

[Second Reprint]

SENATE, No. 2535

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 4, 2020

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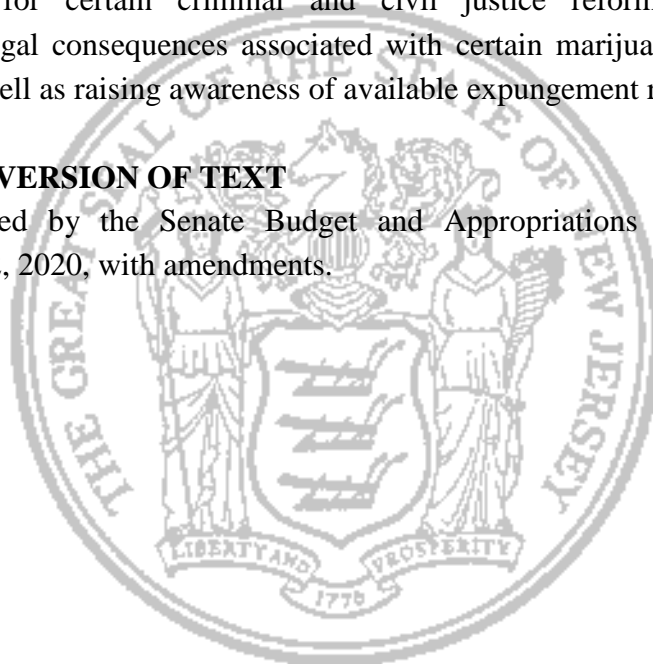
Senators Gopal, Turner and Cruz-Perez

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 reported by the Senate Budget and Appropriations Committee on November 12, 2020, with amendments.



(Sponsorship Updated As Of: 11/12/2020)

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted November 9, 2020.

²Senate SBA committee amendments adopted November 12, 2020.

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) ²~~["Marijuana"]~~ (a) Prior to the effective date of P.L. _____,
 15 c. (C. _____) (pending before the Legislature as this bill),
 16 marijuana² in a quantity of ²~~["more than"]~~² one ~~["ounce"]~~ ¹~~["pound"]~~
 17 ~~ounce~~¹ ~~["or more"]~~ ²~~or more~~² but less than five pounds including
 18 any adulterants or dilutants, or hashish in a quantity of ~~["five"]~~
 19 ²~~["more than"]~~² ¹~~["80"]~~ ~~five~~¹ grams ~~["or more"]~~ ²~~or more~~² but less than
 20 one pound including any adulterants or dilutants, is guilty of a
 21 crime of the third degree except that, notwithstanding the provisions
 22 of subsection b. of N.J.S.2C:43-3, a fine of up to ~~["\$25,000.00"]~~
 23 ~~\$25,000~~ may be imposed;

24 ²(b) On and after the effective date of P.L. _____, c. (C. _____)
 25 (pending before the Legislature as this bill), marijuana in a quantity
 26 of more than one ounce but less than five pounds including any
 27 adulterants or dilutants, or hashish in a quantity of more than five
 28 grams but less than one pound including any adulterants or
 29 dilutants, is guilty of a crime of the third degree except that,
 30 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
 31 fine of up to \$25,000 may be imposed;²

32 (12) ²~~["Marijuana"]~~ (a) Prior to the effective date of P.L. _____,
 33 c. (C. _____) (pending before the Legislature as this bill),
 34 marijuana² in a quantity of ²~~["one"]~~ ¹~~["pound"]~~ ~~ounce~~¹ ~~or~~² less ~~["than~~
 35 one ounce"] ²~~than one ounce~~² including any adulterants or dilutants,
 36 or hashish in a quantity of ¹~~["80 grams"]~~ ²~~["five grams"]~~ ~~or~~² less
 37 ~~["than five grams"]~~ ²~~than five grams~~² including any adulterants or
 38 dilutants, is ~~["guilty of a crime of the fourth degree"]~~ ²~~guilty of a~~
 39 crime of the fourth degree;

40 (b) On and after the effective date of P.L. _____, c. (C. _____)
 41 (pending before the Legislature as this bill), marijuana in a quantity
 42 of one ounce or less including any adulterants or dilutants, or
 43 hashish in a quantity of five grams or less including any adulterants
 44 or dilutants, is² ¹, for a first offense, ²~~["guilty of"]~~ ~~an unlawful act~~²
 45 ¹subject to a ²~~["civil penalty of \$50"]~~ written warning, which also
 46 indicates that any subsequent violation is a crime punishable by a

1 term of imprisonment, a fine, or both² , and for a second or
2 subsequent offense, is guilty of a crime of the fourth degree¹ ;

3 ²[(a)] (i)² The odor of marijuana or hashish, or burnt marijuana
4 or hashish, shall not constitute reasonable articulable suspicion to
5 initiate a search of a person to determine a violation of
6 ²subparagraph (b) of² paragraph (12) of this subsection. A person
7 who violates this ²[paragraph] subparagraph² shall not be subject
8 to arrest, detention, or otherwise be taken into custody, unless the
9 person is being arrested, detained, or otherwise taken into custody
10 for also committing another violation of law for which that action is
11 legally permitted or required;

12 ²[(b) (i) ¹[A first violation of] The civil penalty provided for in¹
13 paragraph (12) of this subsection ¹[is subject to a written warning,
14 which also indicates that any subsequent violation is subject to a
15 civil penalty or imposition of community service, and a second or
16 subsequent violation is subject to a civil penalty of \$25, or the
17 performance of community service in lieu of payment of the
18 penalty, which may be imposed without requiring a finding that a
19 person does not have the ability to pay the penalty in full,
20 notwithstanding the provisions of section 1 of P.L.2009, c.317
21 (C.2B:12-23.1). Whenever community service is not imposed, the
22 civil penalty shall be recovered by and in the name of the State in a
23 summary proceeding in accordance with] shall be collected
24 pursuant to¹ the “Penalty Enforcement Law of 1999,” P.L.1999,
25 c.274 (C.2A:58-10 et seq.), ¹[by the local municipality] in a
26 summary proceeding¹ before the municipal court having
27 jurisdiction ¹[, and remitted in accordance with that act]¹ .
28 ¹[Whenever community service is imposed in lieu of payment of
29 the] A¹ penalty ¹[, the value of each hour of service shall be
30 considered to be not less than the] recovered under the provisions
31 of this paragraph shall be recovered by and in the name of the¹
32 State ¹[minimum wage established]¹ by the ¹[“New Jersey State
33 Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.), or
34 federal minimum wage established by 29 U.S.C. s.206, or any
35 successor State or federal law, whichever wage is higher, and the
36 community service imposed shall not exceed \$25 in value] local
37 municipality. The penalty shall be paid into the treasury of the
38 municipality in which the violation occurred for the general use of
39 the municipality¹];

40 (ii)² A person shall not be deprived of any legal or civil right,
41 privilege, benefit, or opportunity provided pursuant to any law
42 solely by reason of committing a violation of ²subparagraph (b) of²
43 paragraph (12) of this subsection, nor shall committing one or more
44 violations modify any legal or civil right, privilege, benefit, or
45 opportunity provided pursuant to any law, including, but not limited
46 to, the granting, renewal, forfeiture, or denial of a license, permit,

