

# ASSEMBLY, No. 4498

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

**Sponsored by:**

**Assemblyman JAMEL C. HOLLEY**

**District 20 (Union)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Chiaravalloti and Assemblywoman Tucker**

**SYNOPSIS**

Revises certain procedures for expungement of records of conviction.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/19/2019)**

1 AN ACT concerning certain procedures for expunging records of  
2 conviction and revising various parts of the statutory law.

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:52-1 is amended to read as follows:

8 2C:52-1. a. Except as otherwise provided in this chapter,  
9 expungement shall mean the extraction, **[and]** sealing, or isolation  
10 of all records on file within any court, detention or correctional  
11 facility, law enforcement or criminal justice agency concerning a  
12 person's detection, apprehension, arrest, detention, trial or  
13 disposition of an offense within the criminal justice system.

14 b. Expunged records shall include complaints, warrants,  
15 arrests, commitments, processing records, fingerprints,  
16 photographs, index cards, "rap sheets" and judicial docket records.  
17 (cf: P.L.1979, c.178, s.108)

18

19 2. N.J.S.2C:52-2 is amended to read as follows:

20 2C:52-2. Indictable Offenses.

21 a. In all cases, except as herein provided, a person may present  
22 an expungement application to the Superior Court pursuant to this  
23 **[section]** subsection if:

24 the person has been convicted of one crime under the laws of this  
25 State, and does not otherwise have any **[prior or]** subsequent  
26 conviction for another crime, whether within this State or any other  
27 jurisdiction; or

28 the person has been convicted of one crime and less than four  
29 disorderly persons or petty disorderly persons offenses under the  
30 laws of this State, and does not otherwise have any **[prior or]**  
31 subsequent conviction for another crime, or **[any prior or]**  
32 **subsequent]** conviction for another disorderly persons or petty  
33 disorderly persons offense such that the total number of convictions  
34 for disorderly persons and petty disorderly persons offenses would  
35 exceed three, whether any such crime or offense conviction was  
36 within this State or any other jurisdiction; or

37 the person has been convicted of multiple crimes or a  
38 combination of one or more crimes and one or more disorderly  
39 persons or petty disorderly persons offenses under the laws of this  
40 State, all of which are listed in a single judgment of conviction, and  
41 does not otherwise have any **[prior or]** subsequent conviction for  
42 another crime or offense in addition to those convictions included in  
43 the expungement application, whether any such conviction was  
44 within this State or any other jurisdiction; or

**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 the person has been convicted of multiple crimes or a  
2 combination of one or more crimes and one or more disorderly  
3 persons or petty disorderly persons offenses under the laws of this  
4 State, which crimes or combination of crimes and offenses were  
5 interdependent or closely related in circumstances and were  
6 committed as part of a sequence of events that took place within a  
7 comparatively short period of time, regardless of the date of  
8 conviction or sentencing for each individual crime or offense, and  
9 the person does not otherwise have any **【prior or】** subsequent  
10 conviction for another crime or offense in addition to those  
11 convictions included in the expungement application, whether any  
12 such conviction was within this State or any other jurisdiction.

13 The person, if eligible, may present the expungement application  
14 after the expiration of a period of **【six】** five years from the date of  
15 his most recent conviction, payment of fine, satisfactory completion  
16 of probation or parole, or release from incarceration, whichever is  
17 later. The term "fine" as used herein and throughout this section  
18 means and includes any fine, restitution, and other court-ordered  
19 financial assessment imposed by the court as part of the sentence  
20 for the conviction, for which payment of restitution takes  
21 precedence in accordance with chapter 46 of Title 2C of the New  
22 Jersey Statutes. The person shall submit the expungement  
23 application to the Superior Court in the county in which the  
24 conviction for the crime was adjudged, which contains a separate,  
25 duly verified petition as provided in N.J.S.2C:52-7 for each  
26 conviction sought to be expunged, praying that the conviction, or  
27 convictions if applicable, and all records and information pertaining  
28 thereto be expunged. The petition for each conviction appended to  
29 an application shall comply with the requirements set forth in  
30 N.J.S.2C:52-1 et seq.

31 Notwithstanding the provisions concerning the **【six-year】** five-  
32 year time requirement, if a fine which is **【currently】** subject at the  
33 time of application to collection under the comprehensive  
34 enforcement program established pursuant to P.L.1995, c.9  
35 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than  
36 willful noncompliance, but the time requirement of **【six】** five years  
37 is otherwise satisfied, the person may submit the expungement  
38 application and the court may grant an expungement, provided,  
39 however, that **【if expungement is granted under this paragraph,】** the  
40 court shall provide **【for the continued collection of any outstanding**  
41 **amount owed that is necessary to satisfy the fine or】** the entry of  
42 civil judgment in the name of the Treasurer, State of New Jersey  
43 and transfer collections and disbursement responsibility to the  
44 Treasurer, State of New Jersey for the outstanding amount in  
45 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

