

SENATE, No. 2535

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 4, 2020

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Senator RONALD L. RICE

District 28 (Essex)

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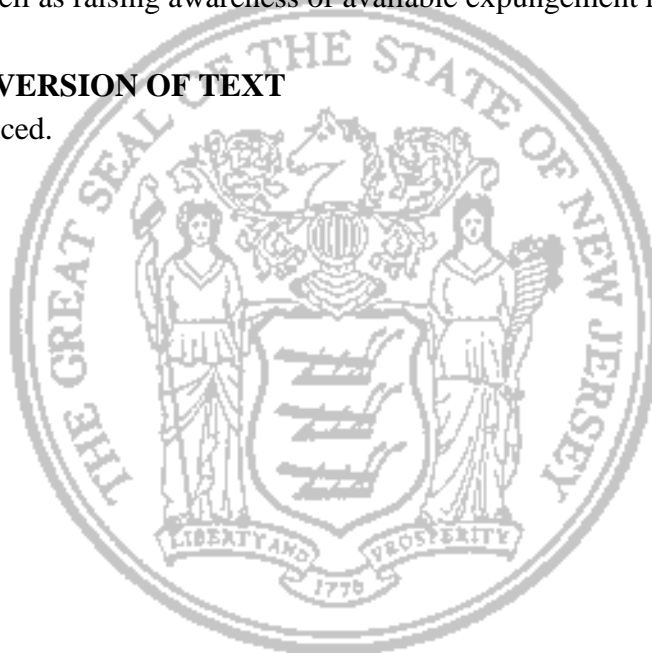
Senators Gopal and Turner

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.



(Sponsorship Updated As Of: 10/8/2020)

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

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

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

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

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

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

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

14 (11) Marijuana in a quantity of more than one ~~[ounce]~~ pound
15 ~~[or more]~~ but less than five pounds including any adulterants or
16 dilutants, or hashish in a quantity of ~~[five]~~ more than 80 grams ~~[or~~
17 ~~more]~~ but less than one pound including any adulterants or
18 dilutants, is guilty of a crime of the third degree except that,
19 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
20 fine of up to ~~[\$25,000.00]~~ \$25,000 may be imposed;

21 (12) Marijuana in a quantity of one pound or less ~~[than one~~
22 ~~ounce]~~ including any adulterants or dilutants, or hashish in a
23 quantity of 80 grams or less ~~[than five grams]~~ including any
24 adulterants or dilutants, is ~~[guilty of a crime of the fourth degree]~~
25 an unlawful act;

26 (a) The odor of marijuana or hashish, or burnt marijuana or
27 hashish, shall not constitute reasonable articulable suspicion to
28 initiate a search of a person to determine a violation of paragraph
29 (12) of this subsection. A person who violates this paragraph shall
30 not be subject to arrest, detention, or otherwise be taken into
31 custody, unless the person is being arrested, detained, or otherwise
32 taken into custody for also committing another violation of law for
33 which that action is legally permitted or required;

34 (b) (i) A first violation of paragraph (12) of this subsection is
35 subject to a written warning, which also indicates that any
36 subsequent violation is subject to a civil penalty or imposition of
37 community service, and a second or subsequent violation is subject
38 to a civil penalty of \$25, or the performance of community service
39 in lieu of payment of the penalty, which may be imposed without
40 requiring a finding that a person does not have the ability to pay the
41 penalty in full, notwithstanding the provisions of section 1 of
42 P.L.2009, c.317 (C.2B:12-23.1). Whenever community service is
43 not imposed, the civil penalty shall be recovered by and in the name
44 of the State in a summary proceeding in accordance with the
45 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-
46 10 et seq.), by the local municipality before the municipal court
47 having jurisdiction, and remitted in accordance with that act.

1 Whenever community service is imposed in lieu of payment of the
2 penalty, the value of each hour of service shall be considered to be
3 not less than the State minimum wage established by the “New
4 Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-
5 56a et seq.), or federal minimum wage established by 29 U.S.C.
6 s.206, or any successor State or federal law, whichever wage is
7 higher, and the community service imposed shall not exceed \$25 in
8 value;

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

24 (c) All local and county law enforcement authorities shall,
25 following the submission process used for the uniform crime
26 reporting system established by P.L.1966, c.37 (C.52:17B-
27 5.1 et seq.), submit a quarterly report to the Uniform Crime
28 Reporting Unit, within the Division of State Police in the
29 Department of Law and Public Safety, or to another designated
30 recipient determined by the Attorney General, containing the
31 number of violations of paragraph (12) of this subsection committed
32 within their respective jurisdictions, plus the race, ethnicity, gender,
33 and age of each person committing a violation, and the disposition
34 of each person’s violation. These violations and associated
35 information, along with a quarterly summary of violations
36 investigated, and associated information collected, by the Division
37 of State Police for the same period shall be summarized by county
38 and municipality in an annual report, and both quarterly summaries
39 and annual reports shall be made available at no cost to the public
40 on the Division of State Police’s Internet website;

41 (13) Any other controlled dangerous substance classified in
42 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
43 third degree, except that, notwithstanding the provisions of
44 subsection b. of N.J.S.2C:43-3, a fine of up to **[\$25,000.00]**
45 **\$25,000** may be imposed; or

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

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

3 c. Where the degree of the offense for violation of this section
4 depends on the quantity of the substance, the quantity involved
5 shall be determined by the trier of fact, other than with respect to a
6 first violation of paragraph (12) of subsection b. of this section
7 which is subject to a written warning as set forth in that paragraph.
8 Where the indictment or accusation so provides, the quantity
9 involved in individual acts of manufacturing, distribution,
10 dispensing or possessing with intent to distribute may be aggregated
11 in determining the grade of the offense, whether distribution or
12 dispensing is to the same person or several persons, provided that
13 each individual act of manufacturing, distribution, dispensing or
14 possession with intent to distribute was committed within the
15 applicable statute of limitations.

16 (cf: P.L.2000, c.136, s.1)

17

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

19 2C:35-10. Possession, Use or Being Under the Influence, or
20 Failure to Make Lawful Disposition.

