

# ASSEMBLY, No. 5833

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 2, 2021

**Sponsored by:**

**Assemblyman SEAN T. KEAN**

**District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblymen McClellan and Simonsen**

**SYNOPSIS**

Delays prosecution of law enforcement officers for crime of official deprivation of civil rights related to underage possession or use of cannabis or alcohol for one year.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/8/2021)**

1 AN ACT concerning law enforcement, amending P.L.2021, c.25 and  
2 P.L.1979, c.264, and supplementing Title 52 of the Revised  
3 Statutes.

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

7  
8 1. Section 3 of P.L.2021, c.25 (C.2C:30-6.1) is amended to  
9 read as follows:

10 3. **[A]** a. Except as otherwise provided in this section, a law  
11 enforcement officer, when responding to a call for service or upon  
12 the initiation of any other law enforcement or investigative  
13 encounter related to a violation or suspected violation of paragraph  
14 (1) of subsection a. of section 1 of P.L.1979, c.264 (C.2C:33-15),  
15 concerning the possession or consumption of alcoholic beverages,  
16 marijuana, hashish, or any cannabis item by a person under the legal  
17 age to purchase alcoholic beverages or cannabis items, shall be  
18 guilty of a crime of official deprivation of civil rights as defined in  
19 section 2 of P.L.2003, c.31 (C.2C:30-6) if that officer knowingly  
20 violates the provisions of subsection a. of section 1 of P.L.1979,  
21 c.264 (C.2C:33-15) that address law enforcement actions involving  
22 persons who are under the legal age to purchase alcoholic beverages  
23 or cannabis items by requesting that a person consent to a search  
24 who is not capable of giving lawful consent or searching a person  
25 after wrongfully obtaining that person's consent, initiating an  
26 investigatory stop without reasonable articulable suspicion,  
27 initiating a search without probable cause, issuing a warning or  
28 write-up without a proper basis that a person committed a violation,  
29 or detaining or taking into custody a person in a manner or for a  
30 longer period beyond the extent required to issue a warning or  
31 write-up, or arresting a person for a possession or consumption  
32 violation of paragraph (1) of subsection a. of section 1 of P.L.1979,  
33 c.264 (C.2C:33-15), or if that officer knowingly engages in any  
34 other unlawful act, as described in subsection e. of section 2 of  
35 P.L.2003, c.31 (C.2C:30-6), against the person arising out of the  
36 call for service or initiation of any other law enforcement or  
37 investigative encounter, including but not limited to the unjustified  
38 use of force in violation of N.J.S.2C:3-7. A violation set forth in  
39 this section shall not require that the law enforcement officer have  
40 acted with the purpose to intimidate or discriminate against a person  
41 or group of persons because of race, color, religion, gender,  
42 handicap, sexual orientation or ethnicity. A violation of this section  
43 shall be graded in the same manner as set forth in section 2 of  
44 P.L.2003, c.21 (C.2C:30-6) for other crimes of official deprivation  
45 of civil rights.

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

Matter underlined thus is new matter.

1     b. A law enforcement officer responding to a call for service or  
2 initiating a law enforcement or investigative encounter shall not be  
3 guilty of a crime of official deprivation of civil rights pursuant to  
4 subsection a. of this section if the call for service or investigative  
5 encounter occurs prior to the first day of the thirteenth month next  
6 following the date of enactment of P.L. , c. (C. ) (pending  
7 before the Legislature as this bill).

8     c. Except to the extent required to dismiss, withdraw, or  
9 terminate the charge, no prosecutor shall pursue any charge, based  
10 on a crime of official deprivation of civil rights pursuant to  
11 subsection a. of this section based on a call for service or  
12 investigative encounter that occurs prior to the first day of the  
13 thirteenth month next following the date of enactment of P.L. ,  
14 c. (C. ) (pending before the Legislature as this bill). These  
15 non-prosecutable charges and cases shall be expeditiously  
16 dismissed, which may be accomplished by appropriate action by the  
17 prosecutor based upon guidelines issued by the Attorney General, or  
18 the court's own motion based upon administrative directives issued  
19 by the Administrative Director of the Courts.