46 Additionally, an application may be filed and presented, and the  
47 court may grant an expungement pursuant to this section, although

1 less than **[six]** five years have expired in accordance with the time  
2 requirements when the court finds:

3 (1) the fine is satisfied but less than **[six]** five years have  
4 expired from the date of satisfaction, and the time requirement of  
5 **[six]** five years is otherwise satisfied, and the court finds that the  
6 person substantially complied with any payment plan ordered  
7 pursuant to N.J.S.2C:46-1 et seq., or could not do so due to  
8 compelling circumstances affecting his ability to satisfy the fine; or

9 (2) at least **[five]** four but less than **[six]** five years have  
10 expired from the date of the most recent conviction, payment of  
11 fine, satisfactory completion of probation or parole, or release from  
12 incarceration, whichever is later; and

13 the person has not been otherwise convicted of a crime,  
14 disorderly persons offense, or petty disorderly persons offense since  
15 the time of the most recent conviction; and the court finds in its  
16 discretion that expungement is in the public interest, giving due  
17 consideration to the nature of the offense or offenses, and the  
18 applicant's character and conduct since the conviction or  
19 convictions.

20 In determining whether compelling circumstances exist for the  
21 purposes of paragraph (1) of this subsection, a court may consider  
22 the amount of the fine or fines imposed, the person's age at the time  
23 of the offense or offenses, the person's financial condition and other  
24 relevant circumstances regarding the person's ability to pay.

25 b. “Clean slate” expungement. In all cases, except as otherwise  
26 provided in this subsection, a person may present an expungement  
27 application to the Superior Court pursuant to this subsection if the  
28 person has been convicted of multiple crimes or a combination of  
29 one or more crimes and one or more disorderly persons or petty  
30 disorderly persons offenses under the laws of this State and is not  
31 otherwise eligible under subsection a. of this section.

32 The person, if eligible, may present the expungement application  
33 after the expiration of a period of ten years from the date of his  
34 most recent conviction, payment of fine, satisfactory completion of  
35 probation or parole, or release from incarceration, whichever is  
36 later. The term “fine” as used herein and throughout this section  
37 means and includes any fine, restitution, and other court-ordered  
38 financial assessment imposed by the court as part of the sentence  
39 for the conviction, for which payment of restitution takes  
40 precedence in accordance with chapter 46 of Title 2C of the New  
41 Jersey Statutes. The person shall submit the expungement  
42 application to the Superior Court in the county in which the  
43 conviction for the most recent crime was adjudged, which contains  
44 a separate, duly verified petition as provided in N.J.S.2C:52-7 for  
45 each conviction sought to be expunged, praying that the conviction  
46 or convictions, and all records and information pertaining thereto,  
47 be expunged. The petition for each conviction appended to an

1 application shall comply with the requirements set forth in  
2 N.J.S.2C:52-1 et seq.

3 Notwithstanding the provisions concerning the ten-year time  
4 requirement, if a fine which is currently subject to collection under  
5 the comprehensive enforcement program established pursuant to  
6 P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons  
7 other than willful noncompliance, but the time requirement of ten  
8 years is otherwise satisfied, the person may submit the  
9 expungement application and the court may grant an expungement,  
10 provided, however, that if expungement is granted under this  
11 subsection, the court shall provide for the entry of civil judgment in  
12 the name of the Treasurer, State of New Jersey and transfer  
13 collection and disbursement responsibility to the Treasurer, State of  
14 New Jersey for the outstanding amount in accordance with section 8  
15 of P.L.2017, c.244 (C.2C:52-23.1).

16 Records of conviction pursuant to statutes repealed by this Code  
17 for the crimes of murder, manslaughter, treason, anarchy,  
18 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,  
19 robbery, embracery, or a conspiracy or any attempt to commit any  
20 of the foregoing, or aiding, assisting or concealing persons accused  
21 of the foregoing crimes, shall not be expunged.

22 Records of conviction for the following crimes specified in the  
23 New Jersey Code of Criminal Justice shall not be subject to  
24 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
25 death by auto as specified in N.J.S.2C:11-5 and strict liability  
26 vehicular homicide as specified in section 1 of P.L.2017, c.165  
27 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993,  
28 c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77  
29 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or  
30 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3  
31 (Aggravated Criminal Sexual Contact); if the victim is a minor,  
32 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the  
33 victim is a minor and the offender is not the parent of the victim,  
34 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False  
35 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson  
36 and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering  
37 the welfare of a child by engaging in sexual conduct which would  
38 impair or debauch the morals of the child, or causing the child other  
39 harm); paragraph (4) of subsection b. of N.J.S.2C:24-4  
40 (Photographing or filming a child in a prohibited sexual act or for  
41 portrayal in a sexually suggestive manner); paragraph (3) of  
42 subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to  
43 engage in a prohibited sexual act or the simulation of an act, or to  
44 be portrayed in a sexually suggestive manner); subparagraph (a) of  
45 paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing,  
46 possessing with intent to distribute or using a file-sharing program  
47 to store items depicting the sexual exploitation or abuse of a child);  
48 subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4

1 (Possessing or viewing items depicting the sexual exploitation or  
2 abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1)  
3 (Leader of a child pornography network); N.J.S.2C:28-1 (Perjury);  
4 N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of  
5 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's  
6 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);  
7 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing  
8 or Possessing Chemical Weapons, Biological Agents or Nuclear or  
9 Radiological Devices); and conspiracies or attempts to commit such  
10 crimes.

