

ASSEMBLY, No. 1835

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblywoman HECK

1 AN ACT concerning law enforcement officers, amending N.J.S.2C:52-  
2 6, N.J.S.2B:20-10, P.L.1991, c.299, P.L.1989, c.314, P.L.1984,  
3 c.179, and P.L.1978, c.63.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. N.J.S.2C:52-6 is amended to read as follows:

9 2C:52-6. Arrests not resulting in conviction a. In all cases, except  
10 as herein provided, wherein a person has been arrested or held to  
11 answer for a crime, disorderly persons offense, petty disorderly  
12 persons offense or municipal ordinance violation under the laws of this  
13 State or of any governmental entity thereof and against whom  
14 proceedings were dismissed, or who was acquitted, or who was  
15 discharged without a conviction or finding of guilt, may at any time  
16 following the disposition of proceedings, present a duly verified  
17 petition as provided in section 2C:52-7 to the Superior Court in the  
18 county in which the disposition occurred praying that records of such  
19 arrest and all records and information pertaining thereto be expunged.

20 b. Any person who has had charges dismissed against him pursuant  
21 to section 27 of P.L.1970, c.226, (C.24:21-27) or pursuant to a  
22 program of supervisory treatment, shall be barred from the relief  
23 provided in this section until 6 months after the entry of the order of  
24 dismissal.

25 c. Any person who has been arrested or held to answer for a crime  
26 shall be barred from the relief provided in this section where the  
27 dismissal, discharge, or acquittal resulted from a determination that the  
28 person was insane or lacked the mental capacity to commit the crime  
29 charged.

30 d. At the time of dismissal, acquittal or discharge, the court shall,  
31 upon motion of the defense, order the expungement of all records and  
32 information relating to the arrest of a law enforcement officer. The  
33 agency employing the officer, and all other relevant criminal justice  
34 and law enforcement agencies required to be notified pursuant to

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

**Matter underlined thus is new matter.**

1 N.J.S.2C:52-10, shall be immediately notified of the expungement  
2 order.

3 e. The court shall not order the expungement of records pursuant  
4 to subsection d. of this section when:

5 (1) The dismissal of charges, acquittal or discharge is a result of a  
6 plea bargaining agreement involving a conviction on other charges; or

7 (2) The person at the time of dismissal, acquittal or discharge has  
8 another charge pending against him which alleges the commission of  
9 a crime, disorderly persons offense, or petty disorderly persons  
10 offense.

11 (cf: P.L.1979, c.178, s.113)

12

13 2. N.J.S.2B:20-10 is amended to read as follows:

14 2B:20-10. Grounds for excuse from jury service.

15 An excuse from jury service shall be granted only if:

16 a. The prospective juror is 75 years of age or older;

17 b. The prospective juror has served as a juror within the last three  
18 years in the county to which the juror is being summoned;

19 c. Jury service will impose a severe hardship due to circumstances  
20 which are not likely to change within the following year. Severe  
21 hardship includes the following circumstances:

22 (1) The prospective juror has a medical inability to serve which is  
23 verified by a licensed physician.

24 (2) The prospective juror will suffer a severe financial hardship  
25 which will compromise the juror's ability to support himself, herself,  
26 or dependents. In determining whether to excuse the prospective  
27 juror, the Assignment Judge shall consider:

28 (a) the sources of the prospective juror's household income; and

29 (b) the availability and extent of income reimbursement; and

30 (c) the expected length of service.

31 (3) The prospective juror has a personal obligation to care for  
32 another, including a sick, aged or infirm dependent or a minor child,  
33 who requires the prospective juror's personal care and attention, and  
34 no alternative care is available without severe financial hardship on the  
35 prospective juror or the person requiring care.

36 (4) The prospective juror provides highly specialized technical  
37 health care services for which replacement cannot reasonably be  
38 obtained.

39 (5) The prospective juror is a health care worker directly involved  
40 in the care of a mentally or physically handicapped person, and the  
41 prospective juror's continued presence is essential to the regular and  
42 personal treatment of that person.