20     d. (1) Any guilty verdict, plea, or other entry of guilt for a  
21 crime of official deprivation of civil rights pursuant to subsection a.  
22 of this section based on a call for service or investigative encounter  
23 that occurs prior to the first day of the thirteenth month next  
24 following the date of enactment of section 1 of P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill) entered  
26 prior to the effective date of P.L. , c. (C. ) (pending before  
27 the Legislature as this bill), but the judgment of conviction or final  
28 disposition on the matter was not entered prior to that date, shall be  
29 vacated by operation of law. The Administrative Director of the  
30 Courts, in consultation with the Attorney General, may take any  
31 administrative action as may be necessary to vacate the guilty  
32 verdict, plea, placement in a diversionary program, or other entry of  
33 guilt.

34     (2) Any conviction, remaining sentence, ongoing supervision, or  
35 unpaid court-ordered financial assessment as defined in section 8 of  
36 P.L.2017, c.244 (C.2C:52-23.1) of any person who, on the effective  
37 date of section 1 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill), is or will be serving a sentence of  
39 incarceration, probation, parole or other form of community  
40 supervision as a result of the person's conviction for a crime of  
41 official deprivation of civil rights pursuant to subsection a. of this  
42 section based on a call for service or investigative encounter that  
43 occurs prior to the first day of the thirteenth month next following  
44 the date of enactment of section 1 of P.L. , c. (C. ) (pending  
45 before the Legislature as this bill) shall be vacated by operation of  
46 law. The Administrative Director of the Courts, in consultation  
47 with the Attorney General, may take any administrative action as

1 may be necessary to vacate the conviction, remaining sentence,  
2 ongoing supervision, or unpaid court-ordered financial assessment.  
3 (cf: P.L.2021, c.25, s.3)  
4

5 2. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to  
6 read as follows:

7 1. a. (1) Any person under the legal age to purchase alcoholic  
8 beverages, or under the legal age to purchase cannabis items, who  
9 knowingly possesses without legal authority or who knowingly  
10 consumes any alcoholic beverage, cannabis item, marijuana, or  
11 hashish in any school, public conveyance, public place, or place of  
12 public assembly, or motor vehicle shall be subject to the following  
13 consequences:

14 (a) for a first violation, a written warning issued by a law  
15 enforcement officer to the underage person. The written warning  
16 shall include the person's name, address, and date of birth, and a  
17 copy of the warning containing this information, plus a sworn  
18 statement that includes a description of the relevant facts and  
19 circumstances that support the officer's determination that the  
20 person committed the violation, shall be temporarily maintained in  
21 accordance with this section only for the purposes of determining a  
22 second or subsequent violation subject to the consequences set forth  
23 in subparagraph (b) or (c) of this paragraph. If the violation of this  
24 section is by a person under 18 years of age, a written notification  
25 concerning the violation shall be provided to the parent, guardian or  
26 other person having legal custody of the underage person in  
27 accordance with section 3 of P.L.1991, c.169 (C.33:1-81.1a).

28 (b) for a second violation, a written warning issued by a law  
29 enforcement officer to the underage person indicating that a second  
30 violation has occurred, which includes the person's name, address,  
31 and date of birth. If the violation is by a person 18 years of age or  
32 older, the officer shall provide the person with informational  
33 materials about how to access community services provided by  
34 public or private agencies and organizations that shall assist the  
35 person with opportunities to access further social services,  
36 including but not limited to counseling, tutoring programs,  
37 mentoring services, and faith-based or other community initiatives.  
38 If the violation is by a person under 18 years of age, a written  
39 notification concerning the second violation shall be provided to the  
40 parent, guardian or other person having legal custody of the  
41 underage person in accordance with section 3 of P.L.1991, c.169  
42 (C.33:1-81.1a). The written notification shall include the same or  
43 similar informational materials about how to access community  
44 services provided by public or private agencies and organizations as  
45 those provided directly by a law enforcement officer to a person 18  
46 years of age or older who commits a second violation of this  
47 paragraph. A copy of the second written warning to the underage  
48 person, and, if applicable, the written notification to the parent,

1 guardian or other person having legal custody of the underage  
2 person concerning the second warning, plus a sworn statement that  
3 includes a description of the relevant facts and circumstances that  
4 support the officer's determination that the person committed the  
5 second violation, shall be temporarily maintained in accordance  
6 with this section only for the purposes of determining a subsequent  
7 violation subject to the consequences set forth in subparagraph (c)  
8 of this paragraph.

