## ASSEMBLY, No. 5458 STATE OF NEW JERSEY 219th LEGISLATURE

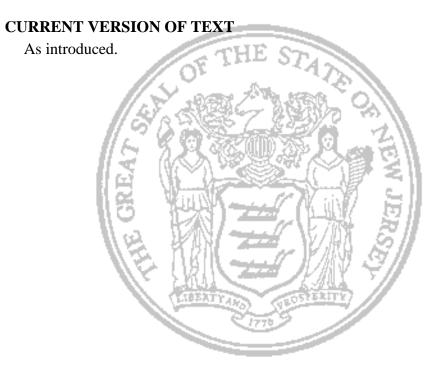
INTRODUCED MARCH 15, 2021

Sponsored by: Assemblywoman VALERIE VAINIERI HUTTLE District 37 (Bergen) Assemblyman RAJ MUKHERJI District 33 (Hudson) Assemblywoman ANGELA V. MCKNIGHT District 31 (Hudson)

Co-Sponsored by: Assemblyman Verrelli

## **SYNOPSIS**

Permits expungement of possession or distribution of hypodermic syringe or needle offense in cases of previous expungement; repeals criminal offense of possession of syringe.



(Sponsorship Updated As Of: 3/15/2021)

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AN ACT concerning certain expungements 1 and amending 2 N.J.S.2C:52-14 and repealing N.J.S.2C:36-6. 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. N.J.S.2C:52-14 is amended to read as follows: 8 2C:52-14. A petition for expungement filed pursuant to this 9 chapter shall be denied when: 10 a. Any statutory prerequisite, including any provision of this 11 chapter, is not fulfilled or there is any other statutory basis for 12 denying relief. 13 b. The need for the availability of the records outweighs the desirability of having a person freed from any disabilities as 14 15 otherwise provided in this chapter. An application may be denied 16 under this subsection only following objection of a party given notice pursuant to N.J.S.2C:52-10 and the burden of asserting such 17 18 grounds shall be on the objector. c. In connection with a petition under N.J.S.2C:52-6, the 19 20 acquittal, discharge or dismissal of charges resulted from a plea 21 bargaining agreement involving the conviction of other charges. 22 This bar, however, shall not apply once the conviction is itself 23 expunged. 24 d. The arrest or conviction sought to be expunged is, at the 25 time of hearing, the subject matter of civil litigation between the 26 petitioner or his legal representative and the State, any 27 governmental entity thereof or any State agency and the representatives or employees of any such body. 28 29 Except as set forth in subsection a. of section 7 of P.L.2019, e. 30 c.269 (C.2C:52-5.3) concerning a "clean slate" expungement 31 petition, the person has had a previous criminal conviction 32 expunged regardless of the lapse of time between the prior 33 expungement, or sealing under prior law, and the present petition. 34 This provision shall not apply: 35 (1) When the person is seeking the expungement of a municipal 36 ordinance violation [or,] 37 (2) When the person is seeking the expungement of records 38 pursuant to N.J.S.2C:52-6, or 39 (3) When the person is seeking the expungement of records pursuant to N.J.S.2C:36-6 for possession or distribution of 40 41 hypodermic syringe or needle. 42 (Deleted by amendment, P.L.2017, c.244) f. 43 (cf: P.L.2019, c.269, s.12) 44 45 2. N.J.S.2C:36-6 is repealed.

**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 <u>thus</u> is new matter.

## A5458 VAINIERI HUTTLE, MUKHERJI

3. This act shall take effect immediately.

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## STATEMENT

6 N.J.S.2C:52-14 enumerates the grounds for denial of a petition 7 for expungement. Subsection e. bars expungement when the person 8 has had a previous criminal conviction expunged, but contains 9 exceptions including (1) when the person is seeking the 10 expungement of a municipal ordinance violation or, (2) when the 11 person is seeking the expungement of records pursuant to for an 12 arrest not resulting in conviction. This bill adds N.J.S.2C:36-6, 13 possession or distribution of hypodermic syringe or needle, to the 14 list of exceptions, thereby permitting expungement of conviction for 15 this offense where there has been a previous expungement. 16 Possession or distribution of hypodermic syringe or needle is 17 currently graded as a disorderly persons offense, and would ordinarily be eligible for expungement. It is the sponsor's view 18 19 that, if no other obstacle would bar or result in the denial of 20 expungement, the existence of a previous expungement should not, 21 alone, bar expungement of possession or distribution of a 22 hypodermic needle. 23 The bill further repeals N.J.S.2C:36-6, possession or distribution

Ine bill further repeals N.J.S.2C:36-6, possession or distribution
of hypodermic syringe or needle. By removing the requirement to
have a prescription for a syringe, it will no longer be a criminal
offense to possess or to distribute a hypodermic needle or syringe.
Notwithstanding the repeal of N.J.S.2C:36-6, subsection c. of
N.J.S.2C:36-6.2 bars the resale of a hypodermic needle or syringe
lawfully obtained from a pharmacy.