11 Records of conviction for any crime committed by a person  
12 holding any public office, position or employment, elective or  
13 appointive, under the government of this State or any agency or  
14 political subdivision thereof and any conspiracy or attempt to  
15 commit such a crime shall not be subject to expungement if the  
16 crime involved or touched such office, position or employment.

17 c. **【**In the case of conviction for the sale or distribution of a  
18 controlled dangerous substance or possession thereof with intent to  
19 sell, expungement shall be denied except where the crimes involve:

20 (1) Marijuana, where the total quantity sold, distributed or  
21 possessed with intent to sell was less than one ounce;

22 (2) Hashish, where the total quantity sold, distributed or  
23 possessed with intent to sell was less than five grams; or

24 (3) Any controlled dangerous substance provided that the  
25 conviction is of the third or fourth degree, where the court finds that  
26 expungement is consistent with the public interest, giving due  
27 consideration to the nature of the offense and the petitioner's  
28 character and conduct since conviction. **】** (Deleted by amendment,  
29 P.L. c. ) (pending before the Legislature as this bill)

30 d. In the case of a State licensed physician or podiatrist  
31 convicted of an offense involving drugs or alcohol or pursuant to  
32 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
33 **【**court**】** prosecutor shall notify the State Board of Medical  
34 Examiners upon receipt of a petition for expungement of the  
35 conviction and records and information pertaining thereto.

36 (cf: P.L.2017, c.244, s.1)

37

38 3. N.J.S.2C:52-3 is amended to read as follows:

39 2C:52-3. Disorderly persons offenses and petty disorderly  
40 persons offenses.

41 a. Applicability. Any person who has been convicted of one or  
42 more disorderly persons or petty disorderly persons offenses under  
43 the laws of this State who has not been convicted of any crime,  
44 whether within this State or any other jurisdiction, may present an  
45 expungement application to the Superior Court pursuant to this  
46 section. Any person who has been convicted of one or more  
47 disorderly persons or petty disorderly persons offenses under the  
48 laws of this State who has also been convicted of one or more

1 crimes shall not be eligible to apply for an expungement pursuant to  
2 this section, but may present an expungement application to the  
3 Superior Court pursuant to N.J.S.2C:52-2.

4 b. Eligibility. Any person who has been convicted of one or  
5 more disorderly persons or petty disorderly persons offenses under  
6 the laws of this State who has not been convicted of any crime,  
7 whether within this State or any other jurisdiction, may present an  
8 expungement application to the Superior Court pursuant to this  
9 section if:

10 the person has been convicted, under the laws of this State, on  
11 the same or separate occasions of no more than **[four]** five  
12 disorderly persons offenses, no more than **[four]** five petty  
13 disorderly persons offenses, or a combination of no more than  
14 **[four]** five disorderly persons and petty disorderly persons offenses,  
15 and the person does not otherwise have any **[prior or]** subsequent  
16 conviction for a disorderly persons or petty disorderly persons  
17 offense, whether within this State or any other jurisdiction, such  
18 that the total number of convictions for disorderly persons and petty  
19 disorderly persons offenses would exceed **[four]** five; or

20 the person has been convicted of multiple disorderly persons  
21 offenses or multiple petty disorderly persons offenses under the  
22 laws of this State, or a combination of multiple disorderly persons  
23 and petty disorderly persons offenses under the laws of this State,  
24 which convictions were entered on the same day, and does not  
25 otherwise have any **[prior or]** subsequent conviction for another  
26 offense in addition to those convictions included in the  
27 expungement application, whether any such conviction was within  
28 this State or any other jurisdiction; or

29 the person has been convicted of multiple disorderly persons  
30 offenses or multiple petty disorderly persons offenses under the  
31 laws of this State, or a combination of multiple disorderly persons  
32 and petty disorderly persons offenses under the laws of this State,  
33 which offenses or combination of offenses were interdependent or  
34 closely related in circumstances and were committed as part of a  
35 sequence of events that took place within a comparatively short  
36 period of time, regardless of the date of conviction or sentencing for  
37 each individual offense, and the person does not otherwise have any  
38 prior or subsequent conviction for another offense in addition to  
39 those convictions included in the expungement application, whether  
40 within this State or any other jurisdiction.

