)
manufacturing, distributing, or dispensing, or possessing or having
under control with intent to manufacture, distribute, or dispense,
marijuana or hashish in violation of paragraph (12) of subsection b.
of N.J.S.2C:35-5, or possessing marijuana or hashish in violation of
paragraph (4) of subsection a. of N.J.S.2C:35-10; or (c) the
presence of any cannabinoid metabolites in any bodily fluids,
detected as a result of the administration of a drug test or any other
means.

b. When the court revokes a suspension or probation, it may
impose on the defendant any sentence that might have been
imposed originally for the offense of which he was convicted.

c. The commencement of a probation revocation proceeding
shall toll the probationary period until termination of such
proceedings. In the event that the court does not find a violation of
probation, this subsection shall not operate to toll the probationary
period.

(cf: P.L.1981, c.290, s.41)

13. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
read as follows:

15. a. Each adult parolee shall at all times remain in the legal
custody of the Commissioner of Corrections and under the
supervision of the State Parole Board, except that the Commissioner
of Corrections, after providing notice to the Attorney General, may
consent to the supervision of a parolee by the federal government
pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
U.S.C. s.3521 et seq.). An adult parolee, except those under the
Witness Security Reform Act, shall remain under the supervision of
the State Parole Board and in the legal custody of the Department of
Corrections in accordance with the policies and rules of the board.

b. (1) (a) Each parolee shall agree, as evidenced by his
signature to abide by specific conditions of parole established by
the appropriate board panel which shall be enumerated in writing in
a certificate of parole and shall be given to the parolee upon release.
Such conditions shall include, among other things, a requirement
that the parolee conduct himself in society in compliance with all
laws and refrain from committing any crime, a requirement that the
parolee will not own or possess any firearm as defined in subsection
f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r. of N.J.S.2C:39-1, a requirement that the parolee refrain from the use, possession or distribution of a controlled dangerous substance, controlled substance analog or imitation controlled dangerous substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, other than the use of marijuana or hashish, and the possession or distribution of marijuana or hashish in an amount that constitutes no more than an unlawful act in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or paragraph (4) of subsection a. of N.J.S.2C:35-10, for which a written warning may be issued, or a civil penalty or community service in lieu of payment of a penalty imposed, a requirement that the parolee obtain permission from his parole officer for any change in his residence, and a requirement that the parolee report at reasonable intervals to an assigned parole officer.

In addition, based on prior history of the parolee or information provided by a victim or a member of the family of a murder victim, the member or board panel certifying parole release pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal or delinquent behavior, including a requirement that the parolee comply with the Internet access conditions set forth in paragraph (2) of this subsection. Such special conditions may include, among other things, a requirement that the parolee make full or partial restitution, the amount of which restitution shall be set by the sentencing court upon request of the board. In addition, the member or board panel certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business or school, and from harassing or stalking the victim or victim's relatives in any way. Further, the member, board panel or board certifying parole release may impose a special condition that the person shall not own or possess an animal for an unlawful purpose or to interfere in the performance of duties by a parole officer.

(b) The member or board panel certifying parole release shall not impose on any parolee any condition that would prohibit or restrict: (i) manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or (ii) the presence of any cannabinoid metabolites in any bodily fluids of the person.

(2) In addition, the member or board panel certifying parole release may impose on any person who has been convicted for the commission of a sex offense as defined in subsection b. of section 2
of P.L.1994, c.133 (C.2C:7-2), and who is required to register as
provided in subsections c. and d. of section 2 of P.L.1994, c.133
(C.2C:7-2), or who has been convicted for a violation of
N.J.S.2C:34-3 any of the following Internet access conditions:

(a) Prohibit the person from accessing or using a computer or
any other device with Internet capability without the prior written
approval of the court, except the person may use a computer or any
other device with Internet capability in connection with that
person's employment or search for employment with the prior
approval of the person's parole officer;

(b) Require the person to submit to periodic unannounced
examinations of the person's computer or any other device with
Internet capability by a parole officer, law enforcement officer or
assigned computer or information technology specialist, including
the retrieval and copying of all data from the computer or device
and any internal or external peripherals and removal of such
information, equipment or device to conduct a more thorough
inspection;

(c) Require the person to submit to the installation on the
person's computer or device with Internet capability, at the person's
expense, one or more hardware or software systems to monitor the
Internet use; and