9 (c) for a third or subsequent violation, a write-up issued by a  
10 law enforcement officer to the underage person indicating that a  
11 third or subsequent violation has occurred, which includes the  
12 person's name, address, and date of birth. If the violation is by a  
13 person 18 years of age or older, the officer shall include with the  
14 write-up a referral for accessing community services provided by a  
15 public or private agency or organization, and provide notice to that  
16 agency or organization of the referral which may also be used to  
17 initiate contact with the person, and the agency or organization shall  
18 offer assistance to the person with opportunities to access further  
19 social services, including but not limited to counseling, tutoring  
20 programs, mentoring services, and faith-based or other community  
21 initiatives. If the violation is by a person under 18 years of age, a  
22 written notification concerning the third or subsequent violation  
23 shall be provided to the parent, guardian or other person having  
24 legal custody of the underage person in accordance with section 3  
25 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall  
26 include a referral for the person and the parent, guardian or other  
27 person having legal custody of the underage person for accessing  
28 community services provided by a public or private agency or  
29 organization, and provide notice to that agency or organization of  
30 the referral which may also then be used to initiate contact with  
31 both persons, and the agency or organization shall offer assistance  
32 to both with opportunities to access further social services,  
33 including counseling, tutoring programs, mentoring services, and  
34 faith-based or other community initiatives. A copy of a write-up for  
35 a third or subsequent violation, the written notification to the  
36 parent, guardian or other person having legal custody of the  
37 underage person, if applicable, and accompanying referrals, plus a  
38 sworn statement that includes a description of the relevant facts and  
39 circumstances that support the officer's determination that the  
40 person committed the third or subsequent violation, shall be  
41 temporarily maintained in accordance with this section only to the  
42 extent necessary to track referrals to agencies and organizations, as  
43 well as for the purposes of determining a subsequent violation  
44 subject to the consequences set forth in this subparagraph.

45 The failure of a person under the legal age to purchase alcoholic  
46 beverages or cannabis items, or the failure of a parent, guardian or  
47 other person having legal custody of the underage person, to accept  
48 assistance from an agency or organization to which a law

1 enforcement referral was made, or to access any community  
2 services provided by that agency or organization shall not result in  
3 any summons, initiation of a complaint, or other legal action to be  
4 adjudicated and enforced in any court.

5 (2) (a) A person under the legal age to purchase alcoholic  
6 beverages or cannabis items is not capable of giving lawful consent  
7 to a search to determine a violation of this section, and a law  
8 enforcement officer shall not request that a person consent to a  
9 search for that purpose.

10 (b) The odor of an alcoholic beverage, marijuana, hashish,  
11 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,  
12 or cannabis item, shall not constitute reasonable articulable  
13 suspicion to initiate an investigatory stop of a person, nor shall it  
14 constitute probable cause to initiate a search of a person or that  
15 person's personal property to determine a violation of paragraph (1)  
16 of this subsection. Additionally, the unconcealed possession of an  
17 alcoholic beverage, marijuana, hashish, or cannabis item in  
18 violation of paragraph (1) of this subsection, observed in plain sight  
19 by a law enforcement officer, shall not constitute probable cause to  
20 initiate a search of a person or that person's personal property to  
21 determine any further violation of that paragraph or any other  
22 violation of law.