41 The person, if eligible, may present the expungement application  
42 after the expiration of a period of five years from the date of his  
43 most recent conviction, payment of fine, satisfactory completion of  
44 probation or release from incarceration, whichever is later. The  
45 term "fine" as used herein and throughout this section means and  
46 includes any fine, restitution, and other court-ordered financial  
47 assessment imposed by the court as part of the sentence for the  
48 conviction, for which payment of restitution takes precedence in

1 accordance with chapter 46 of Title 2C of the New Jersey Statutes.  
2 The person shall submit the expungement application to the  
3 Superior Court in the county in which the most recent conviction  
4 for a disorderly persons or petty disorderly persons offense was  
5 adjudged, which contains a separate, duly verified petition as  
6 provided in N.J.S.2C:52-7 for each conviction sought to be  
7 expunged, praying that the conviction, or convictions if applicable,  
8 and all records and information pertaining thereto be expunged.  
9 The petition for each conviction appended to an application shall  
10 comply with the requirements of N.J.S.2C:52-1 et seq.

11 c. For any person who may be eligible for an expungement  
12 pursuant to subsection b. of this section, the Superior Court in the  
13 county in which the most recent conviction for a disorderly persons  
14 or petty disorderly persons offense was adjudged shall, within 30  
15 days of the person filing the application, notify relevant law  
16 enforcement and criminal justice agencies pursuant to subsection d.  
17 of this section.

18 d. (1) For any person who may be eligible after the effective  
19 date of P.L. , c. (C. ) (pending before the Legislature as  
20 this bill) and who has filed an expungement application, the court  
21 shall provide information to accompany the notice to law  
22 enforcement and criminal justice agencies, which shall include the  
23 information required by N.J.S.2C:52-7 for each conviction eligible  
24 to be expunged, to relevant law enforcement and criminal justice  
25 agencies, as set forth in N.J.S.2C:52-10, within 30 days of the filing  
26 of the expungement application.

27 (2) Upon receipt of the information from the courts pursuant to  
28 paragraph (1) of this subsection, the Superintendent of State Police,  
29 the Attorney General, and the county prosecutor of any county in  
30 which the person was adjudged a disorderly person or petty  
31 disorderly person shall, within 30 days, notify the Administrative  
32 Office of the Courts of any inaccurate or incomplete data contained  
33 in the information provided by the Administrative Office of the  
34 Courts or of any other basis for ineligibility under this section.

35 (3) Unless the relevant law enforcement and criminal justice  
36 agencies, in response to the information received from the  
37 Administrative Office of the Courts, provide information about any  
38 inaccurate or incomplete data, or any other basis for ineligibility,  
39 the Administrative Office of the Courts shall promptly provide  
40 notice of the person's eligibility and the Superior Court shall issue  
41 an order listing the conviction or convictions to be expunged.

42 e. Notwithstanding the provisions of the five-year time  
43 requirement, an application may be filed and presented to the  
44 Superior Court in the county in which the most recent conviction  
45 for a disorderly persons or petty disorderly persons offense was  
46 adjudged, which contains a separate, duly verified petition as  
47 provided in N.J.S.2C:52-7 for each conviction sought to be



1 expunged, and the court may grant an expungement pursuant to this  
2 section, when the court finds:

3 (1) the fine is satisfied but less than five years have expired  
4 from the date of satisfaction, and the five-year time requirement is  
5 otherwise satisfied, and the court finds that the person substantially  
6 complied with any payment plan ordered pursuant to N.J.S.2C:46-1  
7 et seq., or could not do so due to compelling circumstances  
8 affecting his ability to satisfy the fine; or

9 (2) at least three but less than five years have expired from the  
10 date of the most recent conviction, payment of fine, satisfactory  
11 completion of probation or parole, or release from incarceration,  
12 whichever is later; and

13 the person has not been otherwise convicted of a crime,  
14 disorderly persons offense, or petty disorderly persons offense since  
15 the time of the most recent conviction; and the court finds in its  
16 discretion that expungement is in the public interest, giving due  
17 consideration to the nature of the offense or offenses, and the  
18 applicant's character and conduct since the conviction or  
19 convictions.

20 In determining whether compelling circumstances exist for the  
21 purposes of paragraph (1) of this subsection, a court may consider  
22 the amount of the fine or fines imposed, the person's age at the time  
23 of the offense or offenses, the person's financial condition and other  
24 relevant circumstances regarding the person's ability to pay.

25 (cf: P.L.2017, c.244, s.2)

26

27 4. N.J.S.2C:52-6 is amended to read as follows:

28 2C:52-6. Arrests not resulting in conviction.