1 or certification, qualification for and the receipt, alteration,
2 continuation, or denial of any form of financial assistance, housing
3 assistance, or other social services, rights of or custody by a
4 biological parent, or adoptive or foster parent, or other legal
5 guardian of a child or newborn infant, or pregnant woman, in any
6 action or proceeding by the Division of Child Protection and
7 Permanency in the Department of Children and Families, or
8 qualification, approval, or disapproval to serve as a foster parent or
9 other legal guardian;

10 ²**[(c)]** ²(iii)² All local and county law enforcement authorities
11 shall, following the submission process used for the uniform crime
12 reporting system established by P.L.1966, c.37 (C.52:17B-
13 5.1 et seq.), submit a quarterly report to the Uniform Crime
14 Reporting Unit, within the Division of State Police in the
15 Department of Law and Public Safety, or to another designated
16 recipient determined by the Attorney General, containing the
17 number of violations of ²suparagraph (b) of² paragraph (12) of this
18 subsection committed within their respective jurisdictions, plus the
19 race, ethnicity, gender, and age of each person committing a
20 violation, and the disposition of each person's violation. These
21 violations and associated information, along with a quarterly
22 summary of violations investigated, and associated information
23 collected, by the Division of State Police for the same period shall
24 be summarized by county and municipality in an annual report, and
25 both quarterly summaries and annual reports shall be made
26 available at no cost to the public on the Division of State Police's
27 Internet website;

28 (13) Any other controlled dangerous substance classified in
29 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
30 third degree, except that, notwithstanding the provisions of
31 subsection b. of N.J.S.2C:43-3, a fine of up to **[\$25,000.00]**
32 \$25,000 may be imposed; or

33 (14) Any Schedule V substance, or its analog, is guilty of a
34 crime of the fourth degree except that, notwithstanding the
35 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
36 **[\$25,000.00]** \$25,000 may be imposed.

37 c. Where the degree of the offense for violation of this section
38 depends on the quantity of the substance, the quantity involved
39 shall be determined by the trier of fact ¹**['**, other than with respect to
40 a first violation of paragraph (12) of subsection b. of this section
41 which is subject to a written warning as set forth in that
42 paragraph]¹. Where the indictment or accusation so provides, the
43 quantity involved in individual acts of manufacturing, distribution,
44 dispensing or possessing with intent to distribute may be aggregated
45 in determining the grade of the offense, whether distribution or
46 dispensing is to the same person or several persons, provided that
47 each individual act of manufacturing, distribution, dispensing or

1 possession with intent to distribute was committed within the
2 applicable statute of limitations.

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

4

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

6 2C:35-10. Possession, Use or Being Under the Influence, or
7 Failure to Make Lawful Disposition.

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

16 (1) A controlled dangerous substance, or its analog, classified in
17 Schedule I, II, III or IV other than those specifically covered in this
18 section, 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 ~~[\$35,000.00]~~ \$35,000 may be imposed;

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

25 (3) ²~~[Possession]~~ (a) Prior to the effective date of P.L. _____,
26 c. (C. _____) (pending before the Legislature as this bill),
27 possession² of more than [50 grams] ¹[one pound] ²[six ounces¹]
28 50 grams² of marijuana, including any adulterants or dilutants, or
29 more than [five] ¹[80] ²[170¹] five² grams of hashish is [guilty of
30 a crime of the fourth degree, except that, notwithstanding the
31 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
32 \$25,000.00 may be imposed] ¹[a disorderly person] guilty of a
33 crime of the fourth degree, except that, notwithstanding the
34 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
35 \$25,000.00 may be imposed¹; ¹[or]

36 ²~~[(a)]~~ (b) On and after to the effective date of P.L. _____, c. (C. _____)
37 (pending before the Legislature as this bill), possession of more
38 than six ounces of marijuana, including any adulterants or dilutants,
39 or more than 170 grams of hashish is guilty of a crime of the fourth
40 degree, except that, notwithstanding the provisions of subsection b.
41 of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

42 (i)² The odor of marijuana or hashish, or burnt marijuana or
43 hashish, shall not constitute reasonable articulable suspicion to
44 initiate a search of a person to determine a violation of
45 ²subparagraph (b) of² paragraph (3) of this subsection. A person
46 who violates this paragraph shall not be subject to arrest, detention,
47 or otherwise be taken into custody, unless the person is being

1 arrested, detained, or otherwise taken into custody for also
2 committing another violation of law for which that action is legally
3 permitted or required;

4 ²**[(b)] (ii)**² A person shall not be deprived of any legal or civil
5 right, privilege, benefit, or opportunity provided pursuant to any
6 law solely by reason of committing a violation of ²subparagraph (b)
7 of² paragraph (3) of this subsection, nor shall committing one or
8 more violations modify any legal or civil right, privilege, benefit, or
9 opportunity provided pursuant to any law, including, but not limited
10 to, the granting, renewal, forfeiture, or denial of a license, permit,
11 or certification, qualification for and the receipt, alteration,
12 continuation, or denial of any form of financial assistance, housing
13 assistance, or other social services, rights of or custody by a
14 biological parent, or adoptive or foster parent, or other legal
15 guardian of a child or newborn infant, or pregnant woman, in any
16 action or proceeding by the Division of Child Protection and
17 Permanency in the Department of Children and Families, or
18 qualification, approval, or disapproval to serve as a foster parent or
19 other legal guardian;

20 ²**[(c)] (iii)**² All local and county law enforcement authorities
21 shall, following the submission process used for the uniform crime
22 reporting system established by P.L.1966, c.37 (C.52:17B-
23 5.1 et seq.), submit a quarterly report to the Uniform Crime
24 Reporting Unit, within the Division of State Police in the
25 Department of Law and Public Safety, or to another designated
26 recipient determined by the Attorney General, containing the
27 number of violations of ²subparagraph (b) of² paragraph (3) of this
28 subsection committed within their respective jurisdictions, plus the
29 race, ethnicity, gender, and age of each person committing a
30 violation, and the disposition of each person's violation. These
31 violations and associated information, along with a quarterly
32 summary of violations investigated, and associated information
33 collected, by the Division of State Police for the same period shall
34 be summarized by county and municipality in an annual report, and
35 both quarterly summaries and annual reports shall be made
36 available at no cost to the public on the Division of State Police's
37 Internet website;¹ ²or²

38 (4) ¹**[(Possession of [50 grams] one pound** or less of marijuana,
39 including any adulterants or dilutants, or **[(five] 80** grams or less of
40 hashish is **[(a disorderly person] an unlawful act;**

41 (a) The odor of marijuana or hashish, or burnt marijuana or
42 hashish, shall not constitute reasonable articulable suspicion to
43 initiate a search of a person to determine a violation of paragraph
44 (4) of this subsection. A person who violates this paragraph shall
45 not be subject to arrest, detention, or otherwise be taken into
46 custody, unless the person is being arrested, detained, or otherwise

1 taken into custody for also committing another violation of law for
2 which that action is legally permitted or required;