23 (3) A person under the legal age to purchase alcoholic beverages  
24 or cannabis items who violates paragraph (1) of this subsection for  
25 possessing or consuming an alcoholic beverage, marijuana, hashish,  
26 or a cannabis item shall not be subject to arrest, shall not be  
27 transported to a police station, police headquarters, or other place of  
28 law enforcement operations, and shall not otherwise be subject to  
29 detention or be taken into custody by a law enforcement officer at  
30 or near the location where the violation occurred, except to the  
31 extent that detention or custody at or near the location is required to  
32 issue a written warning or write-up, collect the information  
33 necessary to provide notice of a violation to a parent, guardian or  
34 other person having legal custody of the underage person in  
35 accordance with section 3 of P.L.1991, c.169 (C.33:1-81a), or make  
36 referrals for accessing community services provided by a public or  
37 private agency or organization due to a third or subsequent  
38 violation, unless the person is being arrested, detained, or otherwise  
39 taken into custody for also committing another violation of law for  
40 which that action is legally permitted or required.

41 (4) Consistent with the provisions of subsection c. of section 1  
42 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording  
43 functions of a law enforcement officer's body worn camera, as  
44 defined in that section, shall be activated whenever the law  
45 enforcement officer is responding to a call for service related to a  
46 violation or suspected violation of paragraph (1) of this subsection  
47 for possessing or consuming an alcoholic beverage, marijuana,  
48 hashish, or a cannabis item, or at the initiation of any other law

1 enforcement or investigative encounter between an officer and a  
2 person related to a violation or suspected violation of that  
3 paragraph, and shall remain activated until the encounter has fully  
4 concluded and the officer leaves the scene of the encounter;  
5 provided, however, that the video and audio recording functions of  
6 a body worn camera shall not be deactivated pursuant to  
7 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,  
8 c.129 (C.40A:14-118.5), based on a request to deactivate the  
9 camera by a person who is the subject of a responsive call for  
10 service or law enforcement or investigative encounter related to a  
11 violation or suspected violation of paragraph (1) of this subsection.

12 (5) As part of the process for the issuance of a written warning  
13 or write-up to a person for a violation of paragraph (1) of this  
14 subsection, the law enforcement officer shall take possession of any  
15 alcoholic beverage, marijuana, hashish, or cannabis item from the  
16 person, and any drug or cannabis paraphernalia for use with any  
17 marijuana, hashish, or cannabis item. The existence and description  
18 of the alcoholic beverage, marijuana, hashish, or cannabis item, and  
19 any drug or cannabis paraphernalia shall be included in the sworn  
20 statement that includes a description of the relevant facts and  
21 circumstances that support the officer's determination that the  
22 person committed a violation, and which record is temporarily  
23 maintained in accordance with this section to determine subsequent  
24 possession or consumption violations, and track referrals for  
25 accessing community services provided by a public or private  
26 agency or organization due to a third or subsequent violation. Any  
27 alcoholic beverage, marijuana, hashish, cannabis item, or drug or  
28 cannabis paraphernalia obtained by the law enforcement officer  
29 shall either be destroyed or secured for use in law enforcement  
30 training or educational programs in accordance with applicable law  
31 and directives issued by the Attorney General.

32 (6) With respect to any violation of paragraph (1) of this  
33 subsection concerning the possession or consumption of an  
34 alcoholic beverage, marijuana, hashish, or any cannabis item:

35 (a) a person under the legal age to purchase alcoholic beverages  
36 or cannabis items shall not be photographed or fingerprinted,  
37 notwithstanding any provisions of section 2 of P.L.1982, c.79  
38 (C.2A:4A-61) to the contrary;

39 (b) (i) any copy of any written warning or write-up issued to a  
40 person under the legal age to purchase alcoholic beverages or  
41 cannabis items, written notification provided to the person's parent,  
42 guardian or other person having legal custody in accordance with  
43 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement  
44 describing the relevant facts and circumstances that support an  
45 officer's determination that a person committed a violation, or  
46 referrals for accessing community services provided by a public or  
47 private agency or organization pertaining to a third or subsequent  
48 violation shall be segregated and maintained in a separate physical