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

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

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

38 (3) Possession of more than **[50 grams]** one pound of
39 marijuana, including any adulterants or dilutants, or more than
40 **[five]** 80 grams of hashish is **[guilty of a crime of the fourth**
41 **degree, except that, notwithstanding the provisions of subsection b.**
42 **of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed]** a
43 disorderly person; or

44 (4) Possession of **[50 grams]** one pound or less of marijuana,
45 including any adulterants or dilutants, or **[five]** 80 grams or less of
46 hashish is **[a disorderly person]** an unlawful act;

1 (a) The odor of marijuana or hashish, or burnt marijuana or
2 hashish, shall not constitute reasonable articulable suspicion to
3 initiate a search of a person to determine a violation of paragraph
4 (4) of this subsection. A person who violates this paragraph shall
5 not be subject to arrest, detention, or otherwise be taken into
6 custody, unless the person is being arrested, detained, or otherwise
7 taken into custody for also committing another violation of law for
8 which that action is legally permitted or required;

9 (b) (i) A first violation of paragraph (4) of this subsection is
10 subject to a written warning, which also indicates that any
11 subsequent violation is subject to a civil penalty or imposition of
12 community service, and a second or subsequent violation is subject
13 to a civil penalty of \$25, or the performance of community service
14 in lieu of payment of the penalty, which may be imposed without
15 requiring a finding that a person does not have the ability to pay the
16 penalty in full, notwithstanding the provisions of section 1 of
17 P.L.2009, c.317 (C.2B:12-23.1). Whenever community service is
18 not imposed, the civil penalty shall be recovered by and in the name
19 of the State in a summary proceeding in accordance with the
20 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-
21 10 et seq.), by the local municipality before the municipal court
22 having jurisdiction, and remitted in accordance with that act.
23 Whenever community service is imposed in lieu of payment of the
24 penalty, the value of each hour of service shall be considered to be
25 not less than the State minimum wage established by the “New
26 Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-
27 56a et seq.), or federal minimum wage established by
28 29 U.S.C. s.206, or any successor State or federal law, whichever
29 wage is higher, and the community service imposed shall not
30 exceed \$25 in value;

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

46 (c) All local and county law enforcement authorities shall,
47 following the submission process used for the uniform crime
48 reporting system established by P.L.1966, c.37 (C.52:17B-

1 5.1 et seq.), submit a quarterly report to the Uniform Crime
2 Reporting Unit, within the Division of State Police in the
3 Department of Law and Public Safety, or to another designated
4 recipient determined by the Attorney General, containing the
5 number of violations of paragraph (4) of this subsection committed
6 within their jurisdictions, plus the race, ethnicity, gender, and age of
7 each person committing a violation, and the disposition of each
8 person's violation. These violations and associated information,
9 along with a quarterly summary of violations investigated, and
10 associated information collected, by the Division of State Police for
11 the same period shall be summarized by county and municipality in
12 an annual report, and both quarterly summaries and annual reports
13 shall be made available at no cost to the public on the Division of
14 State Police's Internet website.

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

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

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

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

1 (C.40:55D-102), which site is leased to the owner of a manufactured
2 home, as defined in that section, that is installed thereon.

3 c. Any person who knowingly obtains or possesses a controlled
4 dangerous substance or controlled substance analog in violation of
5 paragraph (1) or (2) of subsection a. of this section and who fails to
6 voluntarily deliver the substance to the nearest law enforcement
7 officer is guilty of a disorderly persons offense. Nothing in this
8 subsection shall be construed to preclude a prosecution or
9 conviction for any other offense defined in this title or any other
10 statute.

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

12

13 3. N.J.S.2C:36-2 is amended to read as follows:

14 2C:36-2. a. Use or possession with intent to use, disorderly
15 persons offense. It shall be unlawful for any person to use, or to
16 possess with intent to use, drug paraphernalia to plant, propagate,
17 cultivate, grow, harvest, manufacture, compound, convert, produce,
18 process, prepare, test, analyze, pack, repack, store, contain, conceal,
19 ingest, inhale, or otherwise introduce into the human body a
20 controlled dangerous substance, controlled substance analog or
21 toxic chemical in violation of the provisions of chapter 35 of this
22 title, other than when used, or possessed with intent to use, for
23 ingesting, inhaling, or otherwise introducing marijuana or hashish
24 into the human body. Any person who violates this section is guilty
25 of a disorderly persons offense.

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

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

40

41 4. (New section) a. Except to the extent required to dismiss,
42 withdraw, or terminate the charge, no court shall have jurisdiction
43 over any charge, including any charge of delinquency, based on
44 manufacturing, distributing, or dispensing, or possessing or having
45 under control with intent to manufacture, distribute, or dispense,
46 marijuana or hashish in violation of paragraph (12) of subsection b.
47 of N.J.S.2C:35-5, or obtaining or possessing marijuana or hashish in
48 violation of paragraph (4) of subsection a. of N.J.S.2C:35-10, that

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

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

36 (2) Notwithstanding any court rule limiting the time period
37 within which a motion to reduce or change a sentence may be filed,
38 any person who, on the effective date of P.L. , c. (C.)
39 (pending before the Legislature as this bill), is serving a sentence of
40 incarceration, probation, parole or other form of community
41 supervision solely as a result of the person's conviction or
42 adjudication of delinquency for one or more crimes or offenses
43 enumerated in paragraph (1) of this subsection may move to have
44 the person's sentence reviewed by the court. If the court finds that
45 the sentence under review is based solely upon a conviction or
46 adjudication of delinquency for one or more crimes or offenses
47 enumerated in paragraph (1) of this subsection, the court shall order
48 appropriate relief.

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

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

35
36 6. Section 6 of P.L.2019, c.269 (C.2C:52-5.2) is amended to
37 read as follows:

38 6. a. (1) No later than three months after the effective date of
39 this section, the Administrative Office of the Courts shall develop
40 and maintain a system for sealing records from the public, upon
41 order of a court, pertaining to offenses **【or】** , delinquent acts, or
42 unlawful acts subject to a civil penalty, or community service in
43 lieu of payment of a penalty, involving marijuana or hashish as
44 described in this section. Once the system is developed, unless
45 otherwise provided by law, a court shall order the nondisclosure to
46 the public of the records of the court and probation services, and
47 records of law enforcement agencies with respect to any arrest,
48 conviction, **【or】** adjudication of delinquency, or imposition of a

1 civil penalty or community service, and any proceedings related
2 thereto, upon disposition of any case occurring on or after the
3 development of the system for sealing records that solely includes
4 the following convictions **[or]** , adjudications of delinquency, or
5 imposition of civil penalties or community service:

6 (a) any number of offenses for, **[or]** delinquent acts which if
7 committed by an adult would constitute, **[unlawful distribution of]**
8 or unlawful acts subject to a civil penalty, or community service in
9 lieu of payment of a penalty for, manufacturing, distributing, or
10 dispensing, or possessing or having under control with intent to
11 manufacture, distribute, or dispense, marijuana or hashish in
12 violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or a
13 violation of that paragraph and a violation of subsection a. of
14 section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section
15 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or possessing or
16 having under control with intent to distribute, on or within 1,000
17 feet of any school property, or on or within 500 feet of the real
18 property comprising a public housing facility, public park, or public
19 building; or

20 (b) any number of offenses for, **[or]** delinquent acts which if
21 committed by an adult would constitute, or unlawful acts subject to
22 a civil penalty, or community service in lieu of payment of a
23 penalty for, obtaining [.] or possessing [, using, being under the
24 influence of, or failing to make lawful disposition of**]** marijuana or
25 hashish in violation of paragraph (3) or (4) of subsection a. **[**, or
26 subsection b., or subsection c.**]** of N.J.S.2C:35-10 **;** or] .