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

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

40 (c) All local and county law enforcement authorities shall,
41 following the submission process used for the uniform crime
42 reporting system established by P.L.1966, c.37 (C.52:17B-
43 5.1 et seq.), submit a quarterly report to the Uniform Crime
44 Reporting Unit, within the Division of State Police in the
45 Department of Law and Public Safety, or to another designated
46 recipient determined by the Attorney General, containing the
47 number of violations of paragraph (4) of this subsection committed
48 within their jurisdictions, plus the race, ethnicity, gender, and age of

1 each person committing a violation, and the disposition of each
2 person's violation. These violations and associated information,
3 along with a quarterly summary of violations investigated, and
4 associated information collected, by the Division of State Police for
5 the same period shall be summarized by county and municipality in
6 an annual report, and both quarterly summaries and annual reports
7 shall be made available at no cost to the public on the Division of
8 State Police's Internet website.】²[(Deleted by amendment, P.L. ,
9 c. (pending before the Legislature as this bill)¹】

10 (a) Prior to the effective date of P.L. , c. (C.) (pending
11 before the Legislature as this bill), possession of 50 grams or less of
12 marijuana, including any adulterants or dilutants, or five grams or
13 less of hashish is a disorderly person;

14 (b) On and after the effective date of P.L. , c. (C.)
15 (pending before the Legislature as this bill), possession of six
16 ounces or less of marijuana, including any adulterants or dilutants,
17 or 170 grams or less of hashish is not punishable as a crime,
18 offense, or civil violation of law;

19 (5) Possession of one ounce or less of psilocybin is a disorderly
20 person;²

21 Any person who commits any offense **【defined in】** set forth in
22 paragraphs (1) through (3) of this **【section】** subsection while on any
23 property used for school purposes which is owned by or leased to
24 any elementary or secondary school or school board, or within
25 1,000 feet of any such school property or a school bus, or while on
26 any school bus, and who is not sentenced to a term of
27 imprisonment, shall, in addition to any other sentence which the
28 court may impose, be required to perform not less than 100 hours of
29 community service.

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

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

45 (2) Notwithstanding that using or being under the influence of
46 marijuana or hashish is not a punishable offense pursuant to this
47 subsection, the smoking ¹, vaping, or aerosolizing¹ of marijuana or

1 hashish may be prohibited or otherwise regulated on or in any
2 property by the person or entity that owns or controls that property,
3 including multifamily housing that is a multiple dwelling as defined
4 in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of a
5 condominium, as those terms are defined by section 3 of P.L.1969,
6 c.257 (C.46:8B-3), or a site in a mobile home park as defined in
7 section 3 of P.L.1983, c.386 (C.40:55D-102), which site is leased to
8 the owner of a manufactured home, as defined in that section, that is
9 installed thereon.

10 c. Any person who knowingly obtains or possesses a controlled
11 dangerous substance or controlled substance analog in violation of
12 paragraph (1) or (2) of subsection a. of this section and who fails to
13 voluntarily deliver the substance to the nearest law enforcement
14 officer is guilty of a disorderly persons offense. Nothing in this
15 subsection shall be construed to preclude a prosecution or
16 conviction for any other offense defined in this title or any other
17 statute.

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

19

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

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

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

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

1 4. (New section) a. Except to the extent required to dismiss,
2 withdraw, or terminate the charge, no court shall have jurisdiction
3 over any charge, including any charge of delinquency, based on
4 offenses that occurred prior to the effective date of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 involving¹ manufacturing, distributing, or dispensing, or possessing
7 or having under control with intent to manufacture, distribute, or
8 dispense, marijuana or hashish in violation of paragraph ²[(11) of
9 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
10 hashish in violation of paragraph¹² (12) of subsection b. of
11 ¹[N.J.S.2C:35-5] ²[that section¹] N.J.S.2C:35-5², or ²[a violation
12 of either of those paragraphs and a violation of subsection a. of
13 section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section
14 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or
15 possessing with intent to distribute or dispense, on or within 1,000
16 feet of any school property, or on or within 500 feet of the real
17 property comprising a public housing facility, public park, or public
18 building, or¹² obtaining ¹[or] ,¹ possessing ¹, using, being under
19 the influence of, or failing to make lawful disposition of¹ marijuana
20 or hashish in violation of paragraph ¹(3) or¹ (4) of subsection a. ¹,
21 or subsection b., or subsection c.¹ of N.J.S.2C:35-10, ¹[that
22 occurred prior to the effective date of P.L. , c. (C.) (pending
23 before the Legislature as this bill)] or a violation involving
24 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, alone or in
27 combination with each other¹ , ²or possession of any controlled
28 dangerous substance while operating a motor vehicle in violation of
29 section 1 of P.L.1964, c.289 (C.39:4-49.1), or any disorderly
30 persons offense or petty disorderly persons offense subject to
31 conditional discharge pursuant to N.J.S.2C:36A-1,² unless a ¹guilty
32 verdict, plea, or other entry of guilt, or¹ final judgment of
33 conviction or adjudication of delinquency has been entered on or
34 before that effective date. These non-prosecutable charges and
35 cases shall be expeditiously dismissed, which may be accomplished
36 by appropriate action by a law enforcement agency, or on a motion
37 to the court which would otherwise have jurisdiction over a case, or
38 the court's own motion, based upon guidelines, administrative
39 directives, and court orders issued by the Attorney General, the
40 Administrative Director of the Courts, and the Supreme Court, as
41 appropriate.

42 b. (1) Regarding a ¹[conviction or adjudication of
43 delinquency] guilty verdict, plea, or other entry of guilt¹ entered
44 prior to the effective date of P.L. , c. (C.) (pending before
45 the Legislature as this bill), it shall be grounds for ¹[post-
46 conviction]¹ relief that the ¹[conviction or adjudication of

1 delinquency] guilty verdict, plea, or other entry of guilt¹ involved
2 ¹[manufacturing, distributing, or dispensing, or possessing or
3 having under control with intent to manufacture, distribute, or
4 dispense, marijuana or hashish in violation of paragraph (11) of
5 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
6 hashish in violation of paragraph (12) of subsection b. of that
7 section, or a violation of either of those paragraphs and a violation
8 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
9 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
10 distributing, dispensing, or possessing with intent to distribute or
11 dispense, on or within 1,000 feet of any school property, or on or
12 within 500 feet of the real property comprising a public housing
13 facility, public park, or public building, or obtaining, possessing,
14 using, being under the influence of, or failing to make lawful
15 disposition of marijuana or hashish in violation of paragraph (3) or
16 (4) of subsection a., or subsection b., or subsection c. of
17 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
18 described herein and a violation of N.J.S.2C:36-2 for using or
19 possessing with intent to use drug paraphernalia with that marijuana
20 or hashish, alone or in combination with each other] one or more
21 crimes or offenses, or delinquent acts which if committed by an
22 adult would constitute one or more crimes or offenses, enumerated
23 in subsection a. of this section¹, if a final judgment of conviction or
24 adjudication of delinquency had not been entered on or before that
25 effective date.