1 location or electronic repository or database from any other records  
2 maintained by a law enforcement agency, and reported to the  
3 Attorney General in a manner so that they are similarly segregated  
4 and maintained in a separate physical location or electronic  
5 repository or database from other law enforcement records  
6 accessible to the Attorney General and State and local law  
7 enforcement agencies, and shall not be transferred to or copied and  
8 placed in any other physical location or electronic repository or  
9 database containing any other law enforcement records. These  
10 records shall only be used to the extent necessary to determine a  
11 subsequent violation of paragraph (1) of this subsection or to track  
12 referrals to agencies and organizations, and shall not be revealed,  
13 reviewed, or considered in any manner with respect to any current  
14 or subsequent juvenile delinquency matter, including but not limited  
15 to, a charge, filing, eligibility or decision for diversion or discharge,  
16 or sentencing, other disposition, or related decision affecting the  
17 juvenile, or with respect to any current or subsequent prosecution  
18 for committing an offense or other violation of law, including but  
19 not limited to, a charge, filing, eligibility or decision for diversion  
20 or discharge, or sentencing, other disposition, or related decision  
21 affecting an adult under 21 years of age. Also, these records shall be  
22 deemed confidential and shall not be subject to public inspection or  
23 copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et  
24 seq.), and their existence shall not be acknowledged based upon any  
25 inquiry in the same manner as if the records were expunged records  
26 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

27 The Attorney General may use the records described herein to  
28 generate the number of occurrences and other statistics concerning  
29 first, second, third and subsequent violations of paragraph (1) of  
30 this subsection, the municipal, county or other geographic areas  
31 within which first, second, third and subsequent violations occur,  
32 and the law enforcement agencies involved in first, second, third  
33 and subsequent violations, which are to be compiled and made  
34 available by the Attorney General in accordance with section 4 of  
35 P.L.2021, c.25 (C.2C:33-15.1). The identity of any person named in  
36 a record shall not be revealed or included in the information to be  
37 compiled and made available in accordance with that section.

38 The records of violations shall only be maintained temporarily  
39 and shall be destroyed or permanently deleted as set forth in  
40 subparagraph (c) of this paragraph.

41 (ii) any records pertaining to a person's acceptance of assistance  
42 from an agency or organization to which a law enforcement referral  
43 was made shall not be revealed, reviewed, or considered in any  
44 manner with respect to any current or subsequent juvenile  
45 delinquency matter, including but not limited to, a charge, filing,  
46 eligibility or decision for diversion or discharge, or sentencing,  
47 other disposition, or related decision affecting the juvenile, or with  
48 respect to any current or subsequent prosecution for committing an



1 offense or other violation of law, including but not limited to, a  
2 charge, filing, eligibility or decision for diversion or discharge, or  
3 sentencing, other disposition, or related decision affecting an adult  
4 under 21 years of age. Also, these records shall be deemed  
5 confidential and shall not be subject to public inspection or copying  
6 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),  
7 and their existence shall not be acknowledged based upon any  
8 inquiry in the same manner as if the records were expunged records  
9 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

10 (c) All of the records maintained by a law enforcement agency  
11 and reported to the Attorney General as described in  
12 subparagraph (i) of subparagraph (b) of this paragraph shall be  
13 destroyed or permanently deleted by the law enforcement agency  
14 and Attorney General on the second anniversary following the  
15 creation of the record concerning a violation, or not later than the  
16 last day of the month in which that second anniversary date falls, or  
17 alternatively not later than the 21st birthday of a person who is the  
18 subject of a record, or not later than the last day of the month in  
19 which that birthday falls, whichever date occurs sooner, except that  
20 a record shall be maintained upon request by the person named in  
21 the record or representative thereof, the law enforcement officer  
22 who made the record, or the law enforcement agency currently  
23 maintaining the record if it involves a lawsuit, disciplinary  
24 complaint, or criminal prosecution arising from the violation  
25 described in the record, based on an assertion that the record has  
26 evidentiary or exculpatory value. Upon final disposition of the  
27 matter for which the extended record retention was requested, the  
28 record shall be destroyed or permanently deleted.

29 (d) **【A】** On or before the first day of the thirteenth month next  
30 following the date of enactment of P.L. , c. (C. ) (pending  
31 before the Legislature as this bill), a law enforcement officer shall  
32 be guilty of the crime of official deprivation of civil rights as set  
33 forth in section 3 of P.L.2021, c.25 (C.2C:30-6.1) for violating the  
34 provisions of paragraph (1) of this subsection that address law  
35 enforcement actions involving persons who are under the legal age  
36 to purchase alcoholic beverages or cannabis items.