43 (6) The prospective juror is a member of the full-time instructional  
44 staff of a grammar school or high school, the scheduled jury service is  
45 during the school term, and a replacement cannot reasonably be  
46 obtained. In determining whether to excuse the prospective juror or

1 grant a deferral of service, the Assignment Judge shall consider:

2 (a) the impact on the school considering the number and function  
3 of teachers called for jury service during the current academic year;  
4 and

5 (b) the special role of certified special education teachers in  
6 providing continuity of instruction to handicapped students;

7 d. The prospective juror is a member of a volunteer fire department  
8 or fire patrol; [or]

9 e. The prospective juror is a volunteer member of a first aid or  
10 rescue squad; or

11 f. The prospective juror is a law enforcement officer. For the  
12 purposes of this subsection, law enforcement officer means any  
13 person who is employed as a permanent full-time member of any State,  
14 county or municipal law enforcement agency, department, or division  
15 of those governments who is statutorily empowered to act for the  
16 detection, investigation, arrest, conviction, detention, or rehabilitation  
17 of persons violating and convicted of violating the criminal law of this  
18 State and statutorily required to successfully complete a training  
19 course approved by or certified as substantially equivalent by the  
20 Police Training Commission.

21 (cf: P.L.1995, c.44)

22

23 3. Section 1 of P.L.1991, c.299 (C.40A-14-180) is amended to  
24 read as follows:

25 1. a. The provisions of any other law to the contrary  
26 notwithstanding, the appointing authority of a county or municipality  
27 which, pursuant to N.J.S.40A:14-106, in the case of a county, or  
28 N.J.S.40A:14-118, in the case of a municipality, has established and  
29 maintains a police force may appoint as a member or officer of the  
30 county or municipal police department any person who:

31 (1) was serving as a law enforcement officer in good standing in  
32 any State, county or municipal law enforcement department or agency;

33 (2) satisfactorily completed a working test period in a State law  
34 enforcement title or in a law enforcement title in a county or  
35 municipality which has adopted Title 11A, Civil Service, of the New  
36 Jersey Statutes or satisfactorily completed a comparable, documented  
37 probationary period in a law enforcement title in a county or  
38 municipality which has not adopted Title 11A, Civil Service; and

39 (3) was, for reasons of economy, terminated as a law enforcement  
40 officer within 36 months prior to the appointment.

41 b. A county or municipality may employ such a person  
42 notwithstanding that:

43 (1) Title 11A, Civil Service, of the New Jersey Statutes is  
44 operative in that county or municipality;

45 (2) the county or municipality has available to it an eligible or  
46 regular reemployment list of persons eligible for such appointments;

1 and

2 (3) the appointed person is not on any eligible list. A county or  
3 municipality which has adopted Title 11A, Civil Service, may not  
4 employ such a person if a special reemployment list is in existence for  
5 the law enforcement title to be filled.

6 c. [If a county determines to appoint a person pursuant to the  
7 provisions of this act, it shall give first priority in making such  
8 appointments to residents of the county. A municipality making such  
9 an appointment shall give first priority to residents of the municipality  
10 and second priority to residents of the county not residing in the  
11 municipality.] (Deleted by amendment, P.L. , c. .)(now pending  
12 before the Legislature as this bill)

13 d. The seniority, seniority-related privileges and rank a law  
14 enforcement officer possessed with the employer who terminated the  
15 officer's employment for reasons of economy shall not be transferable  
16 to a new position when the officer is appointed to a law enforcement  
17 position pursuant to the provisions of this section.

18 (cf: P.L.1993, c.187, s.1)

19

20 4. Section 1 of P.L.1989, c.314 (C.26:2K-39) is amended to read  
21 as follows:

22 1. As used in this act:

23 "Commissioner" means the Commissioner of Health.

24 "Emergency medical service" means a program in a hospital staffed  
25 24 hours-a-day by a licensed physician trained in emergency medicine.