26 (2) Notwithstanding any court rule limiting the time period
27 within which a motion to reduce or change a sentence may be filed,
28 any person who, on the effective date of P.L. , c. (C.)
29 (pending before the Legislature as this bill), is or will be¹ serving a
30 sentence of incarceration, probation, parole or other form of
31 community supervision solely as a result of the person's conviction
32 or adjudication of delinquency for one or more crimes or offenses ¹,
33 or delinquent acts which if committed by an adult would constitute
34 one or more crimes or offenses,¹ enumerated in ¹[paragraph (1)]
35 subsection a.¹ of this ¹[subsection] section¹ may move to have the
36 person's sentence reviewed by the court. If the court finds that the
37 sentence under review is based solely upon a conviction or
38 adjudication of delinquency for one or more crimes or offenses ¹, or
39 delinquent acts which if committed by an adult would constitute one
40 or more crimes or offenses,¹ enumerated in ¹[paragraph (1)]
41 subsection a.¹ of this ¹[subsection] section¹, the court shall order
42 appropriate relief.

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

45

46 5. (New section) Other than the consequences of any sentence
47 set forth in a judgment of conviction, including a term of

1 imprisonment and any court-ordered financial assessment, unless
 2 otherwise provided by law, any arrest, charge, conviction, and
 3 adjudication of delinquency that occurred prior to the effective date
 4 of P.L. , c. (C.) (pending before the Legislature as this bill),
 5 and any proceedings related thereto, for manufacturing, distributing,
 6 or dispensing, or possessing or having under control with intent to
 7 manufacture, distribute, or dispense, marijuana or hashish in
 8 violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a
 9 lesser amount of marijuana or hashish in violation of paragraph (12)
 10 of subsection b. of that section, or a violation of either of those
 11 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
 12 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
 13 (C.2C:35-7.1) for distributing, dispensing, or possessing ¹or having
 14 under control¹ with intent to distribute or dispense, on or within
 15 1,000 feet of any school property, or on or within 500 feet of the
 16 real property comprising a public housing facility, public park, or
 17 public building, or obtaining, possessing, using, being under the
 18 influence of, or failing to make lawful disposition of marijuana or
 19 hashish in violation of paragraph (3) or (4) of subsection a., or
 20 subsection b., or subsection c. of N.J.S.2C:35-10, or a violation
 21 involving marijuana or hashish as described herein and a violation
 22 of N.J.S.2C:36-2 for using or possessing with intent to use drug
 23 paraphernalia with that marijuana or hashish, shall be deemed not to
 24 have occurred, and the person involved in that violation may answer
 25 any questions relating to their occurrence accordingly, except that
 26 such information shall be revealed by that person if seeking
 27 employment within the judicial branch or with a law enforcement or
 28 corrections agency and such information shall continue to provide a
 29 disability as otherwise provided by law.

30

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

33 6. a. (1) No later than three months after the effective date of
 34 this section, the Administrative Office of the Courts shall develop
 35 and maintain a system for sealing records from the public, upon
 36 order of a court, pertaining to offenses **[or] ²[.] or²** delinquent acts
 37 **²[, or unlawful acts subject to a civil penalty.]² ¹[or community**
 38 **service in lieu of payment of a penalty.]¹** involving marijuana or
 39 hashish as described in this section. Once the system is developed,
 40 unless otherwise provided by law, a court shall order the
 41 nondisclosure to the public of the records of the court and probation
 42 services, and records of law enforcement agencies with respect to
 43 any arrest, conviction, **[or] ²or²** adjudication of delinquency **²[, or**
 44 **imposition of a civil penalty]² ¹[or community service]¹ , and any
 45 proceedings related thereto, upon disposition of any case occurring
 46 on or after the development of the system for sealing records that
 47 solely includes the following convictions **[or] ²[.] or²****

1 adjudications of delinquency ² [, or imposition of civil penalties]²
 2 ¹ [or community service]¹:

3 (a) any number of offenses for, [or] ² or² delinquent acts which
 4 if committed by an adult would constitute, [unlawful distribution
 5 of] ² [or unlawful acts subject to a civil penalty ¹ [, or community
 6 service in lieu of payment of a penalty]¹ for.]² manufacturing,
 7 distributing, or dispensing, or possessing or having under control
 8 with intent to manufacture, distribute, or dispense, marijuana or
 9 hashish in violation of paragraph (12) of subsection b. of
 10 N.J.S.2C:35-5, or a violation of that paragraph and a violation of
 11 subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
 12 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
 13 distributing, or possessing or having under control with intent to
 14 distribute, on or within 1,000 feet of any school property, or on or
 15 within 500 feet of the real property comprising a public housing
 16 facility, public park, or public building; or

17 (b) any number of offenses for, [or] ² or² delinquent acts which
 18 if committed by an adult would constitute, ² [or unlawful acts
 19 subject to a civil penalty ¹ [, or community service in lieu of
 20 payment of a penalty]¹ for.]² obtaining [,] or possessing [,] using,
 21 being under the influence of, or failing to make lawful disposition
 22 of] marijuana or hashish in violation of paragraph (3) ¹ [or (4)]¹
 23 subsection a. [, or subsection b., or subsection c.] of N.J.S.2C:35-
 24 10 [; or] .

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

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

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

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

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

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

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

24 d. Records subject to a sealing order issued pursuant to
25 subsection a. of this section may be maintained for purposes of
26 prior offender status, identification, and law enforcement purposes,
27 provided that the records shall not be **considered** whenever the
28 Pretrial Services Program established by the Administrative Office
29 of the Courts pursuant to section 11 of P.L.2014, c.31 (C.2A:162-
30 25) conducts a risk assessment on an eligible defendant for the
31 purpose of making recommendations to the court concerning an
32 appropriate pretrial release decision in accordance with sections 1
33 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) or **²considered**
34 whenever the Pretrial Services Program established by the
35 Administrative Office of the Courts pursuant to section 11 of
36 P.L.2014, c.31 (C.2A:162-25) conducts a risk assessment on an
37 eligible defendant for the purpose of making recommendations to
38 the court concerning an appropriate pretrial release decision in
39 accordance with sections 1 through 11 of P.L.2014, c.31 (C.2A:162-
40 15 et seq.) or² used for sentencing purposes in any other case.

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

42

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

45 3. Except as otherwise provided under sections 4 and 5 of
46 P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19) concerning a
47 hearing on pretrial detention, a court shall make, pursuant to this
48 section, a pretrial release decision for an eligible defendant without

1 unnecessary delay, but in no case later than 48 hours after the
2 eligible defendant's commitment to jail.

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

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

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

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

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

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

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

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

47 (b) maintain employment, or, if unemployed, actively seek
48 employment;