27 (c) **[**any number of offenses for, or delinquent acts which if
28 committed by an adult would constitute, a violation involving
29 marijuana or hashish as described in subparagraph (a) or (b) of this
30 paragraph and using or possessing with intent to use drug
31 paraphernalia with that marijuana or hashish in violation of
32 N.J.S.2C:36-2.**]** (Deleted by amendment, P.L. , c.) (pending
33 before the Legislature as this bill)

34 (2) If the disposition of the case includes a court-ordered
35 financial assessment subject to collection under the comprehensive
36 enforcement program established pursuant to P.L.1995, c.9
37 (C.2B:19-1 et al.), then at the time of issuing the sealing order, the
38 court shall also enter a civil judgment for the unpaid portion of the
39 court-ordered financial assessment in the name of the Treasurer,
40 State of New Jersey and transfer collections and disbursement
41 responsibility to the State Treasurer for the outstanding amount in
42 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The
43 term "court-ordered financial assessment" as used herein means and
44 includes any fine, fee, penalty, restitution, and other form of
45 financial assessment imposed by the court as part of the sentence
46 for the conviction or convictions that are the subject of the sealing
47 order, for which payment of restitution takes precedence in

1 accordance with chapter 46 of Title 2C of the New Jersey Statutes.
2 The Treasurer may specify, and the Administrative Office of the
3 Courts shall collaborate with, the technical and informational
4 standards required to effectuate the transfer of the collection and
5 disbursement responsibilities. Notwithstanding any provision in this
6 law or any other law to the contrary, the court shall have sole
7 discretion to amend the judgment.

8 b. Notice of the sealing order issued pursuant to subsection a.
9 of this section shall be provided to:

10 (1) The Attorney General, county prosecutor, or municipal
11 prosecutor handling the case; and

12 (2) The State Police and any local law enforcement agency
13 having custody of the files and records.

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

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

36 (cf: P.L.2019, c.269, s.6)

37

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

40 3. Except as otherwise provided under sections 4 and 5 of
41 P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19) concerning a
42 hearing on pretrial detention, a court shall make, pursuant to this
43 section, a pretrial release decision for an eligible defendant without
44 unnecessary delay, but in no case later than 48 hours after the
45 eligible defendant's commitment to jail.

46 a. The court shall order the pretrial release of the eligible
47 defendant on personal recognizance or on the execution of an
48 unsecured appearance bond when, after considering all the

1 circumstances, the Pretrial Services Program's risk assessment and
2 recommendations on conditions of release prepared pursuant to
3 section 11 of P.L.2014, c.31 (C.2A:162-25), and any information
4 that may be provided by a prosecutor or the eligible defendant, the
5 court finds that the release would reasonably assure the eligible
6 defendant's appearance in court when required, the protection of the
7 safety of any other person or the community, and that the eligible
8 defendant will not obstruct or attempt to obstruct the criminal
9 justice process.

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

17 (a) the eligible defendant shall not commit any offense during
18 the period of release;

19 (b) the eligible defendant shall avoid all contact with an alleged
20 victim of the crime;

21 (c) the eligible defendant shall avoid all contact with all
22 witnesses who may testify concerning the offense that are named in
23 the document authorizing the eligible defendant's release or in a
24 subsequent court order; and

25 (d) any one or more non-monetary conditions as set forth in
26 paragraph (2) of this subsection.

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

35 (a) remain in the custody of a designated person, who agrees to
36 assume supervision and to report any violation of a release
37 condition to the court, if the designated person is able to reasonably
38 assure the court that the eligible defendant will appear in court
39 when required, will not pose a danger to the safety of any other
40 person or the community, and will not obstruct or attempt to
41 obstruct the criminal justice process;

42 (b) maintain employment, or, if unemployed, actively seek
43 employment;

44 (c) maintain or commence an educational program;

45 (d) abide by specified restrictions on personal associations,
46 place of abode, or travel;

47 (e) report on a regular basis to a designated law enforcement
48 agency, or other agency, or pretrial services program;

- 1 (f) comply with a specified curfew;
- 2 (g) refrain from possessing a firearm, destructive device, or
3 other dangerous weapon;
- 4 (h) refrain from excessive use of alcohol, or any use of a
5 narcotic drug or other controlled substance without a prescription
6 by a licensed medical practitioner, except that, the court's order
7 shall not refrain the eligible defendant from using marijuana or
8 hashish;
- 9 (i) undergo available medical, psychological, or psychiatric
10 treatment, including treatment for drug or alcohol dependency, and
11 remain in a specified institution if required for that purpose;
- 12 (j) return to custody for specified hours following release for
13 employment, schooling, or other limited purposes;
- 14 (k) be placed in a pretrial home supervision capacity with or
15 without the use of an approved electronic monitoring device. The
16 court may order the eligible defendant to pay all or a portion of the
17 costs of the electronic monitoring, but the court may waive the
18 payment for an eligible defendant who is indigent and who has
19 demonstrated to the court an inability to pay all or a portion of the
20 costs; or
- 21 (l) satisfy any other condition that is necessary to reasonably
22 assure the eligible defendant's appearance in court when required,
23 the protection of the safety of any other person or the community,
24 and that the eligible defendant will not obstruct or attempt to
25 obstruct the criminal justice process, which shall not include any
26 prohibition or restriction concerning:
- 27 (a) manufacturing, distributing, or dispensing, or possessing or
28 having under control with intent to manufacture, distribute, or
29 dispense, marijuana or hashish in violation of paragraph (12) of
30 subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish
31 in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or
- 32 (b) the presence of any cannabinoid metabolites in any bodily
33 fluids of the eligible defendant.
- 34 c. (1) If the court does not find, after consideration, that the
35 release described in subsection a. or b. of this section will
36 reasonably assure the eligible defendant's appearance in court when
37 required, the court may order the pretrial release of the eligible
38 defendant on monetary bail, other than an unsecured appearance
39 bond. The court may only impose monetary bail pursuant to this
40 subsection to reasonably assure the eligible defendant's appearance.
41 The court shall not impose the monetary bail to reasonably assure
42 the protection of the safety of any other person or the community or
43 that the eligible defendant will not obstruct or attempt to obstruct
44 the criminal justice process, or for the purpose of preventing the
45 release of the eligible defendant.
- 46 (2) If the eligible defendant is unable to post the monetary bail
47 imposed by the court pursuant to this subsection, and for that reason

1 remains detained in jail, the provisions of section 8 of P.L.2014,
2 c.31 (C.2A:162-22) shall apply to the eligible defendant.