(d) Require the person to submit to any other appropriate
restrictions concerning the person's use or access of a computer or
any other device with Internet capability.

c. The appropriate board panel may in writing relieve a parolee
of any parole conditions, and may permit a parolee to reside outside
the State pursuant to the provisions of the Uniform Act for Out-of-
State Parolee Supervision (N.J.S.2A:168-14 et seq.) and, with the
consent of the Commissioner of the Department of Corrections after
providing notice to the Attorney General, the federal Witness
Security Reform Act, if satisfied that the change will not result in a
substantial likelihood that the parolee will commit an offense which
would be a crime under the laws of this State. The appropriate
board panel may revoke permission, except in the case of a parolee
under the Witness Security Reform Act, or reinstate relieved parole
conditions for any period of time during which a parolee is under its
jurisdiction.

d. The appropriate board panel may parole an inmate to any
residential facility funded in whole or in part by the State if the
inmate would not otherwise be released pursuant to section 9 of
P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
residential facility provides treatment for mental illness or mental
retardation, the board panel only may parole the inmate to the
facility pursuant to the laws and admissions policies that otherwise
govern the admission of persons to that facility, and the facility
shall have the authority to discharge the inmate according to the
laws and policies that otherwise govern the discharge of persons
from the facility, on 10 days' prior notice to the board panel. The 
board panel shall acknowledge receipt of this notice in writing prior 
to the discharge. Upon receipt of the notice the board panel shall 
resume jurisdiction over the inmate.
e. Parole officers shall provide assistance to the parolee in 
obtaining employment, education, or vocational training or in 
meeting other obligations to assure the parolee's compliance with 
meeting legal requirements related to sex offender notification, 
address changes and participation in rehabilitation programs as 
directed by the assigned parole officer.
f. (Deleted by amendment, P.L.2019, c.363) 
g. If the board has granted parole to any inmate from a State 
correctional facility and the court has imposed a fine on the inmate, 
the appropriate board panel shall release the inmate on condition 
that the parolee make specified fine payments to the State Parole 
Board. For violation of these conditions, or for violation of a 
special condition requiring restitution, parole may be revoked only 
for refusal or failure to make a good faith effort to make the 
payment.
h. Upon collection of the fine the Department of Corrections 
shall forward it to the State Treasury. 
(cf: P.L.2019, c.363, s.12)

14. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to 
read as follows:
16. a. Any parolee who violates a condition of parole may be 
subject to an order pursuant to section 17 of P.L.1979, c.441 
(C.30:4-123.61) providing for one or more of the following:
(1) [That] he be required to conform to one or more 
additional conditions of parole;
(2) [That] he forfeit all or a part of commutation time 
credits granted pursuant to R.S.30:4-140.
An order as described in this subsection shall not be based on: 
(3) manufacturing, distributing, or dispensing, or possessing or 
having under control with intent to manufacture, distribute, or 
dispense, marijuana or hashish in violation of paragraph (12) of 
subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish 
in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or 
(4) the presence of any cannabinoid metabolites in any bodily 
fluids, detected as a result of the administration of a drug test or any 
other means.
b. (1) Any parolee who has seriously or persistently violated 
the conditions of his parole, may have his parole revoked and may 
be returned to custody pursuant to sections 18 and 19 of P.L.1979, 
c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified 
immediately upon the arrest or indictment of a parolee or upon the 
filing of charges that the parolee committed an act which, if 
committed by an adult, would constitute a crime. The board shall
not revoke parole on the basis of new charges which have not
resulted in a disposition at the trial level except that upon
application by the prosecuting authority or the Director of the State
Parole Board's Division of Parole or his designee, the chairman of
the board or his designee may at any time detain the parolee and
commence revocation proceedings pursuant to sections 18 and 19 of
P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
chairman determines that the new charges against the parolee are of
a serious nature and it appears that the parolee otherwise poses a
danger to the public safety. In such cases, a parolee shall be
informed that, if he testifies at the revocation proceedings, his
testimony and the evidence derived therefrom shall not be used
against him in a subsequent criminal prosecution.

