

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4771**

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4771.

This bill, as amended, would expand the offenses that are eligible for expungement after a defendant's successful discharge from special probation (drug court) to include certain, nonviolent offenses set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4, involving endangering the welfare of a child. It would create a separate process for expungement relief for a person with such a conviction, which is not expungable under any other available expungement process, and permit the person to make an application to generally expunge the person's entire criminal record following at least a 10-year period from when the person was successfully discharged from special probation.

Under current law, a successfully discharged person may obtain an order for the expungement of the person's records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense set forth in Title 2C of the New Jersey Statutes. However, if the person was convicted of any offense that is not expungable, as set forth in the general expungement law under subsection b. or c. of N.J.S.2C:52-2, which includes endangering the welfare of a child, that person is not eligible for this comprehensive expungement.

This bill would create a new process for the comprehensive special probation expungement, even if a person had a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4. Eligibility for expungement under the new process would require that: the person did not have any other conviction for an offense set forth under subsection b. or c. of N.J.S.2C:52-2; at least 10 years have passed since successful discharge from special probation; the person has not been convicted of any crime or offense since discharge; the person does not have any pending charges yet to be disposed of at the time of application; and the child endangerment conviction was determined by the Superior Court that receives the expungement petition to have been nonviolent based upon a review conducted by the county prosecutor reviewing the petition; the bill provides a list of acts of "abuse" or "cruelty," specifically defined in R.S.9:6-1, and "abused or neglected child," specifically defined in

subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), cross referenced by the crime of child endangerment, that would be considered violent due to the sexual nature of the act, or having a component of physical or mental harm specifically directed at a child, and which would thus render the person ineligible for the expungement relief established by the bill.

The person would present the application for relief to the Superior Court in the county in which the person was sentenced to special probation, containing a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition would then largely proceed in accordance with the general expungement law, N.J.S.2C:52-1 et seq., but include the particular review of the child endangerment crime in order to determine whether that crime was nonviolent, thus permitting the person to continue to proceed with the comprehensive expungement. It would be the obligation of the prosecutor to notify the court of any disqualifying convictions, any conviction for endangering the welfare of a child reviewed by the prosecutor and found to be violent, or any other factors related to public safety that should be considered by the court when deciding to grant an expungement.

The Superior Court would consider the person's verified petition and could order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court would grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement under the newly established process.

This bill, as amended and reported, is identical to Senate Bill No. 2951, also amended and reported by the committee today.

The committee amendments to the bill:

- create the alternative comprehensive expungement process for persons successfully discharged from special probation who have a conviction for a nonviolent criminal act of child endangerment, as described in the statement above; and
- eliminate any eligibility for a comprehensive expungement pursuant to the existing processes for persons discharged from special probation, if a person has a child endangerment conviction.