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

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

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

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

26

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

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

37 a. The nature and circumstances of the offense charged;

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

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

43 (1) the eligible defendant's character, physical and mental
44 condition, family ties, employment, financial resources, length of
45 residence in the community, community ties, past conduct, history
46 relating to drug or alcohol abuse, criminal history, and record
47 concerning **[appearance]** appearances at court proceedings, except
48 with respect to these factors, the court shall not consider an

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

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

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

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

20 f. The release recommendation of the pretrial services program
21 obtained using a risk assessment instrument under section 11 of
22 P.L.2014, c.31 (C.2A:162-25).

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

24

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

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

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

46 (1) Manufacturing, distributing, or dispensing, or possessing or
47 having under control with intent to manufacture, distribute, or
48 dispense, marijuana or hashish in violation of paragraph (12) of

1 subsection b. of N.J.S.2C:35-5, or possessing marijuana or hashish
2 in violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; or

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

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

7

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

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

14 b. The Pretrial Services Program shall, after an eligible
15 defendant is temporarily detained pursuant to subsection a. of
16 section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
17 a complaint-warrant, conduct a risk assessment on that eligible
18 defendant for the purpose of making recommendations to the court
19 concerning an appropriate pretrial release decision, including
20 whether the eligible defendant shall be: released on the eligible
21 defendant's own personal recognizance or on execution of an
22 unsecured appearance bond; released on a non-monetary condition
23 or conditions as set forth under subsection b. of section 3 of
24 P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
25 an unsecured appearance bond; released on a combination of
26 monetary bail and non-monetary conditions set forth under section
27 3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
28 necessary to effectuate the purposes of sections 1 through 11 of
29 P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
30 completed and presented to the court so that the court can, without
31 unnecessary delay, but in no case later than 48 hours after the
32 eligible defendant's commitment to jail, make a pretrial release
33 decision on the eligible defendant pursuant to section 3 of P.L.2014,
34 c.31 (C.2A:162-17).

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

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

45 (b) The approved risk assessment instrument shall not consider a
46 charge, including any charge of delinquency, conviction, or
47 adjudication of delinquency, or civil penalty or community service
48 imposed in lieu of a civil penalty if the act was an unlawful act and not

1 a crime or offense, based on a violation of any of the following, as
2 risk factors relevant to the risk of failure to appear in court when
3 required and the danger to the community while on pretrial release:
4 manufacturing, distributing, or dispensing, or possessing or having
5 under control with intent to manufacture, distribute, or dispense,
6 marijuana or hashish in violation of paragraph (11) of subsection b. of
7 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation
8 of paragraph (12) of subsection b. of that section; or a violation of
9 either of those paragraphs and a violation of subsection a. of section 1
10 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of
11 P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or
12 possessing with intent to distribute or dispense, on or within 1,000 feet
13 of any school property, or on or within 500 feet of the real property
14 comprising a public housing facility, public park, or public building;
15 or obtaining, possessing, using, being under the influence of, or
16 failing to make lawful disposition of marijuana or hashish in
17 violation of paragraph (3) or (4) of subsection a., or subsection b., or
18 subsection c. of N.J.S.2C:35-10; or a violation involving marijuana or
19 hashish as described herein and a violation of N.J.S.2C:36-2 for using
20 or possessing with intent to use drug paraphernalia with that marijuana
21 or hashish.

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

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

32

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

34 2C:45-1. Conditions of Suspension or Probation.

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

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

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

1 hashish in violation of paragraph (4) of subsection a. of
2 N.J.S.2C:35-10; or

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

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

7 (1) To support his dependents and meet his family
8 responsibilities;

9 (2) To find and continue in gainful employment;

10 (3) To undergo available medical or psychiatric treatment and to
11 enter and remain in a specified institution, when required for that
12 purpose;

13 (4) To pursue a prescribed secular course of study or vocational
14 training;

15 (5) To attend or reside in a facility established for the
16 instruction, recreation or residence of persons on probation;

17 (6) To refrain from frequenting unlawful or disreputable places
18 or consorting with disreputable persons;

19 (7) Not to have in his possession any firearm or other dangerous
20 weapon unless granted written permission;

21 (8) (Deleted by amendment, P.L.1991, c.329);

22 (9) To remain within the jurisdiction of the court and to notify
23 the court or the probation officer of any change in his address or his
24 employment;

25 (10) To report as directed to the court or the probation officer,
26 to permit the officer to visit his home, and to answer all reasonable
27 inquiries by the probation officer;

28 (11) To pay a fine;

29 (12) To satisfy any other conditions reasonably related to the
30 rehabilitation of the defendant and not unduly restrictive of his
31 liberty or incompatible with his freedom of conscience;

32 (13) To require the performance of community-related service;
33 and

34 (14) To be subject to Internet access conditions pursuant to
35 paragraph (2) of subsection d. of this section.

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

43 c. The court, as a condition of its order, shall require the
44 defendant to pay any assessments required by section 2 of P.L.1979,
45 c.396 (C.2C:43-3.1) and shall, consistent with the applicable
46 provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or
47 section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to
48 make restitution.

1 d. (1) In addition to any condition imposed pursuant to
2 subsection b. or c., the court shall order a person placed on
3 probation to pay a fee, not exceeding \$25.00 per month for the
4 probationary term, to probation services for use by the State, except
5 as provided in subsection g. of this section. This fee may be waived
6 in cases of indigency upon application by the chief probation officer
7 to the sentencing court.