26 "Emergency medical technician" means a person trained in basic life  
27 support services as defined in section 1 of P.L.1985, c.351  
28 (C.26:2K-21) and who is certified by the Department of Health to  
29 perform these services.

30 "EMT-D" means an emergency medical technician who is certified  
31 by the commissioner to perform cardiac defibrillation.

32 "First Responder" means a law enforcement officer, firefighter or  
33 other person who has been trained to provide emergency medical first  
34 response services in a program recognized by the commissioner.

35 "First Responder-D" means a First Responder who is certified by  
36 the commissioner to perform cardiac defibrillation.

37 "Pre-hospital care" means those emergency medical services  
38 rendered to emergency patients at the scene of a traffic accident or  
39 other emergency and during transportation to emergency treatment  
40 facilities, and upon arrival within those facilities.

41 (cf: P.L.1989, c.314, s.1)

42

43 5. Section 2 of P.L.1989, c.314 (C.26:2K-40) is amended to read  
44 as follows:

45 2. a. An emergency medical technician who has been certified by  
46 the commissioner as an EMT-D may perform cardiac defibrillation,

1 with or without the assistance of another EMT-D, according to rules  
2 and regulations adopted by the commissioner. A person who has been  
3 certified by the commissioner as a First Responder-D may perform  
4 cardiac defibrillation, with or without the assistance of an EMT-D or  
5 another First Responder-D, according to rules and regulations adopted  
6 by the commissioner.

7 b. The commissioner shall establish written standards and  
8 application procedures which an emergency medical technician shall  
9 meet in order to obtain certification as an EMT-D, and which a person  
10 shall meet in order to obtain certification as a First Responder-D. The  
11 commissioner shall certify a candidate who provides evidence of  
12 satisfactory completion of an educational program which includes  
13 training in the performance of cardiac defibrillation and which is  
14 approved by the commissioner, and who passes an examination in the  
15 performance of cardiac defibrillation which is approved by the  
16 commissioner.

17 c. The commissioner shall maintain a register of all applications for  
18 certification as an EMT-D or a First Responder-D which shall include,  
19 but not be limited to:

20 (1) The name and residence of the applicant;

21 (2) The date of the application;

22 (3) Whether the applicant was rejected or approved and the date  
23 of that action.

24 d. The commissioner shall annually compile a list of certified  
25 EMT-D's and First Responder-D's which shall be available to the  
26 public.

27 e. A fee may be charged to a person who is enrolled in an  
28 educational program approved by the Department of Health which  
29 includes training in the performance of cardiac defibrillation, to cover  
30 the costs of training and testing for certification as an EMT-D or a  
31 First Responder-D.

32 (cf: P.L.1989, c.314, s.2)

33

34 6. Section 3 of P.L.1989, c.314 (C.26:2K-41) is amended to read  
35 as follows:

36 3. The commissioner, after notice and hearing, may revoke the  
37 certification of an EMT-D or a First Responder-D for violation of any  
38 provisions of this act or of any rule or regulation adopted pursuant to  
39 this act.

40 (cf: P.L.1989, c.314, s.3)

41

42 7. Section 4 of P.L.1989, c.314 (C.26:2K-42) is amended to read  
43 as follows:

44 4. a. A person shall not advertise or disseminate information to the  
45 public that the person is an EMT-D or a First Responder-D unless the  
46 person is authorized to do so pursuant to this act.

1       b. A person shall not impersonate or refer to himself as an EMT-D  
2 or a First Responder-D unless he is certified pursuant to section 2 of  
3 this act.

4 (cf: P.L.1989, c.314, s.4)

5

6       8. Section 5 of P.L.1989, c.314 (C.26:2K-43) is amended to read  
7 as follows:

8       5. An EMT-D, First Responder-D, EMT-intermediate, licensed  
9 physician, hospital or its board of trustees, officers and members of the  
10 medical staff, nurses, paramedics or other employees of the hospital,  
11 or officers and members of a first aid, ambulance or rescue squad shall  
12 not be liable for any civil damages as the result of an act or the  
13 omission of an act committed while in training to perform, or in the  
14 performance of, cardiac defibrillation in good faith and in accordance  
15 with this act.

