

SENATE, No. 3493

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 4, 2021

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Co-Sponsored by:

Senator Lagana

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.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

1 AN ACT concerning certain expungements and amending
2 N.J.S.2C:52-14 and repealing N.J.S.2C:36-6.

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

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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
14 desirability of having a person freed from any disabilities as
15 otherwise provided in this chapter. An application may be denied
16 under this subsection only following objection of a party given
17 notice pursuant to N.J.S.2C:52-10 and the burden of asserting such
18 grounds shall be on the objector.

19 c. In connection with a petition under N.J.S.2C:52-6, the
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
28 representatives or employees of any such body.

29 e. Except as set forth in subsection a. of section 7 of P.L.2019,
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
40 pursuant to N.J.S.2C:36-6 for possession or distribution of
41 hypodermic syringe or needle.

42 f. (Deleted by amendment, P.L.2017, c.244)
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 thus is new matter.

1 3. This act shall take effect immediately.

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STATEMENT

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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
18 ordinarily be eligible for expungement. It is the sponsor's view
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
24 of hypodermic syringe or needle. By removing the requirement to
25 have a prescription for a syringe, it will no longer be a criminal
26 offense to possess or to distribute a hypodermic needle or syringe.
27 Notwithstanding the repeal of N.J.S.2C:36-6, subsection c. of
28 N.J.S.2C:36-6.2 bars the resale of a hypodermic needle or syringe
29 lawfully obtained from a pharmacy.