29 a. When a person has been arrested or held to answer for a  
30 crime, disorderly persons offense, petty disorderly persons offense,  
31 or municipal ordinance violation under the laws of this State or of  
32 any governmental entity thereof and proceedings against the person  
33 were dismissed, the person was acquitted, or the person was  
34 discharged without a conviction or finding of guilt, the Superior  
35 Court shall, at the time of dismissal, acquittal, or discharge, or, in  
36 any case set forth in paragraph (1) of this subsection, **【**upon receipt  
37 of an application from the person,**】** order the expungement of all  
38 records and information relating to the arrest or charge.

39 (1) If proceedings took place in municipal court, the municipal  
40 court shall **【**provide the person, upon request, with appropriate  
41 documentation to**】** transmit to the Superior Court **【**to**】** a request to  
42 expunge **【**expungement**】** pursuant to procedures developed by the  
43 Administrative Office of the Courts. Upon receipt of the  
44 documentation, the Superior Court shall enter an ex parte order  
45 expunging all records and information relating to the person's arrest  
46 or charge.

1 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14  
2 shall not apply to an expungement pursuant to this subsection and  
3 no fee shall be charged to the person making such application.

4 (3) An expungement under this subsection shall not be ordered  
5 where the dismissal, acquittal, or discharge resulted from a plea  
6 bargaining agreement involving the conviction of other charges.  
7 This bar, however, shall not apply once the conviction is itself  
8 expunged.

9 (4) The Superior Court shall forward a copy of the expungement  
10 order to the appropriate court and to the prosecutor. The prosecutor  
11 shall promptly distribute copies of the expungement order to  
12 appropriate law enforcement agencies and correctional institutions  
13 who have custody and control of the records specified in the order  
14 so that they may comply with the requirements of N.J.S.2C:52-15.

15 (5) An expungement related to a dismissal, acquittal, or  
16 discharge ordered pursuant to this subsection shall not bar any  
17 future expungement.

18 (6) Where a dismissal of an offense is based on an eligible  
19 servicemember's successful participation in a Veterans Diversion  
20 Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county  
21 prosecutor, on behalf of the eligible servicemember, may move  
22 before the court for the expungement of all records and information  
23 relating to the arrest or charge, and the diversion at the time of  
24 dismissal pursuant to this section.

25 b. When a person did not apply or a prosecutor did not move  
26 on behalf of an eligible servicemember for an expungement of an  
27 arrest or charge not resulting in a conviction pursuant to subsection  
28 a. of this section, the person may at any time following the  
29 disposition of proceedings, present a duly verified petition as  
30 provided in N.J.S.2C:52-7 to the Superior Court in the county in  
31 which the disposition occurred praying that records of such arrest  
32 and all records and information pertaining thereto be expunged. No  
33 fee shall be charged to the person for applying for an expungement  
34 of an arrest or charge not resulting in a conviction pursuant to this  
35 subsection.

36 c. (1) Any person who has had charges dismissed against him  
37 pursuant to a program of supervisory treatment pursuant to  
38 N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-  
39 1, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-  
40 13.1 et al.), shall be barred from the relief provided in this section  
41 until six months after the entry of the order of dismissal.

42 (2) A servicemember who has successfully participated in a  
43 Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-  
44 23 et al.) may apply for expungement pursuant to this section at any  
45 time following the order of dismissal if an expungement was not  
46 granted at the time of dismissal.

47 d. Any person who has been arrested or held to answer for a  
48 crime shall be barred from the relief provided in this section where

1 the dismissal, discharge, or acquittal resulted from a determination  
2 that the person was insane or lacked the mental capacity to commit  
3 the crime charged.

4 (cf: P.L.2017, c.42, s.7)

5  
6 5. N.J.S.2C:52-8 is amended to read as follows:

7 2C:52-8. Statements to accompany petition. There shall be  
8 attached to a petition for expungement:

9 a. A statement with the affidavit or verification that there are  
10 no disorderly persons, petty disorderly persons or criminal charges  
11 pending against the petitioner at the time of filing of the petition for  
12 expungement.

13 b. In those instances where the petitioner is seeking the  
14 expungement of a criminal conviction **【**, or the expungement of  
15 convictions**】** pursuant to **【**N.J.S.2C:52-3 for multiple disorderly  
16 persons or petty disorderly persons offenses, all of which were  
17 entered the same day, or which were interdependent or closely  
18 related in circumstances and were committed as part of a sequence  
19 of events that took place within a comparatively short period of  
20 time**】** N.J.S.2C:52-2, a statement with affidavit or verification that  
21 he has never been granted expungement, sealing or similar relief  
22 regarding a criminal conviction **【**or convictions for multiple  
23 disorderly persons or petty disorderly persons offenses, all of which  
24 were entered the same day, or which were interdependent or closely  
25 related in circumstances and were committed as part of a sequence  
26 of events that took place within a comparatively short period of  
27 time**】** by any court in this State or other state or by any Federal  
28 court. "Sealing" refers to the relief previously granted pursuant to  
29 P.L.1973, c.191 (C.2A:85-15 et seq.).

