## SENATE, No. 3577

# STATE OF NEW JERSEY

### 219th LEGISLATURE

INTRODUCED MARCH 22, 2021

**Sponsored by:** 

Senator DECLAN J. O'SCANLON, JR.

**District 13 (Monmouth)** 

Senator ANTHONY M. BUCCO

**District 25 (Morris and Somerset)** 

**Co-Sponsored by:** 

Senators Holzapfel, Singer, Testa, Bateman, Oroho and Schepisi

#### **SYNOPSIS**

Removes criminal liability for law enforcement officers who have investigative encounter with underage person for possession of alcohol or cannabis unless civil rights are violated.

#### **CURRENT VERSION OF TEXT**

As introduced.



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

1 AN ACT concerning law enforcement and amending P.L.2021, c.25

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

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- 1. Section 3 of P.L.2021 c.25 (C.2C:30-6.1) is amended to read as follows:
- 8 3. <u>a.</u> A law enforcement officer, when responding to a call for 9 service or upon the initiation of any other law enforcement or 10 investigative encounter related to a violation or suspected violation of paragraph (1) of subsection a. of section 1 of P.L.1979, c.264 11 12 (C.2C:33-15), concerning the possession or consumption of 13 alcoholic beverages, marijuana, hashish, or any cannabis item by a 14 person under the legal age to purchase alcoholic beverages or 15 cannabis items, shall be guilty of a crime of official deprivation of civil rights as defined in section 2 of P.L.2003, c.31 (C.2C:30-6) if 16 17 that officer knowingly violates the provisions of subsection a. of 18 section 1 of P.L.1979, c.264 (C.2C:33-15) that address law 19 enforcement actions involving persons who are under the legal age 20 to purchase alcoholic beverages or cannabis items by:
  - (1) requesting that a person consent to a search who is not capable of giving lawful consent or searching a person after wrongfully obtaining that person's consent [,];
  - (2) initiating an investigatory stop without reasonable articulable suspicion [,];
    - (3) initiating a search without probable cause [,];
  - (4) issuing a warning or write-up without a proper basis that a person committed a violation [, or];
- 29 (5) detaining or taking into custody a person in a manner or for a longer period beyond the extent required to issue a warning or write-up [, or];
  - (6) arresting a person for a possession or consumption violation of paragraph (1) of subsection a. of section 1 of P.L.1979, c.264 (C.2C:33-15) [,]; or [if that officer]
- 35 (7) knowingly [engages] engaging in any other unlawful act, as 36 described in subsection e. of section 2 of P.L.2003, c.31 (C.2C:30-37 6), against the person arising out of the call for service or initiation 38 of any other law enforcement or investigative encounter, including 39 but not limited to the unjustified use of force in violation of 40 N.J.S.2C:3-7.
- b. A violation set forth in this section shall [not] require a finding that the law enforcement officer [have] acted with the purpose to intimidate or discriminate against a person or group of persons because of race, color, religion, gender, handicap, sexual orientation or ethnicity in accordance with section 2 of P.L.2003, c.31 (C.2C:30-6).

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

#### S3577 O'SCANLON, A.M.BUCCO

1 c. A violation of this section shall be graded in the same manner 2 as set forth in [section 2 of P.L.2003, c.21 (C.2C:30-6)] section 2 of P.L.2003, c.31 (C.2C:30-6) for other crimes of official 3 4 deprivation of civil rights. 5

(cf: P.L.2021 c.25, s.3)

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2. This act shall take effect immediately.

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#### **STATEMENT**

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This bill provides that a law enforcement officer is not criminally liable for deprivation of civil rights for certain interactions with an underage person who possesses or consumes alcohol, marijuana, or certain cannabis items unless the officer acted with the purpose to intimidate or discriminate against a person or group of persons because of race, color, religion, gender, handicap, sexual orientation or ethnicity.

Under current law, a law enforcement officer, when responding to a call for service or upon the initiation of any other law enforcement or investigative encounter related to a violation concerning the unlawful possession or consumption of alcoholic beverages, marijuana, hashish, or any cannabis item by a person under the legal age to purchase alcoholic beverages or cannabis items, may be guilty of a crime of official deprivation of civil rights under certain circumstances. Current law imposes criminal liability regardless of whether the officer's act was done with the purpose to intimidate or discriminate against a person or group of persons because of race, color, religion, gender, handicap, sexual orientation or ethnicity, which motivation is required to be proven for other acts of criminal deprivation of civil rights under section 2 of P.L.2003, c.31 (C.2C:30-6).

Under this bill, a law enforcement officer who purposely intimidates or discriminates against an underage person because of the person's race, color, religion, gender, handicap, sexual orientation or ethnicity by engaging in a law enforcement or investigative encounter related to a violation concerning the underage possession or consumption of alcoholic beverages, marijuana, hashish, or any cannabis would be guilty of deprivation of civil rights.

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