

ASSEMBLY, No. 3620

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 12, 2018

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman ARTHUR BARCLAY

District 5 (Camden and Gloucester)

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District 7 (Burlington)

Co-Sponsored by:

Assemblywomen Jasey and McKnight

SYNOPSIS

Provides for expedited expungement of marijuana offenses in the event of decriminalization or legalization; establishes the “Expungement Coordinator Program” for certain marijuana convictions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/25/2018)

1 AN ACT concerning expungement and supplementing Title 2C of
2 the New Jersey Statutes.

3

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

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7 1. a. Notwithstanding any other provision of law to the
8 contrary, upon enactment of legislation legalizing or
9 decriminalizing possession and use of marijuana, hashish,
10 marijuana concentrate or marijuana-infused products the following
11 persons may file a petition for expungement at any time:

12 (1) any person who has been charged with or convicted of
13 obtaining, possessing, using, being under the influence of, or failing
14 to make lawful disposition of marijuana pursuant to N.J.S.2C:35-10
15 and whose past act is no longer considered to be a crime or offense;

16 (2) any person who has been charged with or convicted of using
17 or possessing with intent to use drug paraphernalia for use of
18 marijuana pursuant N.J.S.2C:36-2 and whose past act is no longer
19 considered to be a crime or offense; or

20 (3) any person who has been charged with or convicted of
21 possessing or using marijuana concentrate or marijuana-infused
22 products and whose past act is no longer considered to be a crime or
23 offense.

24 b. The provisions of N.J.S.2C:52-9 through N.J.S.2C:52-14
25 shall not apply to the petition and the court, upon review of the
26 petition, shall immediately grant the expungement.

27 c. As used in this section:

28 “Marijuana concentrate” means a product consisting wholly or in
29 part of the resin extracted from any part of the plant Genus
30 Cannabis L. and having a tetrahydrocannabinol concentration
31 greater than 10 percent.

32 “Marijuana-infused products” means products that contain
33 marijuana extracts, are intended for human use, are derived from
34 marijuana and have a tetrahydrocannabinol concentration no greater
35 than 10 percent.

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37 2. a. The Administrative Director of the Courts shall establish
38 an “Expungement Coordinator Program” for the purpose of serving
39 as a resource for persons who file a petition for expungement in
40 accordance with the provisions of P.L. , c. (C.) (pending
41 before the Legislature as this bill). The expungement coordinator
42 shall provide assistance to the applicant with:

43 (1) preparing, filing, and servicing the expungement application;

44 (2) obtaining the necessary records from the appropriate county
45 or State government agencies for completion of the expungement
46 application; and

47 (3) distributing the finalized expungement order.

1 b. As used in P.L. , c. (C.) (pending before the
2 Legislature as this bill), an “expungement coordinator” shall mean a
3 volunteer who has been screened, trained, approved, and supervised
4 by the Administrative Director of the Courts to participate in the
5 “Expungement Coordinator Program.” “Volunteer” means a
6 member of any civic or community-based organization involved
7 with social justice issues, an attorney on a pro bono basis or an
8 attorney from a legal services organization that provides legal
9 assistance in civil matters, or a law student attending any accredited
10 law school.

11 c. An expungement coordinator shall be subject to guidelines
12 and standards established by the Administrative Director of the
13 Courts.

14 d. Any expungement coordinator acting in good faith within
15 the scope of his appointment shall have immunity from any civil or
16 criminal liability that otherwise might result by reason of his
17 actions or failures to act except in cases of willful or wanton
18 misconduct.

19

20 3. The Administrative Director of the Courts shall develop and
21 maintain a public awareness campaign regarding the “Expungement
22 Coordinator Program” established pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill).

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25 4. This act shall take effect upon the enactment of legislation
26 legalizing or decriminalizing possession and use of marijuana,
27 hashish, marijuana concentrate or marijuana-infused products.

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STATEMENT

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32 This bill, which is contingent upon enactment of legislation
33 legalizing or decriminalizing possession and use of marijuana,
34 would provide for an expedited expungement process for certain
35 marijuana and marijuana-related offenses and establish an
36 expungement coordinator program to facilitate the process.

37 Currently, the Judiciary provides materials and information to
38 assist individuals in petitioning the court for expungement. While
39 this information is essential, one-to-one assistance to those
40 individuals is also important. It is the sponsor’s belief that
41 establishing a centralized resource where individuals charged with
42 or convicted of marijuana offenses may go for assistance enhances
43 the Judiciary’s existing system.

44 AUTOMATIC EXPUNGEMENT

45 The bill provides that upon enactment of legislation legalizing or
46 decriminalizing possession and use of marijuana, hashish,
47 marijuana concentrate or marijuana-infused products, any person
48 charged with or convicted of certain marijuana offenses would be

1 eligible for automatic expungement of their criminal records.
2 Under the bill, any person who has been charged with or convicted
3 of obtaining, possessing, using, being under the influence of, or
4 failing to make lawful disposition of marijuana pursuant to
5 N.J.S.2C:35-10 and whose past act is no longer considered to be a
6 crime or offense would be eligible for automatic expungement.
7 Automatic expungement would also apply for any person who has
8 been charged with or convicted of using or possessing with intent to
9 use drug paraphernalia for use of marijuana pursuant N.J.S.2C:36-2
10 and whose past act is no longer considered to be a crime or offense.
11 In addition, automatic expungement would apply for any person
12 who has been charged with or convicted of possessing or using
13 marijuana concentrate or marijuana-infused products and whose
14 past act is no longer considered to be a crime or offense.

15 EXPUNGEMENT COORDINATOR PROGRAM

16 In addition, the bill provides that the Administrative Director of
17 the Courts would establish an “Expungement Coordinator Program”
18 for the purpose of serving as a resource to persons who file a
19 petition for expungement in accordance with the bill. The
20 expungement coordinator would provide assistance to the applicant
21 with the preparation, filing, and service of the expungement
22 application. The coordinator would also provide assistance to the
23 applicant with obtaining the records needed for completion of the
24 expungement application from county or State government agencies
25 and assist the applicant with the finalized order.

26 The coordinator would be a volunteer who has been screened,
27 trained, approved and supervised by the Administrative Director of
28 the Courts to participate in the program. “Volunteer” means a
29 member of any civic or community-based organization involved in
30 social justice issues, an attorney on a pro bono basis or an attorney
31 from a legal services organization that provides legal assistance in
32 civil matters, or a law student attending any accredited law school.
33 An expungement coordinator would be subject to guidelines and
34 standards established by the Administrative Director of the Courts.
35 Any coordinator acting in good faith within the scope of his
36 appointment would be immune from any civil or criminal
37 immunity, except in cases of willful or wanton misconduct.

38 PUBLIC AWARENESS CAMPAIGN

39 The bill would also require the Administrative Director of the
40 Courts to develop and maintain a public awareness campaign
41 regarding the program