- 1 (c) maintain or commence an educational program;
- 2 (d) abide by specified restrictions on personal associations,
3 place of abode, or travel;
- 4 (e) report on a regular basis to a designated law enforcement
5 agency, or other agency, or pretrial services program;
- 6 (f) comply with a specified curfew;
- 7 (g) refrain from possessing a firearm, destructive device, or
8 other dangerous weapon;
- 9 (h) refrain from excessive use of alcohol, or any ²unlawful² use
10 of a narcotic drug or other controlled substance without a
11 prescription by a licensed medical practitioner ²], except that, the
12 court's order shall not refrain the eligible defendant from using
13 marijuana or hashish²];
- 14 (i) undergo available medical, psychological, or psychiatric
15 treatment, including treatment for drug or alcohol dependency, and
16 remain in a specified institution if required for that purpose;
- 17 (j) return to custody for specified hours following release for
18 employment, schooling, or other limited purposes;
- 19 (k) be placed in a pretrial home supervision capacity with or
20 without the use of an approved electronic monitoring device. The
21 court may order the eligible defendant to pay all or a portion of the
22 costs of the electronic monitoring, but the court may waive the
23 payment for an eligible defendant who is indigent and who has
24 demonstrated to the court an inability to pay all or a portion of the
25 costs; or
- 26 (l) satisfy any other condition that is necessary to reasonably
27 assure the eligible defendant's appearance in court when required,
28 the protection of the safety of any other person or the community,
29 and that the eligible defendant will not obstruct or attempt to
30 obstruct the criminal justice process, which shall not include any
31 prohibition or restriction concerning ²];
- 32 (a) an unlawful act subject only to a civil penalty for²
33 manufacturing, distributing, or dispensing, or possessing or having
34 under control with intent to manufacture, distribute, or dispense,
35 marijuana or hashish in violation of paragraph (12) of subsection b.
36 of N.J.S.2C:35-5, or ²[possessing any amount] possession² of
37 marijuana or hashish ²[that does not violate] in violation of²
38 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²]; or
- 39 (b) the presence of any cannabinoid metabolites in any bodily
40 fluids of the eligible defendant².
- 41 c. (1) If the court does not find, after consideration, that the
42 release described in subsection a. or b. of this section will
43 reasonably assure the eligible defendant's appearance in court when
44 required, the court may order the pretrial release of the eligible
45 defendant on monetary bail, other than an unsecured appearance
46 bond. The court may only impose monetary bail pursuant to this
47 subsection to reasonably assure the eligible defendant's appearance.

1 The court shall not impose the monetary bail to reasonably assure
2 the protection of the safety of any other person or the community or
3 that the eligible defendant will not obstruct or attempt to obstruct
4 the criminal justice process, or for the purpose of preventing the
5 release of the eligible defendant.

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

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

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

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

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

33

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

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

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

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

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

3 (1) the eligible defendant's character, physical and mental
4 condition, family ties, employment, financial resources, length of
5 residence in the community, community ties, past conduct, history
6 relating to drug or alcohol abuse, criminal history, and record
7 concerning ~~appearance~~ appearances at court proceedings, except
8 with respect to these factors, the court shall not consider ²[an
9 unlawful act subject only to a civil penalty for]² manufacturing,
10 distributing, or dispensing, or possessing or having under control
11 with intent to manufacture, distribute, or dispense, marijuana or
12 hashish in violation of paragraph (12) of subsection b. of
13 N.J.S.2C:35-5, or ²[possessing any amount] possession² of
14 marijuana or hashish ²[that does not violate] in violation of²
15 paragraph (3) of subsection a. of N.J.S.2C:35-10; and

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

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

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

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

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

30

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

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

1 any other person or the community, or that the eligible defendant
2 will not obstruct or attempt to obstruct the criminal justice process.

3 b. A court shall not revoke an eligible defendant's release and
4 order that the eligible defendant be detained pending trial based on
5 ²[(1) an unlawful act subject only to a civil penalty for]²
6 manufacturing, distributing, or dispensing, or possessing or having
7 under control with intent to manufacture, distribute, or dispense,
8 marijuana or hashish in violation of paragraph (12) of subsection b.
9 of N.J.S.2C:35-5, or ²[possessing any amount] possession² of
10 marijuana or hashish ²[that does not violate] in violation of²
11 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²]; or

12 (2) the presence of any cannabinoid metabolites in any bodily
13 fluids of the eligible defendant]² .

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

15

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

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

22 b. The Pretrial Services Program shall, after an eligible
23 defendant is temporarily detained pursuant to subsection a. of
24 section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
25 a complaint-warrant, conduct a risk assessment on that eligible
26 defendant for the purpose of making recommendations to the court
27 concerning an appropriate pretrial release decision, including
28 whether the eligible defendant shall be: released on the eligible
29 defendant's own personal recognizance or on execution of an
30 unsecured appearance bond; released on a non-monetary condition
31 or conditions as set forth under subsection b. of section 3 of
32 P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
33 an unsecured appearance bond; released on a combination of
34 monetary bail and non-monetary conditions set forth under section
35 3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
36 necessary to effectuate the purposes of sections 1 through 11 of
37 P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
38 completed and presented to the court so that the court can, without
39 unnecessary delay, but in no case later than 48 hours after the
40 eligible defendant's commitment to jail, make a pretrial release
41 decision on the eligible defendant pursuant to section 3 of P.L.2014,
42 c.31 (C.2A:162-17).

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

46 (1) (a) The approved risk assessment instrument shall be
47 objective, standardized, and developed based on analysis of

1 empirical data and risk factors relevant to the risk of failure to
2 appear in court when required and the danger to the community
3 while on pretrial release. The risk assessment instrument shall not
4 be required to include factors specifically pertaining to the risk for
5 obstructing or attempting to obstruct the criminal justice process.

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

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

38 d. In addition to the pretrial risk assessments made pursuant to
39 this section, the Pretrial Services Program shall monitor appropriate
40 eligible defendants released on conditions as ordered by the court.
41 (cf: P.L.2014, c.31, s.11)
42

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

44 2C:45-1. Conditions of Suspension or Probation.

45 a. (1) When the court suspends the imposition of sentence on a
46 person who has been convicted of an offense or sentences him to be
47 placed on probation, it shall attach such reasonable conditions,
48 authorized by this section, as it deems necessary to insure that he

1 will lead a law-abiding life or is likely to assist him to do so. These
2 conditions may be set forth in a set of standardized conditions
3 promulgated by the county probation department and approved by
4 the court.

5 (2) The following shall not be prohibited or restricted based on
6 any conditions imposed pursuant to this section: ²[(a) An unlawful
7 act subject only to a civil penalty for]² manufacturing, distributing,
8 or dispensing, or possessing or having under control with intent to
9 manufacture, distribute, or dispense, marijuana or hashish in
10 violation of paragraph (12) of subsection b. of N.J.S.2C:35-5; or
11 ²[possessing any amount] possession² of marijuana or hashish
12 ²[that does not violate] in violation of² paragraph (3) of subsection
13 a. of N.J.S.2C:35-10 ²]; or

14 (b) The presence of any cannabinoid metabolites in any bodily
15 fluids of the person]².