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

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

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

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

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

37 e. When the court sentences a person who has been convicted
38 of a crime to be placed on probation, it may require him to serve a
39 term of imprisonment not exceeding 364 days as an additional
40 condition of its order. When the court sentences a person convicted
41 of a disorderly persons offense to be placed on probation, it may
42 require him to serve a term of imprisonment not exceeding 90 days
43 as an additional condition of its order. In imposing a term of
44 imprisonment pursuant to this subsection, the sentencing court shall
45 specifically place on the record the reasons which justify the
46 sentence imposed. The term of imprisonment imposed hereunder
47 shall be treated as part of the sentence, and in the event of a
48 sentence of imprisonment upon the revocation of probation, the

1 term of imprisonment served hereunder shall be credited toward
2 service of such subsequent sentence. A term of imprisonment
3 imposed under this section shall be governed by the "Parole Act of
4 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

5 Whenever a person is serving a term of parole as a result of a
6 sentence of incarceration imposed as a condition of probation,
7 supervision over that person shall be maintained pursuant to the
8 provisions of the law governing parole. Upon termination of the
9 period of parole supervision provided by law, the county probation
10 department shall assume responsibility for supervision of the person
11 under sentence of probation. Nothing contained in this section shall
12 prevent the sentencing court from at any time proceeding under the
13 provisions of this chapter against any person for a violation of
14 probation.

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

21 g. Of the moneys collected under the provisions of subsection
22 d. of this section, \$15.00 of each monthly fee collected before
23 January 1, 1995 shall be deposited in the temporary reserve fund
24 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall
25 be deposited into a "Community Service Supervision Fund" which
26 shall be established by each county. The moneys in the
27 "Community Service Supervision Fund" shall be expended only in
28 accordance with the provisions of State law as shall be enacted to
29 provide for expenditures from this fund for the purpose of
30 supervising and monitoring probationers performing community
31 service to ensure, by whatever means necessary and appropriate,
32 that probationers are performing the community service ordered by
33 the court and that the performance is in the manner and under the
34 terms ordered by the court.

35 (cf: P.L.2007, c.219, s.4)

36

37 12. N.J.S.2C:45-3 is amended to read as follows:

38 2C:45-3. a. At any time before the discharge of the defendant or
39 the termination of the period of suspension or probation:

40 (1) The court may summon the defendant to appear before it or
41 may issue a warrant for his arrest;

42 (2) A probation officer or peace officer, upon request of the
43 chief probation officer or otherwise having probable cause to
44 believe that the defendant has failed to comply with a requirement
45 imposed as a condition of the order or that he has committed
46 another offense, may arrest him without a warrant;

47 (3) The court, if there is probable cause to believe that the
48 defendant has committed another offense or if he has been held to

1 answer therefor, may commit him without bail, pending a
2 determination of the charge by the court having jurisdiction
3 thereof;

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

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

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

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

28

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

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

41 b. (1) (a) Each parolee shall agree, as evidenced by his
42 signature to abide by specific conditions of parole established by
43 the appropriate board panel which shall be enumerated in writing in
44 a certificate of parole and shall be given to the parolee upon release.
45 Such conditions shall include, among other things, a requirement
46 that the parolee conduct himself in society in compliance with all
47 laws and refrain from committing any crime, a requirement that the
48 parolee will not own or possess any firearm as defined in subsection

1 f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r.
2 of N.J.S.2C:39-1, a requirement that the parolee refrain from the
3 use, possession or distribution of a controlled dangerous substance,
4 controlled substance analog or imitation controlled dangerous
5 substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, other
6 than the use of marijuana or hashish, and the possession or
7 distribution of marijuana or hashish in an amount that constitutes no
8 more than an unlawful act in violation of paragraph (12) of
9 subsection b. of N.J.S.2C:35-5, or paragraph (4) of subsection a. of
10 N.J.S.2C:35-10, for which a written warning may be issued, or a civil
11 penalty or community service in lieu of payment of a penalty imposed,
12 a requirement that the parolee obtain permission from his parole
13 officer for any change in his residence, and a requirement that the
14 parolee report at reasonable intervals to an assigned parole officer.
15 In addition, based on prior history of the parolee or information
16 provided by a victim or a member of the family of a murder victim,
17 the member or board panel certifying parole release pursuant to
18 section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any
19 other specific conditions of parole deemed reasonable in order to
20 reduce the likelihood of recurrence of criminal or delinquent
21 behavior, including a requirement that the parolee comply with the
22 Internet access conditions set forth in paragraph (2) of this
23 subsection. Such special conditions may include, among other
24 things, a requirement that the parolee make full or partial
25 restitution, the amount of which restitution shall be set by the
26 sentencing court upon request of the board. In addition, the member
27 or board panel certifying parole release may, giving due regard to a
28 victim's request, impose a special condition that the parolee have no
29 contact with the victim, which special condition may include, but
30 need not be limited to, restraining the parolee from entering the
31 victim's residence, place of employment, business or school, and
32 from harassing or stalking the victim or victim's relatives in any
33 way. Further, the member, board panel or board certifying parole
34 release may impose a special condition that the person shall not
35 own or possess an animal for an unlawful purpose or to interfere in
36 the performance of duties by a parole officer.

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

46 (2) In addition, the member or board panel certifying parole
47 release may impose on any person who has been convicted for the
48 commission of a sex offense as defined in subsection b. of section 2

1 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as
2 provided in subsections c. and d. of section 2 of P.L.1994, c.133
3 (C.2C:7-2), or who has been convicted for a violation of
4 N.J.S.2C:34-3 any of the following Internet access conditions:

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

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

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

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

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

39 d. The appropriate board panel may parole an inmate to any
40 residential facility funded in whole or in part by the State if the
41 inmate would not otherwise be released pursuant to section 9 of
42 P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
43 residential facility provides treatment for mental illness or mental
44 retardation, the board panel only may parole the inmate to the
45 facility pursuant to the laws and admissions policies that otherwise
46 govern the admission of persons to that facility, and the facility
47 shall have the authority to discharge the inmate according to the
48 laws and policies that otherwise govern the discharge of persons

1 from the facility, on 10 days' prior notice to the board panel. The
2 board panel shall acknowledge receipt of this notice in writing prior
3 to the discharge. Upon receipt of the notice the board panel shall
4 resume jurisdiction over the inmate.

5 e. Parole officers shall provide assistance to the parolee in
6 obtaining employment, education, or vocational training or in
7 meeting other obligations to assure the parolee's compliance with
8 meeting legal requirements related to sex offender notification,
9 address changes and participation in rehabilitation programs as
10 directed by the assigned parole officer.

11 f. (Deleted by amendment, P.L.2019, c.363)

12 g. If the board has granted parole to any inmate from a State
13 correctional facility and the court has imposed a fine on the inmate,
14 the appropriate board panel shall release the inmate on condition
15 that the parolee make specified fine payments to the State Parole
16 Board. For violation of these conditions, or for violation of a
17 special condition requiring restitution, parole may be revoked only
18 for refusal or failure to make a good faith effort to make the
19 payment.