30 c. In those instances where a person has received a dismissal of  
31 a criminal charge because of acceptance into a supervisory  
32 treatment or any other diversion program, a statement with affidavit  
33 or verification setting forth the nature of the original charge, the  
34 court of disposition and date of disposition.

35 d. A statement as to whether the petitioner has legally changed  
36 their name, the date of judgment of name change, and the previous  
37 legal name.

38 (cf: P.L.2017, c.244, s.4)

39  
40 6. N.J.S.2C:52-14 is amended to read as follows:

41 2C:52-14. A petition for expungement filed pursuant to this  
42 chapter shall be denied when:

43 a. Any statutory prerequisite, including any provision of this  
44 chapter, is not fulfilled or there is any other statutory basis for  
45 denying relief.

46 b. The need for the availability of the records outweighs the  
47 desirability of having a person freed from any disabilities as

1 otherwise provided in this chapter. An application may be denied  
2 under this subsection only following objection of a party given  
3 notice pursuant to N.J.S.2C:52-10 and the burden of asserting such  
4 grounds shall be on the objector~~],~~ except that in regard to  
5 expungement sought for third or fourth degree drug offenses  
6 pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the  
7 court shall consider whether this factor applies regardless of  
8 whether any party objects on this basis~~].~~

9 c. In connection with a petition under N.J.S.2C:52-6, the  
10 acquittal, discharge or dismissal of charges resulted from a plea  
11 bargaining agreement involving the conviction of other charges.  
12 This bar, however, shall not apply once the conviction is itself  
13 expunged.

14 d. The arrest or conviction sought to be expunged is, at the  
15 time of hearing, the subject matter of civil litigation between the  
16 petitioner or his legal representative and the State, any  
17 governmental entity thereof or any State agency and the  
18 representatives or employees of any such body.

19 e. ~~【A person has had a previous criminal conviction expunged~~  
20 ~~regardless of the lapse of time between the prior expungement, or~~  
21 ~~sealing under prior law, and the present petition. This provision~~  
22 ~~shall not apply:~~

23 (1) When the person is seeking the expungement of a municipal  
24 ordinance violation or,

25 (2) When the person is seeking the expungement of records  
26 pursuant to N.J.S.2C:52-6. ~~】~~ (Deleted by amendment, P.L. c. )  
27 (pending before the Legislature as this bill)

28 f. ~~(Deleted by amendment, P.L.2017, c.244)~~  
29 ~~(cf: P.L.2017, c.244, s.5)~~

30  
31 7. N.J.S.2C:52-15 is amended to read as follows:

32 2C:52-15. a. Except as provided in subsection b. of this section,  
33 if an order of expungement of records of arrest or conviction under  
34 this chapter is granted by the court, all the records specified in said  
35 order shall be removed from the files of the agencies which have  
36 been noticed of the pendency of petitioner's motion and which are,  
37 by the provisions of this chapter, entitled to notice, and shall be  
38 placed in the control of a person who has been designated by the  
39 head of each such agency which, at the time of the hearing,  
40 possesses said records. That designated person shall, except as  
41 otherwise provided in this chapter, ensure that such records or the  
42 information contained therein are not released for any reason and  
43 are not utilized or referred to for any purpose. In response to  
44 requests for information or records of the person who was arrested  
45 or convicted, all noticed officers, departments and agencies shall  
46 reply, with respect to the arrest, conviction or related proceedings  
47 which are the subject of the order, that there is no record  
48 information.

1       b. Records of the Probation Division of the Superior Court  
2 related to restitution, a fine, or other court-ordered financial  
3 assessment that remains due at the time the court grants an  
4 expungement [may be retained as confidential, restricted-access  
5 records in the Judiciary's automated system to facilitate the  
6 collection and distribution of any outstanding assessments by the  
7 comprehensive enforcement program established pursuant to  
8 P.L.1995, c.9 (C.2B:19-1 et al.) as ordered by the court. The  
9 Administrative Director of the Courts shall ensure that such records  
10 are not released to the public. Such records shall be removed from  
11 the Judiciary's automated system upon satisfaction of court-ordered  
12 financial assessments or by order of the court] shall be transferred  
13 to the New Jersey Department of Treasury for the collection and  
14 disbursement of future payments and satisfaction of judgments.  
15 (cf: P.L.2017, c.244, s.6)

16

17       8. Section 8 of P.L.2017, c.244 (C.2C:52-23.1) is amended to  
18 read as follows:

19       8. a. Notwithstanding any provision in this act to the contrary,  
20 expunged records may be used by the [comprehensive enforcement  
21 program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.)]  
22 Treasurer, State of New Jersey to collect restitution, fines and other  
23 court-ordered financial assessments that remain due at the time an  
24 expungement is granted by the court. Information regarding the  
25 nature of such financial assessments or their derivation from  
26 expunged criminal convictions shall not be disclosed to the public.  
27 Any record of a civil judgment for the unpaid portion of court-  
28 ordered financial obligations that may be docketed after the court  
29 has granted an expungement of the underlying criminal conviction  
30 shall be entered in the name of the Treasurer, State of New Jersey.  
31 The State Treasurer shall thereafter administer such judgments [in  
32 cooperation with the comprehensive enforcement program] without  
33 disclosure of any information related to the underlying criminal  
34 nature of the assessments.