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

18 (1) To support his dependents and meet his family
19 responsibilities;

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

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

24 (4) To pursue a prescribed secular course of study or vocational
25 training;

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

28 (6) To refrain from frequenting unlawful or disreputable places
29 or consorting with disreputable persons;

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

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

33 (9) To remain within the jurisdiction of the court and to notify
34 the court or the probation officer of any change in his address or his
35 employment;

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

39 (11) To pay a fine;

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

43 (13) To require the performance of community-related service;
44 and

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

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

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

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

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

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

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

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

- 1 (d) Require the person to submit to any other appropriate
2 restrictions concerning the person's use or access of a computer or
3 any other device with Internet capability.
- 4 e. When the court sentences a person who has been convicted
5 of a crime to be placed on probation, it may require him to serve a
6 term of imprisonment not exceeding 364 days as an additional
7 condition of its order. When the court sentences a person convicted
8 of a disorderly persons offense to be placed on probation, it may
9 require him to serve a term of imprisonment not exceeding 90 days
10 as an additional condition of its order. In imposing a term of
11 imprisonment pursuant to this subsection, the sentencing court shall
12 specifically place on the record the reasons which justify the
13 sentence imposed. The term of imprisonment imposed hereunder
14 shall be treated as part of the sentence, and in the event of a
15 sentence of imprisonment upon the revocation of probation, the
16 term of imprisonment served hereunder shall be credited toward
17 service of such subsequent sentence. A term of imprisonment
18 imposed under this section shall be governed by the "Parole Act of
19 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).
- 20 Whenever a person is serving a term of parole as a result of a
21 sentence of incarceration imposed as a condition of probation,
22 supervision over that person shall be maintained pursuant to the
23 provisions of the law governing parole. Upon termination of the
24 period of parole supervision provided by law, the county probation
25 department shall assume responsibility for supervision of the person
26 under sentence of probation. Nothing contained in this section shall
27 prevent the sentencing court from at any time proceeding under the
28 provisions of this chapter against any person for a violation of
29 probation.
- 30 f. The defendant shall be given a copy of the terms of his
31 probation or suspension of sentence and any requirements imposed
32 pursuant to this section, stated with sufficient specificity to enable
33 him to guide himself accordingly. The defendant shall
34 acknowledge, in writing, his receipt of these documents and his
35 consent to their terms.
- 36 g. Of the moneys collected under the provisions of subsection
37 d. of this section, \$15.00 of each monthly fee collected before
38 January 1, 1995 shall be deposited in the temporary reserve fund
39 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall
40 be deposited into a "Community Service Supervision Fund" which
41 shall be established by each county. The moneys in the
42 "Community Service Supervision Fund" shall be expended only in
43 accordance with the provisions of State law as shall be enacted to
44 provide for expenditures from this fund for the purpose of
45 supervising and monitoring probationers performing community
46 service to ensure, by whatever means necessary and appropriate,
47 that probationers are performing the community service ordered by

1 the court and that the performance is in the manner and under the
2 terms ordered by the court.

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

4

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

6 2C:45-3. a. At any time before the discharge of the defendant or
7 the termination of the period of suspension or probation:

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

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

15 (3) The court, if there is probable cause to believe that the
16 defendant has committed another offense or if he has been held to
17 answer therefor, may commit him without bail, pending a
18 determination of the charge by the court having jurisdiction
19 thereof;

20 (4) The court, if satisfied that the defendant has inexcusably
21 failed to comply with a substantial requirement imposed as a
22 condition of the order or if he has been convicted of another
23 offense, may revoke the suspension or probation and sentence or
24 resentence the defendant, as provided in this section. No revocation
25 of suspension or probation shall be based on: (a) failure to pay a
26 fine or make restitution, unless the failure was willful; ²or² (b) ²[an
27 unlawful act subject only to a civil penalty for]² manufacturing,
28 distributing, or dispensing, or possessing or having under control
29 with intent to manufacture, distribute, or dispense, marijuana or
30 hashish in violation of paragraph (12) of subsection b. of
31 N.J.S.2C:35-5, or ²[possessing any amount] ²possession² of
32 marijuana or hashish ²[that does not violate] in violation of²
33 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²; or (c) the
34 presence of any cannabinoid metabolites in any bodily fluids,
35 detected as a result of the administration of a drug test or any other
36 means]².

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

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

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

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

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

13 b. (1) (a) Each parolee shall agree, as evidenced by his
14 signature to abide by specific conditions of parole established by
15 the appropriate board panel which shall be enumerated in writing in
16 a certificate of parole and shall be given to the parolee upon release.
17 Such conditions shall include, among other things, a requirement
18 that the parolee conduct himself in society in compliance with all
19 laws and refrain from committing any crime, a requirement that the
20 parolee will not own or possess any firearm as defined in subsection
21 f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r.
22 of N.J.S.2C:39-1, a requirement that the parolee refrain from the
23 ²unlawful² use, ²or the² possession or distribution of a controlled
24 dangerous substance, controlled substance analog or imitation
25 controlled dangerous substance as defined in N.J.S.2C:35-2 and
26 N.J.S.2C:35-11, other than ²[the use of marijuana or hashish, the]²
27 possession ²[of any amount]² of marijuana or hashish ²[that does
28 not violate] in violation of² paragraph (3) of subsection a. of
29 N.J.S.2C:35-10, and distribution ²[that is an unlawful act subject
30 only to a civil penalty pursuant to] of marijuana or hashish in
31 violation of² paragraph (12) of subsection b. of N.J.S.2C:35-5, a
32 requirement that the parolee obtain permission from his parole
33 officer for any change in his residence, and a requirement that the
34 parolee report at reasonable intervals to an assigned parole officer.
35 In addition, based on prior history of the parolee or information
36 provided by a victim or a member of the family of a murder victim,
37 the member or board panel certifying parole release pursuant to
38 section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any
39 other specific conditions of parole deemed reasonable in order to
40 reduce the likelihood of recurrence of criminal or delinquent
41 behavior, including a requirement that the parolee comply with the
42 Internet access conditions set forth in paragraph (2) of this
43 subsection. Such special conditions may include, among other
44 things, a requirement that the parolee make full or partial
45 restitution, the amount of which restitution shall be set by the
46 sentencing court upon request of the board. In addition, the member
47 or board panel certifying parole release may, giving due regard to a

1 victim's request, impose a special condition that the parolee have no
2 contact with the victim, which special condition may include, but
3 need not be limited to, restraining the parolee from entering the
4 victim's residence, place of employment, business or school, and
5 from harassing or stalking the victim or victim's relatives in any
6 way. Further, the member, board panel or board certifying parole
7 release may impose a special condition that the person shall not
8 own or possess an animal for an unlawful purpose or to interfere in
9 the performance of duties by a parole officer.

10 (b) The member or board panel certifying parole release shall
11 not impose on any parolee any condition that would prohibit or
12 restrict ²[(i) the commission of an unlawful act subject only to a
13 civil penalty for]² manufacturing, distributing, or dispensing, or
14 possessing or having under control with intent to manufacture,
15 distribute, or dispense, marijuana or hashish in violation of
16 paragraph (12) of subsection b. of N.J.S.2C:35-5, or ²[possessing
17 any amount] possession² of marijuana or hashish ²[that does not
18 violate] in violation of² paragraph (3) of subsection a. of
19 N.J.S.2C:35-10 ²]; or (ii) the presence of any cannabinoid
20 metabolites in any bodily fluids of the person]².

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

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

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

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

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

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

17 d. The appropriate board panel may parole an inmate to any
18 residential facility funded in whole or in part by the State if the
19 inmate would not otherwise be released pursuant to section 9 of
20 P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
21 residential facility provides treatment for mental illness or mental
22 retardation, the board panel only may parole the inmate to the
23 facility pursuant to the laws and admissions policies that otherwise
24 govern the admission of persons to that facility, and the facility
25 shall have the authority to discharge the inmate according to the
26 laws and policies that otherwise govern the discharge of persons
27 from the facility, on 10 days' prior notice to the board panel. The
28 board panel shall acknowledge receipt of this notice in writing prior
29 to the discharge. Upon receipt of the notice the board panel shall
30 resume jurisdiction over the inmate.