20 h. Upon collection of the fine the Department of Corrections
21 shall forward it to the State Treasury.

22 (cf: P.L.2019, c.363, s.12)

23

24 14. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
25 read as follows:

26 16. a. Any parolee who violates a condition of parole may be
27 subject to an order pursuant to section 17 of P.L.1979, c.441
28 (C.30:4-123.61) providing for one or more of the following:

29 (1) **【That】** that he be required to conform to one or more
30 additional conditions of parole;

31 (2) **【That】** that he forfeit all or a part of commutation time
32 credits granted pursuant to R.S.30:4-140.

33 An order as described in this subsection shall not be based on:

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

39 (4) the presence of any cannabinoid metabolites in any bodily
40 fluids, detected as a result of the administration of a drug test or any
41 other means.

42 b. (1) Any parolee who has seriously or persistently violated
43 the conditions of his parole, may have his parole revoked and may
44 be returned to custody pursuant to sections 18 and 19 of P.L.1979,
45 c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
46 immediately upon the arrest or indictment of a parolee or upon the
47 filing of charges that the parolee committed an act which, if
48 committed by an adult, would constitute a crime. The board shall

1 not revoke parole on the basis of new charges which have not
2 resulted in a disposition at the trial level except that upon
3 application by the prosecuting authority or the Director of the State
4 Parole Board's Division of Parole or his designee, the chairman of
5 the board or his designee may at any time detain the parolee and
6 commence revocation proceedings pursuant to sections 18 and 19 of
7 P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
8 chairman determines that the new charges against the parolee are of
9 a serious nature and it appears that the parolee otherwise poses a
10 danger to the public safety. In such cases, a parolee shall be
11 informed that, if he testifies at the revocation proceedings, his
12 testimony and the evidence derived therefrom shall not be used
13 against him in a subsequent criminal prosecution.

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

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

21 (b) the presence of any cannabinoid metabolites in any bodily
22 fluids, detected as a result of the administration of a drug test or any
23 other means.

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

30 (cf: P.L.2019, c.363, s.13)

31

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

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

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

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

38

39 16. (New section) a. A person that makes a mortgage loan in
40 this State shall not discriminate against an applicant in accepting an
41 application, granting, withholding, extending, modifying or
42 renewing, or in the fixing of the rates, terms, conditions, or
43 provisions of any mortgage loan based on an applicant's arrest,
44 charge, conviction, or adjudication of delinquency, or civil penalty or
45 community service imposed in lieu of a civil penalty if the act was an
46 unlawful act and not a crime or offense, for manufacturing,
47 distributing, or dispensing, or possessing or having under control
48 with intent to manufacture, distribute, or dispense, marijuana or

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

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

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

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

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

1 other provision of law applicable upon a person's failure to comply
2 with an order of the commissioner.

3

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

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

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

42 (3) if the discrimination impacted the person's employment, and if
43 applicable:

44 (a) reinstatement of the person to the same position of employment
45 or to a position equivalent to that which the person held prior to
46 unlawful discharge or retaliatory action;

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

1 (c) compensation for any lost wages, benefits and other
2 remuneration; and

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

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

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

8

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

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

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

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

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

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

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

44 any memorandum, correspondence, notes, report or other
45 communication prepared by, or for, the specific use of a member of the
46 Legislature in the course of the member's official duties, except that
47 this provision shall not apply to an otherwise publicly-accessible

1 report which is required by law to be submitted to the Legislature or its
2 members;

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

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

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

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

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

20 criminal investigatory records;

21 the portion of any criminal record concerning a person's detection,
22 apprehension, arrest, detention, trial or disposition for unlawful
23 manufacturing, distributing, or dispensing, or possessing or having
24 under control with intent to manufacture, distribute, or dispense,
25 marijuana or hashish in violation of paragraph (11) of subsection b. of
26 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation
27 of paragraph (12) of subsection b. of that section, or a violation of
28 either of those paragraphs and a violation of subsection a. of section 1
29 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of
30 P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or
31 possessing, or having under control with intent to distribute or
32 dispense, on or within 1,000 feet of any school property, or on or
33 within 500 feet of the real property comprising a public housing
34 facility, public park, or public building, or for obtaining, possessing,
35 using, being under the influence of, or failing to make lawful
36 disposition of marijuana or hashish in violation of paragraph (3) or
37 (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-
38 10, or for a violation of any of those provisions and a violation of
39 N.J.S.2C:36-2 for using or possessing with intent to use drug
40 paraphernalia with the marijuana or hashish;

41 on and after the effective date of P.L. , c. (C.) (pending
42 before the Legislature as this bill), any record concerning a person's
43 commission of an unlawful act of manufacturing, distributing, or
44 dispensing, or possessing or having under control with intent to
45 manufacture, distribute, or dispense, marijuana or hashish in
46 violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or
47 possessing marijuana or hashish in violation of paragraph (4) of
48 subsection a. of N.J.S.2C:35-10, for which a written warning was

1 issued, or a civil penalty or community service in lieu of payment of a
2 penalty was imposed;
3 victims' records, except that a victim of a crime shall have access
4 to the victim's own records;
5 any written request by a crime victim for a record to which the
6 victim is entitled to access as provided in this section, including, but
7 not limited to, any law enforcement agency report, domestic violence
8 offense report, and temporary or permanent restraining order;
9 personal firearms records, except for use by any person authorized
10 by law to have access to these records or for use by any government
11 agency, including any court or law enforcement agency, for purposes
12 of the administration of justice;
13 personal identifying information received by the Division of Fish
14 and Wildlife in the Department of Environmental Protection in
15 connection with the issuance of any license authorizing hunting with a
16 firearm. For the purposes of this paragraph, personal identifying
17 information shall include, but not be limited to, identity, name,
18 address, social security number, telephone number, fax number,
19 driver's license number, email address, or social media address of any
20 applicant or licensee;
21 trade secrets and proprietary commercial or financial information
22 obtained from any source. For the purposes of this paragraph, trade
23 secrets shall include data processing software obtained by a public
24 body under a licensing agreement which prohibits its disclosure;
25 any record within the attorney-client privilege. This paragraph
26 shall not be construed as exempting from access attorney or consultant
27 bills or invoices except that such bills or invoices may be redacted to
28 remove any information protected by the attorney-client privilege;
29 administrative or technical information regarding computer
30 hardware, software and networks which, if disclosed, would jeopardize
31 computer security;
32 emergency or security information or procedures for any buildings
33 or facility which, if disclosed, would jeopardize security of the
34 building or facility or persons therein;
35 security measures and surveillance techniques which, if disclosed,
36 would create a risk to the safety of persons, property, electronic data or
37 software;
38 information which, if disclosed, would give an advantage to
39 competitors or bidders;
40 information generated by or on behalf of public employers or
41 public employees in connection with any sexual harassment complaint
42 filed with a public employer or with any grievance filed by or against
43 an individual or in connection with collective negotiations, including
44 documents and statements of strategy or negotiating position;
45 information which is a communication between a public agency
46 and its insurance carrier, administrative service organization or risk
47 management office;