37 (i) Except to the extent required to dismiss, withdraw, or  
38 terminate the charge, no prosecutor shall pursue any charge for a  
39 crime of official deprivation of civil rights pursuant to subparagraph  
40 (d) of paragraph (6) of subsection a. of this section based on a call  
41 for service or investigative encounter that occurs prior to the first  
42 day of the thirteenth month next following the date of enactment of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill).  
44 These non-prosecutable charges and cases shall be expeditiously  
45 dismissed, which may be accomplished by appropriate action by the  
46 prosecutor based upon guidelines issued by the Attorney General, or  
47 the court's own motion based upon administrative directives issued  
48 by the Administrative Director of the Courts.

1       (ii) Any guilty verdict, plea, or other entry of guilt for a crime of  
2 official deprivation of civil rights pursuant to subparagraph (d) of  
3 paragraph (6) of subsection a. of this section based on a call for  
4 service or investigative encounter that occurs prior to the first day  
5 of the thirteenth month next following the date of enactment of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill)  
7 entered prior to the effective date of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill), for which the judgment of  
9 conviction or final disposition on the matter was not entered prior to  
10 that date, shall be vacated by operation of law. The Administrative  
11 Director of the Courts, in consultation with the Attorney General,  
12 may take any administrative action as may be necessary to vacate  
13 the guilty verdict, plea, placement in a diversionary program, or  
14 other entry of guilt.

15       (iii) Any conviction, remaining sentence, ongoing supervision, or  
16 unpaid court-ordered financial assessment as defined in section 8 of  
17 P.L.2017, c.244 (C.2C:52-23.1) of any person who, on the effective  
18 date of P.L. , c. (C. ) (pending before the Legislature as this  
19 bill), is or will be serving a sentence of incarceration, probation,  
20 parole or other form of community supervision as a result of the  
21 person's conviction for a crime of official deprivation of civil rights  
22 pursuant to subparagraph (d) of paragraph (6) of subsection a. of  
23 this section based on a call for service or investigative encounter  
24 that occurs prior to the first day of the thirteenth month next  
25 following the date of enactment of P.L. , c. (C. ) (pending  
26 before the Legislature as this bill) shall be vacated by operation of  
27 law. The Administrative Director of the Courts, in consultation  
28 with the Attorney General, may take any administrative action as  
29 may be necessary to vacate the conviction, remaining sentence,  
30 ongoing supervision, or unpaid court-ordered financial assessment.

31       b. (Deleted by amendment, P.L.2021, c.25)

32       c. (Deleted by amendment, P.L.2021, c.25)

33       d. Nothing in this act shall apply to possession of alcoholic  
34 beverages by any such person while actually engaged in the  
35 performance of employment pursuant to an employment permit  
36 issued by the Director of the Division of Alcoholic Beverage  
37 Control, or for a bona fide hotel or restaurant, in accordance with  
38 the provisions of R.S.33:1-26, or while actively engaged in the  
39 preparation of food while enrolled in a culinary arts or hotel  
40 management program at a county vocational school or post-  
41 secondary educational institution; and nothing in this section shall  
42 apply to possession of cannabis items by any such person while  
43 actually engaged in the performance of employment by a cannabis  
44 establishment, distributor, or delivery service as permitted pursuant  
45 to the "New Jersey Cannabis Regulatory, Enforcement Assistance,  
46 and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et  
47 al.).

1 e. Except as otherwise provided in this section, the provisions  
2 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a  
3 parent, guardian or other person with legal custody of a person  
4 under 18 years of age who is found to be in violation of this section.