16 (cf: P.L.1989, c.314, s.5)

17

18       9. Section 8 of P.L.1989, c.314 (C.26:2K-45) is amended to read  
19 as follows:

20       8. Nothing in this act shall be construed to permit an EMT-D or a  
21 First Responder-D to perform the duties or fill the position of another  
22 health professional employed by a hospital, except that the EMT-D or  
23 First Responder-D may perform those functions that are necessary to  
24 assure the orderly transfer of a traffic accident victim or other  
25 emergency patient receiving pre-hospital care to hospital staff upon  
26 arrival at an emergency department and that are necessary to obtain  
27 the clinical training in the performance of cardiac defibrillation  
28 required by the department.

29 (cf: P.L.1989, c.314, s.8)

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31       10. Section 10 of P.L.1989, c.314 (C.26:2K-47) is amended to  
32 read as follows:

33       10. Nothing in this act shall be construed to prevent a licensed and  
34 qualified member of a health care profession from performing any of  
35 the duties of an EMT-D or a First Responder-D if the duties are  
36 consistent with the accepted standards of the member's profession.

37 (cf: P.L.1989, c.314, s.10)

38

39       11. Section 3 of P.L.1984, c.179 (C.39:3-76.2g) is amended to  
40 read as follows:

41       3. This act shall not apply to a driver or front seat passenger of:

42       a. A passenger automobile manufactured before July 1, 1966;

43       b. A passenger automobile in which the driver or passenger  
44 possesses a written verification from a licensed physician that the  
45 driver or passenger is unable to wear a safety seat belt system for  
46 physical or medical reasons;

1 c. A passenger automobile which is not required to be equipped  
2 with safety seat belt system under federal law; [or,]

3 d. A passenger automobile operated by a rural letter carrier of the  
4 United States Postal Service while performing the duties of a rural  
5 letter carrier; or,

6 e. A passenger automobile operated by a law enforcement officer  
7 while in the performance of his official duties.

8 (cf: P.L.1984, c.179, s.3)

9  
10 12. Section 1 of P.L.1978, c.63 (C.40A:9-1.3) is amended to read  
11 as follows:

12 1. Unless otherwise provided by law, the governing body of any  
13 local unit may by resolution or ordinance, as appropriate, require,  
14 subject to the provisions of this act, all officers and employees, except  
15 county law enforcement officers, employed by the local unit after the  
16 effective date of this act to be bona fide residents therein. A bona fide  
17 resident for the purpose of this act is a person having a permanent  
18 domicile within the local unit and one which has not been adopted with  
19 the intention of again taking up or claiming a previous residence  
20 acquired outside of the local unit's boundaries. Any local unit wherein  
21 the provisions of [Title 11 (Civil Service) of the Revised Statutes]  
22 Title 11A, Civil Service, of the New Jersey Statutes are operative,  
23 shall transmit a copy of the adopting ordinance or resolution, as the  
24 case may be, to the Civil Service Commission.

25 (cf: P.L.1978, c.63, s.1)

26

27 13. Section 2 of P.L.1978, c.63 (C.40A:9-1.4) is amended to read  
28 as follows:

29 2. Any local unit having adopted the provisions of [Title 11 (Civil  
30 Service) of the Revised Statutes] Title 11A, Civil Service, of the New  
31 Jersey Statutes, which has also adopted the provisions of section 1 of  
32 this act by ordinance or resolution, as appropriate, may therein limit  
33 the eligibility of applicants for positions and employments in the  
34 classified service of such local unit to residents of that local unit ;  
35 provided, however, no such limitation shall be imposed for positions  
36 as a county law enforcement officer. Upon receipt of a copy of such  
37 ordinance or resolution, as the case may be, the [Civil Service  
38 Commission] Department of Personnel thereafter shall not, except in  
39 the case of positions as a county law enforcement officer, open such  
40 local eligibility lists to anyone who is not a bona fide resident of the  
41 local unit at the time of the closing date following the announcement  
42 of examination; provided, however, that if the commission, after  
43 ample advertisement, determines that an insufficient number of  
44 qualified residents exist for available positions or employments in a  
45 particular local unit, it may open eligibility lists for such positions or

1 employments to qualified nonresidents.