(2) An action to revoke parole as described in this subsection
shall not be based on:

(a) manufacturing, distributing, or dispensing, or possessing or
having under control with intent to manufacture, distribute, or
dispense, marijuana or hashish in violation of paragraph (12) of
subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish
in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or
(b) the presence of any cannabinoid metabolites in any bodily
fluids, detected as a result of the administration of a drug test or any
other means.

c. The parole of any parolee who is convicted of a crime
committed while on parole shall be revoked and the parolee shall be
returned to custody unless the parolee demonstrates, by clear and
convincing evidence at a hearing pursuant to section 19 of
P.L.1979, c.441 (C.30:4-123.63), that good cause exists why the
parolee should not be returned to confinement.
(cf: P.L.2019, c.363, s.13)

15. (New section) a. An employer shall not be permitted to
consider when making an employment decision, require any
applicant to disclose or reveal, or take any adverse action against
any applicant for employment on the basis of, any arrest, charge,
conviction, or adjudication of delinquency, or civil penalty or
community service imposed in lieu of a civil penalty if the act was an
unlawful act and not a crime or offense, for manufacturing,
distributing, or dispensing, or possessing or having under control
with intent to manufacture, distribute, or dispense, marijuana or
hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-
5, or a lesser amount of marijuana or hashish in violation of paragraph
(12) of subsection b. of that section, or a violation of either of those
paragraphs and a violation of subsection a. of section 1 of P.L.1987,
c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
(C.2C:35-7.1) for distributing, dispensing, or possessing with intent to
distribute or dispense, on or within 1,000 feet of any school property,
or on or within 500 feet of the real property comprising a public
housing facility, public park, or public building, or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish, or an arrest, charge, conviction, or adjudication of delinquency under the laws of another state or of the United States of a crime, offense, or other unlawful act, which, if committed in this State, would be a violation of any of the aforementioned crimes, offenses, or unlawful acts, regardless of when any such arrest, charge, conviction, or adjudication of delinquency, or imposition of a civil penalty or community service, occurred, unless the employment sought or being considered is for a position in law enforcement, corrections, the judiciary, homeland security, or emergency management.

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

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

16. (New section) a. A person that makes a mortgage loan in this State shall not discriminate against an applicant in accepting an application, granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions, or provisions of any mortgage loan based on an applicant’s arrest, charge, conviction, or adjudication of delinquency, or civil penalty or community service imposed in lieu of a civil penalty if the act was an unlawful act and not a crime or offense, for manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or
hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish, or an arrest, charge, conviction, or adjudication of delinquency under the laws of another state or of the United States of a crime, offense, or other unlawful act, which, if committed in this State, would be a violation of any of the aforementioned crimes, offenses, or unlawful acts, regardless of when any such arrest, charge, conviction, or adjudication of delinquency, or imposition of a civil penalty or community service, occurred.

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

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

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

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

17. (New section) a. A person alleging discrimination in public
or private housing, real property, or a place of public accommodation,
based on a prior arrest, charge, conviction, or adjudication of
delinquency, or civil penalty or community service imposed in lieu of
a civil penalty if the act was an unlawful act and not a crime or
offense, for manufacturing, distributing, or dispensing, or possessing
or having under control with intent to manufacture, distribute, or
dispense, marijuana or hashish in violation of paragraph (11) of
subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
hashish in violation of paragraph (12) of subsection b. of that section,
or a violation of either of those paragraphs and a violation of
subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection
a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing,
dispensing, or possessing with intent to distribute or dispense, or on or
within 1,000 feet of any school property, or on or within 500 feet of
the real property comprising a public housing facility, public park, or
public building, or obtaining, possessing, using, being under the
influence of, or failing to make lawful disposition of marijuana or
hashish in violation of paragraph (3) or (4) of subsection a., or
subsection b., or subsection c. of N.J.S.2C:35-10, or a violation
involving marijuana or hashish as described herein and a violation of
N.J.S.2C:35-10 for using or possessing with intent to use drug
paraphernalia with that marijuana or hashish, or an arrest, charge,
conviction, or adjudication of delinquency under the laws of another
state or of the United States of a crime, offense, or other unlawful
act, which, if committed in this State, would be a violation of any of
the aforementioned crimes, offenses, or unlawful acts, regardless of
when any such arrest, charge, conviction, or adjudication of
delinquency, or imposition of a civil penalty or community service,
occurred, may institute a civil action in the Superior Court for relief.
All remedies available in common law tort actions shall be available to
a prevailing plaintiff. The court may also order any or all of the
following relief:
(1) an assessment of a civil fine of not less than $1,000 and not
more than $2,000 for the first violation of any of the provisions of this
section, and not more than $5,000 for each subsequent violation;
(2) an injunction to restrain the continued violation of subsection a.
of this section;
(3) if the discrimination impacted the person’s employment, and if
applicable:
(a) reinstatement of the person to the same position of employment
or to a position equivalent to that which the person held prior to
unlawful discharge or retaliatory action;
(b) reinstatement of full fringe benefits and seniority rights; and
(c) compensation for any lost wages, benefits and other remuneration; and