5 f. An underage person and one or two other persons shall be  
6 immune from prosecution under this section if:

7 (1) one of the underage persons called 9-1-1 and reported that  
8 another underage person was in need of medical assistance due to  
9 alcohol consumption, or the consumption of marijuana, hashish, or  
10 a cannabis item;

11 (2) the underage person who called 9-1-1 and, if applicable, one  
12 or two other persons acting in concert with the underage person  
13 who called 9-1-1 provided each of their names to the 9-1-1  
14 operator;

15 (3) the underage person was the first person to make the 9-1-1  
16 report; and

17 (4) the underage person and, if applicable, one or two other  
18 persons acting in concert with the underage person who made the 9-  
19 1-1 call remained on the scene with the person under the legal age  
20 in need of medical assistance until assistance arrived and  
21 cooperated with medical assistance and law enforcement personnel  
22 on the scene.

23 The underage person who received medical assistance also shall  
24 be immune from prosecution under this section.

25 g. For purposes of this section, an alcoholic beverage includes  
26 powdered alcohol as defined by R.S.33:1-1, a cannabis item  
27 includes any item available for lawful consumption pursuant to the  
28 "New Jersey Cannabis Regulatory, Enforcement Assistance, and  
29 Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.),  
30 and the terms "marijuana" and "hashish" have the same meaning as  
31 set forth in N.J.S.2C:35-2, and the terms "drug paraphernalia" and  
32 "cannabis paraphernalia" have the same meaning as set forth in  
33 N.J.S.2C:36-1 and section 3 of P.L.2021, c.16 (C.24:6I-33),  
34 respectively.

35 (cf: P.L.2021, c.38, s.1)

36  
37 3. (New section) Any case that, prior to the first day of the  
38 thirteenth month next following the date of enactment of section 1  
39 of P.L. , c. (C. ) (pending before the Legislature as this  
40 bill), includes a conviction of a crime of official deprivation of civil  
41 rights pursuant to section 3 of P.L.2021, c.25 (C.2C:30-6.1) shall be  
42 expunged by operation of law, and any remaining sentence, ongoing  
43 supervision, or unpaid court-ordered financial assessment as  
44 defined in section 8 of P.L.2017, c.244 (C.2C:52-23.1) shall be  
45 vacated by operation of law. The Administrative Director of the  
46 Courts, in consultation with the Attorney General, may take any  
47 administrative action as may be necessary to expeditiously

1 effectuate the expungement of records associated with any  
2 expunged matter.

3

4 4. This act shall take effect immediately.

5

6

7

#### STATEMENT

8

9 This bill delays prosecution of law enforcement officers for the  
10 crime of official deprivation of civil rights related to underage  
11 possession or use of cannabis or alcohol for one year.

12 Under current law, a law enforcement officer, when responding  
13 to a call for service or upon the initiation of any other law  
14 enforcement or investigative encounter related to a violation  
15 concerning the unlawful possession or consumption of alcoholic  
16 beverages, marijuana, hashish, or any cannabis item by a person  
17 under the legal age to purchase alcoholic beverages or cannabis  
18 items, may be guilty of a crime of official deprivation of civil rights  
19 under certain circumstances.

20 Under the bill, a law enforcement officer responding to a call for  
21 service or initiating a law enforcement or investigative encounter is  
22 not be deemed guilty of a crime of official deprivation of civil  
23 rights if the call for service or investigative encounter occurs earlier  
24 than one year following the date of enactment of the bill. The bill  
25 specifically prohibits the prosecution of a law enforcement officer  
26 for this crime if the call for service or investigative encounter  
27 occurs earlier than one year following the date of enactment of the  
28 bill.

29 The bill further provides that any charges that are pending on the  
30 effective date of the bill which are based on call for service or  
31 investigative encounter that occurred prior to the one year following  
32 the bill's effective date are to be dismissed, and any related guilty  
33 verdict, plea, or other entry of guilt; and any related conviction,  
34 remaining sentence, ongoing supervision, or unpaid court-ordered  
35 financial assessment is to be vacated by operation of law. The bill  
36 also requires a related conviction to be expunged by operation of  
37 law.

38 It is the sponsor's intent to delay these prosecutions in order to  
39 provide New Jersey residents, including parents as well as law  
40 enforcement officers, sufficient time to understand and adapt to the  
41 changes in the State's marijuana laws.