2 (cf: P.L.1978, c.63, s.2)

3

4 14. Section 3 of P.L.1978, c.63 (C.40A:9-1.5) is amended to  
5 read as follows:

6 3. The governing body of a local unit which has adopted a  
7 resolution or ordinance, as the case may be, pursuant to section 1 of  
8 this act shall require therein that all nonresidents subsequently  
9 appointed to positions or employments, except those appointed to  
10 positions as a county law enforcement officer, shall become bona fide  
11 residents of the local unit within 1 year of their appointment, except  
12 as otherwise provided in such ordinance or resolution pursuant to  
13 sections 4 and 5 of this act.

14 It shall be the duty of the hiring authority to insure that all  
15 employees hired after the effective date of this act remain bona fide  
16 residents of the local unit in which they are employed. Failure of any  
17 such employee to maintain residency in a local unit shall be cause for  
18 removal or discharge from service. In the event such employee does  
19 not maintain bona fide residency, the hiring authority shall notify said  
20 employee that failure to again take up bona fide residency in the local  
21 unit within 6 months of such notification will result in removal or  
22 discharge from service. Such removal or discharge shall take effect on  
23 the date specified in such notice, but any employee so removed or  
24 discharged shall have the right to such appeals as are available  
25 pursuant to law.

26 (cf: P.L.1978, c.63, s.3)

27

28 15. This act shall take effect immediately.

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30

31

## STATEMENT

32

33 This bill, the "Law Enforcement Officers' Shield Act," clarifies and  
34 codifies certain law enforcement officer protections and privileges.

35 Under the provisions of the bill:

36 (1) Historically, law enforcement officers were exempt from jury  
37 duty. Recent statutory enactments eliminated that exemption. This  
38 bill reestablishes the exemption.

39 (2) In 1991, the Legislature established a re-employment program  
40 to assist both laid-off law enforcement officers and local governmental  
41 units seeking experienced law enforcement officers. Under the  
42 program, the Department of Personnel prepares and circulates a list  
43 of experience law enforcement officers available for appointment to  
44 the various local government units of the State. One of the conditions  
45 of the program is that a prospective employer must give preference to  
46 residents of the county. This bill eliminates that restriction.

1 The bill also eliminates a residency requirement for county law  
2 enforcement officers. Under current law, municipal law enforcement  
3 officers are statutorily exempted from residency requirements. This  
4 bill would extend that privilege to county law enforcement officers.

5 (3) Law enforcement officers who are acquitted of charges are  
6 afforded the privilege of having their records immediately expunged of  
7 those charges. In too many cases, law enforcement officers are subject  
8 to baseless and frivolous charges. This bill provides an avenue of  
9 relief for law enforcement officers in such situations.

10 (4) Law enforcement officers are exempted from the provisions of  
11 the seat belt law. The highly trained and experienced members of the  
12 law enforcement community recognize the importance and value of  
13 wearing seat belts, and regularly and normally wear them when in their  
14 motor vehicles. There are, however, rare instances when in  
15 exceptional situations officers are unable to use their seat belts. This  
16 bill provides the technical exemption that those exceptional situations  
17 warrant.

18 (5) Law enforcement officers are often the first responders to  
19 emergencies or accidents. This bill would authorize trained law  
20 enforcement officers to use cardiac defibrillation when necessary.

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24

25 "Law Enforcement Officers' Shield Act."