1 information which is to be kept confidential pursuant to court
2 order;

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

10 any copy of an oath of allegiance, oath of office or any affirmation
11 taken upon assuming the duties of any public office, or that oath or
12 affirmation, taken by a current or former officer or employee in any
13 public office or position in this State or in any county or municipality
14 of this State, including members of the Legislative Branch, Executive
15 Branch, Judicial Branch, and all law enforcement entities, except that
16 the full name, title, and oath date of that person contained therein shall
17 not be deemed confidential;

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

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

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

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

46 pedagogical, scholarly and/or academic research records and/or the
47 specific details of any research project conducted under the auspices of
48 a public higher education institution in New Jersey, including, but not

1 limited to research, development information, testing procedures, or
2 information regarding test participants, related to the development or
3 testing of any pharmaceutical or pharmaceutical delivery system,
4 except that a custodian may not deny inspection of a government
5 record or part thereof that gives the name, title, expenditures, source
6 and amounts of funding and date when the final project summary of
7 any research will be available;

8 test questions, scoring keys and other examination data pertaining
9 to the administration of an examination for employment or academic
10 examination;

11 records of pursuit of charitable contributions or records containing
12 the identity of a donor of a gift if the donor requires non-disclosure of
13 the donor's identity as a condition of making the gift provided that the
14 donor has not received any benefits of or from the institution of higher
15 education in connection with such gift other than a request for
16 memorialization or dedication;

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

19 information contained on individual admission applications; and

20 information concerning student records or grievance or
21 disciplinary proceedings against a student to the extent disclosure
22 would reveal the identity of the student.

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

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

1 or combination of political subdivisions, and any independent
2 authority, commission, instrumentality or agency created by a political
3 subdivision or combination of political subdivisions.

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

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

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

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

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

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

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

35

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

37 2C:52-30. Except as otherwise provided in this chapter, **【any】**

38 a. Any person who reveals to another the existence of an arrest,
39 conviction, unlawful act violation, or related legal proceeding with
40 knowledge that the records and information pertaining thereto have
41 been expunged or sealed is a disorderly person. Notwithstanding
42 the provisions of **【section】** N.J.S.2C:43-3, the maximum fine which
43 can be imposed for violation of this section is **【\$200.00】** \$2,000.

44 b. (1) Any person or entity regularly engaged in the business
45 of collecting, assembling, evaluating or disseminating persons'
46 records of occurrences or related legal proceedings described in
47 subsection a. of this section for a fee shall regularly update the
48 records to ensure accuracy, promptly delete a record that has been

1 expunged or sealed, provide clients with the date collected and
2 explain to clients that records are valid only as of the date collected.

3 (2) Any person or entity regularly engaged in the business of
4 collecting, assembling, evaluating or disseminating records of
5 occurrences or related legal proceedings described in subsection a.
6 of this section for a fee, which disseminates a record that has been
7 expunged or sealed and knows or should have known at the time of
8 dissemination that the record has been expunged or sealed is liable
9 to the person who is the subject of the record for damages totaling
10 \$5,000 or the actual damages caused by the violation, whichever is
11 greater, plus costs and attorney fees.

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

13

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

21

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

37 (2) The public awareness campaign shall, at a minimum, utilize
38 electronic and print media, and shall make available electronically
39 on an Internet website a petition form and a list of the supporting
40 information necessary for an expungement, including an expedited
41 or “clean slate” expungement pursuant to section 5 of
42 P.L.2019, c.269 (C.2C:52-5.1) or section 7 of P.L.2019, c.269
43 (C.2C:52-5.3), respectively, using the expungement e-filing system
44 once established pursuant to section 11 of P.L.2019, c.269 (C.2C:52-
45 10.1).

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

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

9
10 22. This act shall take effect on the 90th day following
11 enactment, except that the Attorney General, Administrative
12 Director of the Courts, and the Supreme Court may take any
13 anticipatory action as may be necessary to effectuate the provisions
14 of this act.

15
16
17 STATEMENT

18
19 This bill would provide for various “social justice” reforms,
20 some based on criminal justice and others based on civil justice,
21 which would reduce the legal consequences associated with certain
22 marijuana and hashish offenses as well as raise awareness of the
23 availability of expungement relief, concerning both marijuana and
24 hashish offenses and more generally.

25 Regrading Marijuana and Hashish Offenses

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

39 The bill would retain as a crime of the third degree the
40 distribution of less than five pounds of marijuana, but raise the
41 minimum amount that falls under this degree to be more than one
42 pound instead of one ounce, and distribution of less than one pound
43 of hashish would also remain a third degree crime, but the minimum
44 amount for this violation would be more than 80 grams instead of
45 five grams; it would regrade the distribution of lesser amounts of
46 marijuana and hashish, as well as change the amount pertaining to
47 each one as follows:

1 - one pound or less of marijuana, or 80 grams or less of hashish
2 would become an unlawful act. A first violation would be subject
3 to a written warning, and a second or subsequent violation would be
4 subject to a civil penalty of \$25 or the performance of community
5 service in lieu of payment of the penalty. The civil penalty would
6 be recovered in a summary proceeding in accordance with the
7 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
8 10 et seq.), before the municipal court having jurisdiction.
9 Whenever community service was imposed, the value of each hour
10 of service would be considered to be not less than the State or
11 federal minimum wage, whichever wage is higher, and the total
12 value of community service imposed could not exceed \$25.

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

21 Under the bill, unlawful possession would be:

22 - a disorderly persons offense (up to six month imprisonment; up
23 to \$1,000 fine; or both) when the act involved more than one pound
24 of marijuana or more than 80 grams of hashish; and

25 - an unlawful act subject first to a written warning, and thereafter
26 subject to a civil penalty of \$25, or the performance of community
27 service in lieu of payment of the penalty, when the act involved one
28 pound or less of marijuana or 80 grams or less of hashish. Similar
29 to distribution when graded as an unlawful act, the civil penalty
30 would be recovered in a summary proceeding in accordance with
31 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
32 10 et seq.), before the municipal court having jurisdiction.
33 Whenever community service was imposed, the value of each hour
34 of service would be considered to be not less than the State or
35 federal minimum wage, whichever wage is higher, and the total
36 value of community service imposed could not exceed \$25.