31 e. Parole officers shall provide assistance to the parolee in
32 obtaining employment, education, or vocational training or in
33 meeting other obligations to assure the parolee's compliance with
34 meeting legal requirements related to sex offender notification,
35 address changes and participation in rehabilitation programs as
36 directed by the assigned parole officer.

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

38 g. If the board has granted parole to any inmate from a State
39 correctional facility and the court has imposed a fine on the inmate,
40 the appropriate board panel shall release the inmate on condition
41 that the parolee make specified fine payments to the State Parole
42 Board. For violation of these conditions, or for violation of a
43 special condition requiring restitution, parole may be revoked only
44 for refusal or failure to make a good faith effort to make the
45 payment.

46 h. Upon collection of the fine the Department of Corrections
47 shall forward it to the State Treasury.

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

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

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

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

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

10 An order as described in this subsection shall not be based on ²【:
11 an unlawful act subject only to a civil penalty for】² manufacturing,
12 distributing, or dispensing, or possessing or having under control
13 with intent to manufacture, distribute, or dispense, marijuana or
14 hashish in violation of paragraph (12) of subsection b. of
15 N.J.S.2C:35-5, or ²【possessing any amount】 possession² of
16 marijuana or hashish ²【that does not violate】 in violation of²
17 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²【; or the presence
18 of any cannabinoid metabolites in any bodily fluids, detected as a
19 result of the administration of a drug test or any other means】².

20 b. (1) Any parolee who has seriously or persistently violated
21 the conditions of his parole, may have his parole revoked and may
22 be returned to custody pursuant to sections 18 and 19 of P.L.1979,
23 c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
24 immediately upon the arrest or indictment of a parolee or upon the
25 filing of charges that the parolee committed an act which, if
26 committed by an adult, would constitute a crime. The board shall
27 not revoke parole on the basis of new charges which have not
28 resulted in a disposition at the trial level except that upon
29 application by the prosecuting authority or the Director of the State
30 Parole Board's Division of Parole or his designee, the chairman of
31 the board or his designee may at any time detain the parolee and
32 commence revocation proceedings pursuant to sections 18 and 19 of
33 P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
34 chairman determines that the new charges against the parolee are of
35 a serious nature and it appears that the parolee otherwise poses a
36 danger to the public safety. In such cases, a parolee shall be
37 informed that, if he testifies at the revocation proceedings, his
38 testimony and the evidence derived therefrom shall not be used
39 against him in a subsequent criminal prosecution.

40 (2) An action to revoke parole as described in this subsection
41 shall not be based on ²【: (a) an unlawful act subject only to a civil
42 penalty for】² manufacturing, distributing, or dispensing, or
43 possessing or having under control with intent to manufacture,
44 distribute, or dispense, marijuana or hashish in violation of
45 paragraph (12) of subsection b. of N.J.S.2C:35-5, or ²【possessing
46 any amount】 possession² of marijuana or hashish ²【that does not

1 violate in violation of² paragraph (3) of subsection a. of
2 N.J.S.2C:35-10²; or

3 (b) the presence of any cannabinoid metabolites in any bodily
4 fluids, detected as a result of the administration of a drug test or any
5 other means².

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

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

13

14 15. (New section) a. An employer shall not be permitted to
15 ²consider ² when making an employment decision, ²rely solely
16 on, or² require any applicant to disclose or reveal, or take any
17 adverse action against any applicant for employment ²solely² on the
18 basis of, any arrest, charge, conviction, or adjudication of
19 delinquency, ²or civil penalty or community service imposed in
20 lieu of a civil penalty if the act was an unlawful act and not a crime
21 or offense,² for manufacturing, distributing, or dispensing, or
22 possessing or having under control with intent to manufacture,
23 distribute, or dispense, marijuana or hashish in violation of
24 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount
25 of marijuana or hashish in violation of paragraph (12) of subsection
26 b. of that section, or a violation of either of those paragraphs and a
27 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
28 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
29 distributing, dispensing, or possessing with intent to distribute or
30 dispense, on or within 1,000 feet of any school property, or on or
31 within 500 feet of the real property comprising a public housing
32 facility, public park, or public building, or obtaining, possessing,
33 using, being under the influence of, or failing to make lawful
34 disposition of marijuana or hashish in violation of paragraph (3) or
35 (4) of subsection a., or subsection b., or subsection c. of
36 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
37 described herein and a violation of N.J.S.2C:36-2 for using or
38 possessing with intent to use drug paraphernalia with that marijuana
39 or hashish, or an arrest, charge, conviction, or adjudication of
40 delinquency under the laws of another state or of the United States
41 of a crime ², or² offense, ²or other unlawful act,² which, if
42 committed in this State, would be a violation of any of the
43 aforementioned crimes ², or² offenses, ²or unlawful acts,²
44 regardless of when any such arrest, charge, conviction, or
45 adjudication of delinquency ², or imposition of a civil penalty or
46 community service,² occurred, unless the employment sought or

1 being considered is for a position in law enforcement, corrections,
2 the judiciary, homeland security, or emergency management.

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

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

23
24 16. (New section) a. A person that makes a mortgage loan in
25 this State shall not discriminate against an applicant in accepting an
26 application, granting, withholding, extending, modifying or
27 renewing, or in the fixing of the rates, terms, conditions, or
28 provisions of any mortgage loan based on an applicant's arrest,
29 charge, conviction, or adjudication of delinquency, ²or civil
30 penalty or community service imposed in lieu of a civil penalty if
31 the act was an unlawful act and not a crime or offense, ²for
32 manufacturing, distributing, or dispensing, or possessing or having
33 under control with intent to manufacture, distribute, or dispense,
34 marijuana or hashish in violation of paragraph (11) of subsection b.
35 of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in
36 violation of paragraph (12) of subsection b. of that section, or a
37 violation of either of those paragraphs and a violation of subsection
38 a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of
39 section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing,
40 dispensing, or possessing with intent to distribute or dispense, on or
41 within 1,000 feet of any school property, or on or within 500 feet of
42 the real property comprising a public housing facility, public park,
43 or public building, or obtaining, possessing, using, being under the
44 influence of, or failing to make lawful disposition of marijuana or
45 hashish in violation of paragraph (3) or (4) of subsection a., or
46 subsection b., or subsection c. of N.J.S.2C:35-10, or a violation
47 involving marijuana or hashish as described herein and a violation
48 of N.J.S.2C:36-2 for using or possessing with intent to use drug

1 paraphernalia with that marijuana or hashish, or an arrest, charge,
2 conviction, or adjudication of delinquency under the laws of
3 another state or of the United States of a crime ²[,] or² offense,
4 ²[or other unlawful act,]² which, if committed in this State, would
5 be a violation of any of the aforementioned crimes ²[,] or²
6 offenses, ²[or unlawful acts,]² regardless of when any such arrest,
7 charge, conviction, or adjudication of delinquency ²[, or imposition
8 of a civil penalty or community service,]² occurred.