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

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

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

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

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

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

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

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

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

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

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

any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except:

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

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

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

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

criminal investigatory records;

the portion of any criminal record concerning a person’s detection, apprehension, arrest, detention, trial or disposition for unlawful
manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing, or having under control with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation of any of those provisions and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with the marijuana or hashish;

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

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

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

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

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

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

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

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

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

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

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

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

information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office;
information which is to be kept confidential pursuant to court order;
any copy of form DD-214, NGB-22, or that form, issued by the United States Government, or any other certificate of honorable discharge, or copy thereof, from active service or the reserves of a branch of the Armed Forces of the United States, or from service in the organized militia of the State, that has been filed by an individual with a public agency, except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records;
any copy of an oath of allegiance, oath of office or any affirmation taken upon assuming the duties of any public office, or that oath or affirmation, taken by a current or former officer or employee in any public office or position in this State or in any county or municipality of this State, including members of the Legislative Branch, Executive Branch, Judicial Branch, and all law enforcement entities, except that the full name, title, and oath date of that person contained therein shall not be deemed confidential;
that portion of any document which discloses the social security number, credit card number, unlisted telephone number or driver license number of any person; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor;

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

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

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

pedagogical, scholarly and/or academic research records and/or the specific details of any research project conducted under the auspices of a public higher education institution in New Jersey, including, but not
limited to research, development information, testing procedures, or
information regarding test participants, related to the development or
testing of any pharmaceutical or pharmaceutical delivery system,
except that a custodian may not deny inspection of a government
record or part thereof that gives the name, title, expenditures, source
and amounts of funding and date when the final project summary of
any research will be available;
test questions, scoring keys and other examination data pertaining
to the administration of an examination for employment or academic
examination;
records of pursuit of charitable contributions or records containing
the identity of a donor of a gift if the donor requires non-disclosure of
the donor's identity as a condition of making the gift provided that the
donor has not received any benefits of or from the institution of higher
education in connection with such gift other than a request for
memorialization or dedication;
valuable or rare collections of books and/or documents obtained by
gift, grant, bequest or devise conditioned upon limited public access;
information contained on individual admission applications; and
information concerning student records or grievance or
disciplinary proceedings against a student to the extent disclosure
would reveal the identity of the student.
"Personal firearms record" means any information contained in a
background investigation conducted by the chief of police, the county
prosecutor, or the Superintendent of State Police, of any applicant for a
permit to purchase a handgun, firearms identification card license, or
firearms registration; any application for a permit to purchase a
handgun, firearms identification card license, or firearms registration;
any document reflecting the issuance or denial of a permit to purchase
a handgun, firearms identification card license, or firearms
registration; and any permit to purchase a handgun, firearms
identification card license, or any firearms license, certification,
certificate, form of register, or registration statement. For the purposes
of this paragraph, information contained in a background investigation
shall include, but not be limited to, identity, name, address, social
security number, phone number, fax number, driver's license number,
email address, social media address of any applicant, licensee,
registrant or permit holder.
"Public agency" or "agency" means any of the principal
departments in the Executive Branch of State Government, and any
division, board, bureau, office, commission or other instrumentality
within or created by such department; the Legislature of the State and
any office, board, bureau or commission within or created by the
Legislative Branch; and any independent State authority, commission,
instrumentality or agency. The terms also mean any political
subdivision of the State or combination of political subdivisions, and
any division, board, bureau, office, commission or other
instrumentality within or created by a political subdivision of the State
or combination of political subdivisions, and any independent
authority, commission, instrumentality or agency created by a political
subdivision or combination of political subdivisions.