35       b. The court, after providing appropriate due process, may  
36 nullify an expungement granted to a person pursuant to subsection  
37 a. of N.J.S.2C:52-2 if the person willfully fails to comply with an  
38 established payment plan or otherwise cooperate with the  
39 comprehensive enforcement program to facilitate the collection of  
40 any outstanding restitution, fines, and other court-ordered  
41 assessments, provided that prior to nullifying the expungement the  
42 person shall be afforded an opportunity to comply with or  
43 restructure the payment plan, or otherwise cooperate to facilitate the  
44 collection of outstanding restitution, fines, and other court-ordered  
45 assessments. In the event of nullification, the court may restore the  
46 previous expungement granted if the person complies with the  
47 payment plan or otherwise cooperates to facilitate the collection of

1 any outstanding restitution, fines, and other court-ordered  
2 assessments.

3 (cf: P.L.2017, c.244, s.8)

4

5 9. N.J.S.2C:52-29 is repealed.

6

7 10. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill would revise procedures for expunging criminal and  
13 other records and information.

14 The bill amends N.J.S.2C:52-2 to provide that the following  
15 categories of persons are eligible for expungement:

16 - a person who has been convicted of one crime, and does not  
17 otherwise have any subsequent conviction for another crime;

18 - a person who has been convicted of one crime and less than  
19 four disorderly persons or petty disorderly persons offenses, and  
20 does not otherwise have any subsequent conviction for another  
21 crime or for another disorderly persons or petty disorderly persons  
22 offense such that the total number of convictions for offenses  
23 exceeds three;

24 - a person who has been convicted of multiple crimes, or a  
25 combination of multiple crimes and disorderly persons or petty  
26 disorderly persons offenses, all of which are listed in a single  
27 judgment of conviction, and the person does not otherwise have any  
28 subsequent conviction for another crime or offense in addition to  
29 those convictions included in the person's expungement  
30 application; or

31 - a person who has been convicted of multiple crimes or a  
32 combination of multiple crimes and disorderly persons or petty  
33 disorderly persons offenses, which crimes or combination of crimes  
34 and offenses were interdependent or closely related in  
35 circumstances and were committed as part of a sequence of events  
36 that took place within a comparatively short period of time (a so-  
37 called "crime spree"), regardless of the date of conviction or  
38 sentencing for each individual crime or offense, and the person does  
39 not otherwise have any subsequent conviction for another crime or  
40 offense in addition to those convictions included in the person's  
41 expungement application.

42 If a person with one or more criminal convictions is eligible as  
43 described above for expungement relief, the expungement  
44 application may generally proceed so long as one of the following  
45 time period requirements is met:

46 - five years have passed with respect to all aspects of satisfying  
47 the most recent conviction (five years from the date of conviction,

1 payment of fine, satisfactory completion of probation or parole, and  
2 release from incarceration);

3 - the payment of a fine, which is currently subject to collection  
4 under the State's comprehensive enforcement program established  
5 pursuant to P.L.1995, c.9 (C.2B:19-1 et seq.), is not yet satisfied  
6 due to reasons other than willful misconduct, but the five-year time  
7 requirement is otherwise met.

8 - the fine is satisfied, but five years have not passed since doing  
9 so, and the five-year time requirement is otherwise met; or

10 - at least four but less than five years have passed with respect to  
11 all aspects of satisfying the conviction (this expedited expungement  
12 would also require the person to show that it is in the public interest  
13 to permit such expungement). Under the bill, in that instance, the  
14 court shall provide for the entry of civil judgment in the name of the  
15 State Treasurer and transfer the collection and disbursement  
16 responsibility to the State Treasurer for the outstanding amount in  
17 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

18 The bill further amends N.J.S.2C:52-2 to provide for a "clean  
19 slate" expungement. Under this provision, in applicable cases, a  
20 person may present an expungement application to the Superior  
21 Court if the person has been convicted of multiple crimes or a  
22 combination of one or more crimes and one or more disorderly  
23 persons or petty disorderly persons offenses, but is not eligible for  
24 an expungement under the above provisions.