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

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

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

24 (2) Order a person found to be in violation of this section to
25 cease its unlawful practices, subject to review, hearing, and relief in
26 the Superior Court. A person that continues to violate the
27 provisions of this act after having been ordered by the
28 commissioner to cease such practices shall be liable to a penalty of
29 \$10,000 for each offense instead of the penalty for a continuous
30 violation set forth in section 10 of P.L.1977, c.1 (C.17:16F-
31 10). This penalty may be collected in a summary proceeding
32 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
33 c.274 (C.2A:58-10 et seq.). Except as set forth herein, the penalty
34 provided by this section shall be in addition to and not in lieu of any
35 other provision of law applicable upon a person's failure to comply
36 with an order of the commissioner.

37
38 17. (New section) a. A person alleging discrimination in
39 public or private housing, real property, or a place of public
40 accommodation, based on a prior arrest, charge, conviction, or
41 adjudication of delinquency, ²[or civil penalty or community
42 service imposed in lieu of a civil penalty if the act was an unlawful
43 act and not a crime or offense,]² for 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 (11) of subsection b. of N.J.S.2C:35-5, or a
47 lesser amount of marijuana or hashish in violation of paragraph (12)

1 of subsection b. of that section, or a violation of either of those
2 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
3 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
4 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent
5 to distribute or dispense, on or within 1,000 feet of any school
6 property, or on or within 500 feet of the real property comprising a
7 public housing facility, public park, or public building, or obtaining,
8 possessing, using, being under the influence of, or failing to make
9 lawful disposition of marijuana or hashish in violation of paragraph
10 (3) or (4) of subsection a., or subsection b., or subsection c. of
11 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
12 described herein and a violation of N.J.S.2C:36-2 for using or
13 possessing with intent to use drug paraphernalia with that marijuana
14 or hashish, or an arrest, charge, conviction, or adjudication of
15 delinquency under the laws of another state or of the United States
16 of a crime ²[,] or² offense ²[,] or other unlawful act,² which, if
17 committed in this State, would be a violation of any of the
18 aforementioned crimes ²[,] or² offenses ²[,] or unlawful acts²,
19 regardless of when any such arrest, charge, conviction, or
20 adjudication of delinquency ²[,] or imposition of a civil penalty or
21 community service,² occurred, may institute a civil action in the
22 Superior Court for relief. All remedies available in common law
23 tort actions shall be available to a prevailing plaintiff. The court
24 may also order any or all of the following relief:

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

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

31 (3) if the discrimination impacted the person's employment, and
32 if applicable:

33 (a) reinstatement of the person to the same position of
34 employment or to a position equivalent to that which the person
35 held prior to unlawful discharge or retaliatory action;

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

37 (c) compensation for any lost wages, benefits and other
38 remuneration; and

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

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

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

44

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

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

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

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

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

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

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

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

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

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

1 for the use as a court of this State permits, by order after good
2 cause has been shown and after written notification of the request
3 for the court order has been served at least five days before the
4 order is made upon the county prosecutor for the county in which
5 the post mortem examination or autopsy occurred,
6 for use in the field of forensic pathology or for use in medical or
7 scientific education or research, or
8 for use by any law enforcement agency in this State or any other
9 state or federal law enforcement agency;
10 criminal investigatory records;
11 the portion of any criminal record concerning a person's
12 detection, apprehension, arrest, detention, trial or disposition for
13 unlawful manufacturing, distributing, or dispensing, or possessing
14 or having under control with intent to manufacture, distribute, or
15 dispense, marijuana or hashish in violation of paragraph (11) of
16 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
17 hashish in violation of paragraph (12) of subsection b. of that
18 section, or a violation of either of those paragraphs and a violation
19 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
20 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
21 distributing, dispensing, or possessing, or having under control with
22 intent to distribute or dispense, on or within 1,000 feet of any
23 school property, or on or within 500 feet of the real property
24 comprising a public housing facility, public park, or public
25 building, or for obtaining, possessing, using, being under the
26 influence of, or failing to make lawful disposition of marijuana or
27 hashish in violation of paragraph (3) or (4) of subsection a., or
28 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation
29 of any of those provisions and a violation of N.J.S.2C:36-2 for
30 using or possessing with intent to use drug paraphernalia with
31 ~~the~~ that¹ marijuana or hashish;
32 ²on and after the effective date of P.L. , c. (C.)
33 (pending before the Legislature as this bill), any record concerning
34 a person's commission of an unlawful act of manufacturing,
35 distributing, or dispensing, or possessing or having under control
36 with intent to manufacture, distribute, or dispense, marijuana or
37 hashish in violation of paragraph (12) of subsection b. of
38 N.J.S.2C:35-5, ¹or possessing marijuana or hashish in violation of
39 paragraph (4) of subsection a. of N.J.S.2C:35-10,]¹ for which a
40 ¹written warning was issued, or a]¹ civil penalty ¹or community
41 service in lieu of payment of a penalty]¹ was imposed;]²
42 victims' records, except that a victim of a crime shall have access
43 to the victim's own records;
44 any written request by a crime victim for a record to which the
45 victim is entitled to access as provided in this section, including,
46 but not limited to, any law enforcement agency report, domestic

1 violence offense report, and temporary or permanent restraining
2 order;

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

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

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

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

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

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

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

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

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

41 information which is a communication between a public agency
42 and its insurance carrier, administrative service organization or risk
43 management office;

44 information which is to be kept confidential pursuant to court
45 order;

46 any copy of form DD-214, NGB-22, or that form, issued by the
47 United States Government, or any other certificate of honorable
48 discharge, or copy thereof, from active service or the reserves of a

1 branch of the Armed Forces of the United States, or from service in
2 the organized militia of the State, that has been filed by an
3 individual with a public agency, except that a veteran or the
4 veteran's spouse or surviving spouse shall have access to the
5 veteran's own records;

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

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

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

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

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

42 pedagogical, scholarly and/or academic research records and/or
43 the specific details of any research project conducted under the
44 auspices of a public higher education institution in New Jersey,
45 including, but not limited to research, development information,
46 testing procedures, or information regarding test participants,
47 related to the development or testing of any pharmaceutical or
48 pharmaceutical delivery system, except that a custodian may not

1 deny inspection of a government record or part thereof that gives
2 the name, title, expenditures, source and amounts of funding and
3 date when the final project summary of any research will be
4 available;

5 test questions, scoring keys and other examination data
6 pertaining to the administration of an examination for employment
7 or academic examination;

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

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

17 information contained on individual admission applications; and
18 information concerning student records or grievance or
19 disciplinary proceedings against a student to the extent disclosure
20 would reveal the identity of the student.

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

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

1 created by a political subdivision or combination of political
2 subdivisions.

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

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

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

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

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

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

23 "Victims' rights agency" means a public agency, or part thereof,
24 the primary responsibility of which is providing services, including
25 but 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
32 the Victims of Crime Compensation Office pursuant to P.L.2007,
33 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
34 (cf: P.L.2019, c.255, s.4)

35

36 ²[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)]²

13

14 ²[20.] 19.² (New section) The Administrative Director of the
15 Courts shall maintain and provide information to any person upon
16 request 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 ²[21.] 20.² (New section) a. (1) The Administrative Director
23 of the Courts shall develop and maintain a multilingual public
24 awareness campaign to promote awareness of the expungement
25 process, including an expedited expungement pursuant to section 5
26 of 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
8 this bill).

9
10 ²~~[22.] 21.~~² This act shall take effect ¹~~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] ²~~[immediately¹] on the 120th day following~~
15 enactment².