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

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

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

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

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

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

"Victims' rights agency” means a public agency, or part thereof,
the primary responsibility of which is providing services, including but
not limited to food, shelter, or clothing, medical, psychiatric,
psychological or legal services or referrals, information and referral
services, counseling and support services, or financial services to
victims of crimes, including victims of sexual assault, domestic
violence, violent crime, child endangerment, child abuse or child
neglect, and the Victims of Crime Compensation Board, established
pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the
Victims of Crime Compensation Office pursuant to P.L.2007, c.95

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

2C:52-30. Except as otherwise provided in this chapter, [any]
a. Any person who reveals to another the existence of an arrest,
conviction, unlawful act violation, or related legal proceeding with
knowledge that the records and information pertaining thereto have
been expunged or sealed is a disorderly person. Notwithstanding
the provisions of [section] N.J.S.2C:43-3, the maximum fine which
can be imposed for violation of this section is $2,000.00
b. (1) Any person or entity regularly engaged in the business
of collecting, assembling, evaluating or disseminating persons’
records of occurrences or related legal proceedings described in
subsection a. of this section for a fee shall regularly update the
records to ensure accuracy, promptly delete a record that has been
expunged or sealed, provide clients with the date collected and explain to clients that records are valid only as of the date collected.

(2) Any person or entity regularly engaged in the business of collecting, assembling, evaluating or disseminating records of occurrences or related legal proceedings described in subsection a. of this section for a fee, which disseminates a record that has been expunged or sealed and knows or should have known at the time of dissemination that the record has been expunged or sealed is liable to the person who is the subject of the record for damages totaling $5,000 or the actual damages caused by the violation, whichever is greater, plus costs and attorney fees.

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

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

21. (New section) a. (1) The Administrative Director of the Courts shall develop and maintain a multilingual public awareness campaign to promote awareness of the expungement process, including an expedited expungement pursuant to section 5 of P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3), and the expungement e-filing system established pursuant to section 11 of P.L.2019, c.269 (C.2C:52-10.1), as well as information on State, local, non-profit and other private job training programs in consultation with the Department of Labor and Workforce Development, with a focus on assisting those persons eligible for the expedited expungement or “clean slate” expungement of their records pursuant to section 5 of P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3), respectively.

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

(3) The petition and supporting information shall, at a minimum, be made available in English and Spanish.
b. The Administrative Director of the Courts shall include in the
annual report on the activities of the Administrative Office of the
Courts, prepared pursuant to N.J.S.2A:12-5, information about the
activities and accomplishments of the public awareness campaign
developed and maintained pursuant to subsection a. of this section,
beginning no later than one year after the effective date of
P.L. , c. (C. ) (pending before the Legislature as this
bill).

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

STATEMENT

This bill would provide for various “social justice” reforms,
some based on criminal justice and others based on civil justice,
which would reduce the legal consequences associated with certain
marijuana and hashish offenses as well as raise awareness of the
availability of expungement relief, concerning both marijuana and
hashish offenses and more generally.

Regrading Marijuana and Hashish Offenses

Under current law, manufacturing, distributing, or dispensing, or
possessing or having under control with intent to manufacture,
distribute, or dispense (hereafter shortened to just distributing,
which includes possessing or having under control), one ounce or
more but less than five pounds of marijuana, or five grams or more
but less than one pound of hashish, is punishable as a crime of the
third degree; this crime can be punished by a term of imprisonment
of three to five years, an enhanced fine of up to $25,000, or both.
Distribution of any smaller amounts, that is, less than one ounce of
marijuana or less than five grams of hashish, is punishable as a
crime of the fourth degree; this crime can be punished by a term of
imprisonment of up to 18 months, a fine of up to $10,000, or both.
See N.J.S.2C:35-5, subsection b., paragraphs (11) and (12).

The bill would retain as a crime of the third degree the
distribution of less than five pounds of marijuana, but raise the
minimum amount that falls under this degree to be more than one
pound instead of one ounce, and distribution of less than one pound
of hashish would also remain a third degree crime, but the minimum
amount for this violation would be more than 80 grams instead of
five grams; it would regrade the distribution of lesser amounts of
marijuana and hashish, as well as change the amount pertaining to
each one as follows:
- one pound or less of marijuana, or 80 grams or less of hashish
would become an unlawful act. A first violation would be subject
to a written warning, and a second or subsequent violation would be
subject to a civil penalty of $25 or the performance of community
service in lieu of payment of the penalty. The civil penalty would
be recovered in a summary proceeding in accordance with the
Whenever community service was imposed, the value of each hour
of service would be considered to be not less than the State or
federal minimum wage, whichever wage is higher, and the total
value of community service imposed could not exceed $25.