25 Under this new provision, the person, if eligible, may present the  
26 expungement application after the expiration of a period of ten  
27 years from the date of his most recent conviction, payment of fine,  
28 satisfactory completion of probation or parole, or release from  
29 incarceration, whichever is later. The term "fine" means and  
30 includes any fine, restitution, and other court-ordered financial  
31 assessment imposed by the court as part of the sentence for the  
32 conviction, for which payment of restitution takes precedence in  
33 accordance with chapter 46 of Title 2C of the New Jersey Statutes.  
34 The person shall submit the expungement application to the  
35 Superior Court in the county in which the conviction for the most  
36 recent crime was adjudged, which contains a separate, duly verified  
37 petition as provided in N.J.S.2C:52-7 for each conviction sought to  
38 be expunged, praying that the conviction or convictions, and all  
39 records and information pertaining thereto, be expunged. The  
40 petition for each conviction appended to an application shall  
41 comply with the requirements set forth in N.J.S.2C:52-1 et seq.

42 Under the bill, notwithstanding the provisions concerning the  
43 ten-year time requirement, if a fine which is currently subject to  
44 collection under the comprehensive enforcement program  
45 established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet  
46 satisfied due to reasons other than willful noncompliance, but the  
47 time requirement of ten years is otherwise satisfied, the person may  
48 submit the expungement application and the court may grant an

1 expungement. Under the bill, if expungement is granted, the court  
2 shall provide for the entry of civil judgment in the name of the State  
3 Treasurer and transfer the collection and disbursement  
4 responsibility to the State Treasurer for the outstanding amount in  
5 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

6 The bill deletes the provision in N.J.S.2C:52-2 concerning the  
7 expungement of convictions for the sale and distribution of a  
8 controlled dangerous substance, and possession with intent to  
9 distribute. This subsection barred expungement in these categories  
10 except in cases involving small amounts of marijuana and hashish,  
11 or any controlled dangerous substance where the conviction is of  
12 the third or fourth degree. The effect of deleting this provision is  
13 that for purposes of expungement, convictions for controlled  
14 dangerous substance crimes will be treated the same as other crimes  
15 and offenses in terms of eligibility.

16 The bill amends N.J.S.2C:52-3 to provide that the following  
17 categories of persons are eligible for expungement:

18 - a person who has been convicted on the same or separate  
19 occasions of no more than five disorderly persons offenses, no more  
20 than five petty disorderly persons offenses, or a combination of no  
21 more than five disorderly persons and petty disorderly persons  
22 offenses, and the person does not otherwise have any prior or  
23 subsequent conviction for a disorderly persons or petty disorderly  
24 persons offense such that the total number of convictions for such  
25 offenses exceeds five;

26 - a person who has been convicted of multiple disorderly persons  
27 offenses or multiple petty disorderly persons offenses, or a  
28 combination of multiple disorderly persons and petty disorderly  
29 persons offenses, which convictions were entered the same day, and  
30 the person does not otherwise have any prior or subsequent  
31 conviction for another offense in addition to those convictions  
32 included in the person's expungement application; or

33 - a person who has been convicted of multiple disorderly persons  
34 offenses or multiple petty disorderly persons offenses, or a  
35 combination of multiple disorderly persons and petty disorderly  
36 persons offenses, all of which were part of a "crime spree"  
37 (described in the same manner as above with respect to a spree  
38 which resulted in multiple criminal convictions).

39 The bill's provisions provide for an automatic expungement of  
40 disorderly persons and petty disorderly person offenses as follows:

41 For any eligible person who files an application for  
42 expungement, the Superior Court in the county in which the most  
43 recent conviction was adjudged would, within 30 days of the person  
44 filing the application, notify relevant law enforcement and criminal  
45 justice agencies, including the Superintendent of State Police and  
46 the Attorney General, and the Administrative Office of the Courts  
47 would include the information required by N.J.S.2C:52-7 for each  
48 conviction eligible to be expunged. Upon receipt of the information



1 from the Administrative Office of the Courts the relevant law  
2 enforcement and criminal justice agencies would, within 30 days,  
3 notify the Administrative Office of the Courts of any inaccurate or  
4 incomplete data contained in the information provided by the  
5 Administrative Office of the Courts or of any other basis for  
6 ineligibility under the bill. Unless the relevant law enforcement and  
7 criminal justice agencies provide information about any inaccurate  
8 or incomplete data, or any other basis for ineligibility, the  
9 Administrative Office of the Courts would promptly provide notice  
10 of the person's eligibility and the Superior Court would issue an  
11 order listing the conviction or convictions to be expunged.

12 The bill does not change the five-year time requirement for  
13 expungements for disorderly persons and petty disorderly persons  
14 convictions.

15 The bill would revise the requirements for the statement which  
16 accompanies a petition for expungement in N.J.S.2C:52-8, and the  
17 grounds for denial of an application in N.J.S.2C:52-14, consistent  
18 with the revisions to N.J.S.2C:52-2 and N.J.S.2C:52-3.

19 The bill would transfer fine collection and disbursement  
20 functions to the State Treasurer in instances where expungement is  
21 granted under N.J.S.2C:52-2, but a fine has not been paid in full.

22 The bill repeals N.J.S.2C:52-29 which provided for an  
23 application fee paid to the State Treasurer to defer administrative  
24 costs in processing an expungement application.