37 Regarding the above described unlawful acts of distribution or
38 possession subject to a written warning, and thereafter a civil
39 penalty or community service in lieu of payment of the penalty, the
40 odor of marijuana or hashish, or burnt marijuana or hashish, would
41 not constitute reasonable articulable suspicion to initiate a search of
42 a person to determine a violation. Additionally, a person would not
43 be subject to arrest, being detained, or otherwise being taken into
44 custody unless the person had committed another violation of the
45 law. Also, a person who committed an unlawful act subject to a
46 written warning, or civil penalty or community service in lieu of
47 payment of the penalty, could not be deprived of any legal or civil
48 right, privilege, benefit, or opportunity provided pursuant to any

1 law solely by reason of committing that act, nor would committing
2 one or more such acts modify any legal or civil right, privilege,
3 benefit, or opportunity provided pursuant to any law.

4 All local and county law enforcement authorities would,
5 following the submission process used for the uniform crime
6 reporting system established by P.L.1966, c.37 (C.52:17B-
7 5.1 et seq.), submit a quarterly report to the Uniform Crime
8 Reporting Unit, within the Division of State Police in the
9 Department of Law and Public Safety, or to another designated
10 recipient determined by the Attorney General, containing the
11 number of unlawful acts of distribution or possession subject to a
12 written warning, or civil penalty or community service in lieu of
13 payment of the penalty, committed within their respective
14 jurisdictions, plus the race, ethnicity, gender, and age of each
15 person committing a violation, and the disposition of each person's
16 violation. These violations and associated information, along with
17 a quarterly summary of violations investigated and associated
18 information collected by the State Police for the same period would
19 be summarized by county and municipality in an annual report, and
20 both quarterly summaries and annual reports would be made
21 available at no cost to the public on the State Police's Internet
22 website.

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

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

47 Lastly concerning the above described unlawful acts of
48 distribution or possession of marijuana or hashish, as well as using

1 or being under the influence of such, none of these acts: (1) could
2 be prohibited or restricted based on any conditions imposed with
3 respect to court-ordered pretrial release or probation, or with
4 respect to certified parole release, or (2) could be considered a
5 violation of the terms of pretrial release, probation, or parole.

6 Reducing the Legal Consequences of Certain Marijuana and
7 Hashish Offenses

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

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

36 - unlawful distribution of, or possessing or having under control
37 with intent to distribute, less than five pounds of marijuana, or less
38 than one pound of hashish, in violation of paragraph (11) of subsection
39 b. of N.J.S.2C:35-5 or, for past violations, paragraph (12) of that
40 subsection b., a past or future violation of either of those paragraphs
41 and a violation of subsection a. of section 1 of P.L.1987, c.101
42 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-
43 7.1), for distributing, or possessing or having under control with intent
44 to distribute, on or within 1,000 feet of any school property, or on or
45 within 500 feet of the real property comprising a public housing
46 facility, public park, or public building;

47 - obtaining or possessing marijuana in violation of paragraph (3) of
48 subsection a. of N.J.S.2C:35-10 (past offenses, more than 50 grams;

1 future offenses under the bill, more than one pound), or, for past
2 offenses, possession of 50 grams or less, or using, being under the
3 influence of, or failing to voluntarily deliver to a law enforcement
4 officer, any amount of marijuana or hashish in violation of paragraph
5 (4) of subsection a., subsection b., or subsection c. of N.J.S.2C:35-10;
6 or

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

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

15 New Form of “Virtual” Expungement for Certain Marijuana and
16 Hashish Offenses

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

30 Sealing of Records Associated With Unlawful Acts of Marijuana
31 and Hashish Distribution or Possession

32 Once the Administrative Office of the Courts develops and
33 maintains its system for sealing records related to various marijuana
34 and hashish distribution, possession, and drug paraphernalia offenses
35 pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), then all
36 records relating to unlawful acts of marijuana or hashish distribution as
37 described above, for which a civil penalty or community service in
38 lieu of payment of the penalty was imposed, would, upon
39 disposition of the case and any proceedings related thereto, be
40 sealed based upon a court order of nondisclosure to the public of
41 such records.

42 Reforms Applicable to All Expungements and Sealed Records
43 Penalties for Wrongful Dissemination of Expunged Records or
44 Information

45 The bill would increase the maximum fine, from \$200 to \$2,000,
46 which could be imposed on a person who reveals to another the
47 existence of an arrest, conviction, unlawful act violation, or related
48 legal proceeding with knowledge that the record or information has

1 been expunged or sealed. A person could also be subject to a term
2 of imprisonment of up to six months because such an act is
3 categorized as a disorderly persons offense. See N.J.S.2C:52-30.

4 In addition, the bill provides that any person or entity regularly
5 engaged in the business of collecting, assembling, evaluating or
6 disseminating records on individuals for a fee is required to
7 regularly update their records to ensure accuracy, promptly delete a
8 record that has been expunged or sealed, provide clients with the
9 date collected and explain to clients that records are valid only as of
10 the date collected. Any such regularly-engaged person or entity
11 who disseminates a record that has been expunged or sealed, and
12 knows or should have known at the time of dissemination that the
13 record has been expunged or sealed, would be liable to the
14 individual who is the subject of the record for damages totaling
15 \$5,000 or the actual damages caused by the violation, whichever is
16 greater, plus costs and attorney fees.

17 Promoting Awareness of the Expungement Process

18 The Administrative Director of the Courts would develop and
19 maintain:

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

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

36 Civil Justice Reforms

37 In addition to the above described criminal justice relief largely
38 focused on marijuana and hashish offenses and promoting
39 awareness of the expungement process for clearing records, the bill
40 would provide an array of civil protections against discrimination
41 targeting persons with an arrest, charge, conviction, or adjudication
42 of delinquency involving any of the aforementioned marijuana and
43 hashish distribution, possession, and drug paraphernalia offenses
44 described above under the statement subheading for Reducing the
45 Legal Consequences of Certain Marijuana and Hashish Offenses, or
46 targeting persons with a civil penalty or community service
47 imposed in lieu of payment of the penalty for committing an
48 unlawful act of distribution or possession with marijuana or

1 hashish. These protections would include monetary penalties,
2 enforceable by the State, against employers regarding employment
3 actions or persons involved with mortgage lending activities, as
4 well as a private cause of action for discrimination in public or
5 private housing, real property, or any place of public
6 accommodation.

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