The bill would also regrade, and change the applicable amounts
for, the unlawful possession of marijuana or hashish, which is
currently a crime of the fourth degree (up to 18 months
imprisonment; up to $10,000 fine; or both) when the act involves
more than 50 grams of marijuana or more than five grams of
hashish, and, when the act involves lesser amounts, a disorderly
persons offense (up to six month imprisonment; up to $1,000 fine;
or both). See N.J.S.2C:35-10, subsection a., paragraphs (3) and (4).

Under the bill, unlawful possession would be:
- a disorderly persons offense (up to six month imprisonment; up
to $1,000 fine; or both) when the act involved more than one pound
of marijuana or more than 80 grams of hashish; and
- an unlawful act subject first to a written warning, and thereafter
subject to a civil penalty of $25, or the performance of community
service in lieu of payment of the penalty, when the act involved one
pound or less of marijuana or 80 grams or less of hashish. Similar
to distribution when graded as an unlawful act, the civil penalty
would be recovered in a summary proceeding in accordance with
Whenever community service was imposed, the value of each hour
of service would be considered to be not less than the State or
federal minimum wage, whichever wage is higher, and the total
value of community service imposed could not exceed $25.

Regarding the above described unlawful acts of distribution or
possession subject to a written warning, and thereafter a civil
penalty or community service in lieu of payment of the penalty, the
odor of marijuana or hashish, or burnt marijuana or hashish, would
not constitute reasonable articulable suspicion to initiate a search of
a person to determine a violation. Additionally, a person would not
be subject to arrest, being detained, or otherwise being taken into
custody unless the person had committed another violation of the
law. Also, a person who committed an unlawful act subject to a
written warning, or civil penalty or community service in lieu of
payment of the penalty, could not be deprived of any legal or civil
right, privilege, benefit, or opportunity provided pursuant to any
law solely by reason of committing that act, nor would committing
one or more such acts modify any legal or civil right, privilege,
benefit, or opportunity provided pursuant to any law.

All local and county law enforcement authorities would,
following the submission process used for the uniform crime
reporting system established by P.L.1966, c.37 (C.52:17B-
5.1 et seq.), submit a quarterly report to the Uniform Crime
Reporting Unit, within the Division of State Police in the
Department of Law and Public Safety, or to another designated
recipient determined by the Attorney General, containing the
number of unlawful acts of distribution or possession subject to a
written warning, or civil penalty or community service in lieu of
payment of the penalty, committed within their respective
jurisdictions, plus the race, ethnicity, gender, and age of each
person committing a violation, and the disposition of each person’s
violation. These violations and associated information, along with
a quarterly summary of violations investigated and associated
information collected by the State Police for the same period would
be summarized by county and municipality in an annual report, and
both quarterly summaries and annual reports would be made
available at no cost to the public on the State Police’s Internet
website.

Using or being under the influence of marijuana or hashish, or
failing to voluntarily deliver such to a law enforcement officer, both
currently disorderly persons offenses (up to six months
imprisonment; up to $1,000 fine; or both), would no longer be
illegal acts, and thus there would be no legal consequences flowing
from using, being under the influence of, or failing to deliver to law
enforcement, marijuana or hashish. Using or possessing with intent
to use drug paraphernalia to ingest, inhale, or otherwise introduce
marijuana or hashish into the human body would also no longer be
considered an illegal act; under current law, it is graded as a
disorderly persons offense.

Notwithstanding that using or being under the influence of
marijuana or hashish, or using or possessing drug paraphernalia to
use with marijuana or hashish, would no longer be illegal acts, the
smoking of marijuana or hashish, and the use of drug paraphernalia
for these substances, could be prohibited or otherwise regulated on
or in any property by the person or entity that owns or controls that
property, including multifamily housing that is a multiple dwelling
as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of
a condominium, as those terms are defined by section 3 of
P.L.1969, c.257 (C.46:8B-3), or a site in a mobile home park as
defined in section 3 of P.L.1983, c.386 (C.40:55D-102), which site is
leased to the owner of a manufactured home, as defined in that section,
that is installed thereon.

Lastly concerning the above described unlawful acts of
distribution or possession of marijuana or hashish, as well as using
or being under the influence of such, none of these acts: (1) could
be prohibited or restricted based on any conditions imposed with
respect to court-ordered pretrial release or probation, or with
respect to certified parole release, or (2) could be considered a
violation of the terms of pretrial release, probation, or parole.

Reducing the Legal Consequences of Certain Marijuana and
Hashish Offenses

No court would have jurisdiction over any charge, including any
charge of delinquency, except to the extent required to dismiss,
withdraw, or terminate the charge, based on a prior small amount
distribution offense involving less than one ounce of marijuana or
less than five grams of hashish, or a prior possession offense
involving 50 grams or less of marijuana or five grams or less of
hashish, acts which would now only be punishable as an unlawful
act subject to a written warning, or civil penalty or community
service in lieu of payment of the penalty, unless a final judgment of
conviction or adjudication of delinquency on the past offense had
been entered on or before the bill’s effective date. These non-
prosecutable charges and cases would be expeditiously dismissed,
which could be accomplished by appropriate action by a law
enforcement agency, or on a motion to the court with jurisdiction
over a case, or the court’s own motion, based upon guidelines,
administrative directives, and court orders issued by the Attorney
General, the Administrative Director of the Courts, and the
Supreme Court.

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

- unlawful distribution of, or possessing or having under control
  with intent to distribute, less than five pounds of marijuana, or less
  than one pound of hashish, in violation of paragraph (11) of subsection
  b. of N.J.S.2C:35-5 or, for past violations, paragraph (12) of that
  subsection b., a past or future violation of either of those paragraphs
  and a violation of subsection a. of section 1 of P.L.1987, c.101
  (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-
  7.1), for distributing, or possessing or having under control with intent
to distribute, on or within 1,000 feet of any school property, or on or
within 500 feet of the real property comprising a public housing
facility, public park, or public building;

- obtaining or possessing marijuana in violation of paragraph (3) of
  subsection a. of N.J.S.2C:35-10 (past offenses, more than 50 grams;
future offenses under the bill, more than one pound), or, for past
offenses, possession of 50 grams or less, or using, being under the
influence of, or failing to voluntarily deliver to a law enforcement
officer, any amount of marijuana or hashish in violation of paragraph
(4) of subsection a., subsection b., or subsection c. of N.J.S.2C:35-10;
or
- a past violation involving any of the aforementioned offenses
and using or possessing with intent to use drug paraphernalia with that
marijuana or hashish in violation of N.J.S.2C:36-2.

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

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

Sealing of Records Associated With Unlawful Acts of Marijuana
and Hashish Distribution or Possession
Once the Administrative Office of the Courts develops and
maintains its system for sealing records related to various marijuana
and hashish distribution, possession, and drug paraphernalia offenses
pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), then all
records relating to unlawful acts of marijuana or hashish distribution as
described above, for which a civil penalty or community service in
lieu of payment of the penalty was imposed, would, upon
disposition of the case and any proceedings related thereto, be
sealed based upon a court order of nondisclosure to the public of
such records.

Reforms Applicable to All Expungements and Sealed Records
Penalties for Wrongful Dissemination of Expunged Records or
Information
The bill would increase the maximum fine, from $200 to $2,000,
which could be imposed on a person who reveals to another the
existence of an arrest, conviction, unlawful act violation, or related
legal proceeding with knowledge that the record or information has
been expunged or sealed. A person could also be subject to a term of imprisonment of up to six months because such an act is categorized as a disorderly persons offense. See N.J.S.2C:52-30.

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

Promoting Awareness of the Expungement Process

The Administrative Director of the Courts would develop and maintain:

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

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

Civil Justice Reforms

In addition to the above described criminal justice relief largely focused on marijuana and hashish offenses and promoting awareness of the expungement process for clearing records, the bill would provide an array of civil protections against discrimination targeting persons with an arrest, charge, conviction, or adjudication of delinquency involving any of the aforementioned marijuana and hashish distribution, possession, and drug paraphernalia offenses described above under the statement subheading for Reducing the Legal Consequences of Certain Marijuana and Hashish Offenses, or targeting persons with a civil penalty or community service imposed in lieu of payment of the penalty for committing an unlawful act of distribution or possession with marijuana or
hashish. These protections would include monetary penalties, enforceable by the State, against employers regarding employment actions or persons involved with mortgage lending activities, as well as a private cause of action for discrimination in public or private housing, real property, or any place of public accommodation.

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