

ASSEMBLY, No. 799

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Permits applicant for expungement to file one, duly verified petition for multiple convictions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning expungement and amending N.J.S.2C:52-2 and
2 N.J.S.2C:52-3.

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:52-2 is amended to read as follows:
8 2C:52-2. Indictable Offenses.

9 a. In all cases, except as herein provided, a person may present
10 an expungement application to the Superior Court pursuant to this
11 section if:

12 the person has been convicted of one crime under the laws of this
13 State, and does not otherwise have any prior or subsequent
14 conviction for another crime, whether within this State or any other
15 jurisdiction; or

16 the person has been convicted of one crime and less than four
17 disorderly persons or petty disorderly persons offenses under the
18 laws of this State, and does not otherwise have any prior or
19 subsequent conviction for another crime, or any prior or subsequent
20 conviction for another disorderly persons or petty disorderly
21 persons offense such that the total number of convictions for
22 disorderly persons and petty disorderly persons offenses would
23 exceed three, whether any such crime or offense conviction was
24 within this State or any other jurisdiction; or

25 the person has been convicted of multiple crimes or a
26 combination of one or more crimes and one or more disorderly
27 persons or petty disorderly persons offenses under the laws of this
28 State, all of which are listed in a single judgment of conviction, and
29 does not otherwise have any prior or subsequent conviction for
30 another crime or offense in addition to those convictions included in
31 the expungement application, whether any such conviction was
32 within this State or any other jurisdiction; or

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

45 The person, if eligible, may present the expungement application

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

19 Notwithstanding the provisions concerning the six-year time
20 requirement, if a fine which is currently subject to collection under
21 the comprehensive enforcement program established pursuant to
22 P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons
23 other than willful noncompliance, but the time requirement of six
24 years is otherwise satisfied, the person may submit the
25 expungement application and the court may grant an expungement,
26 provided, however, that if expungement is granted under this
27 paragraph, the court shall provide for the continued collection of
28 any outstanding amount owed that is necessary to satisfy the fine or
29 the entry of civil judgment for the outstanding amount in
30 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

31 Additionally, an application may be filed and presented, and the
32 court may grant an expungement pursuant to this section, although
33 less than six years have expired in accordance with the time
34 requirements when the court finds:

35 (1) the fine is satisfied but less than six years have expired from
36 the date of satisfaction, and the time requirement of six years is
37 otherwise satisfied, and the court finds that the person substantially
38 complied with any payment plan ordered pursuant to N.J.S.2C:46-1
39 et seq., or could not do so due to compelling circumstances
40 affecting his ability to satisfy the fine; or

41 (2) at least five but less than six years have expired from the
42 date of the most recent conviction, payment of fine, satisfactory
43 completion of probation or parole, or release from incarceration,
44 whichever is later; and

45 the person has not been otherwise convicted of a crime,
46 disorderly persons offense, or petty disorderly persons offense since
47 the time of the most recent conviction; and the court finds in its
48 discretion that expungement is in the public interest, giving due

1 consideration to the nature of the offense or offenses, and the
2 applicant's character and conduct since the conviction or
3 convictions.

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

9 b. Records of conviction pursuant to statutes repealed by this
10 Code for the crimes of murder, manslaughter, treason, anarchy,
11 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,
12 robbery, embracery, or a conspiracy or any attempt to commit any
13 of the foregoing, or aiding, assisting or concealing persons accused
14 of the foregoing crimes, shall not be expunged.

15 Records of conviction for the following crimes specified in the
16 New Jersey Code of Criminal Justice shall not be subject to
17 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except
18 death by auto as specified in N.J.S.2C:11-5 and strict liability
19 vehicular homicide as specified in section 1 of P.L.2017, c.165
20 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993,
21 c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77
22 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or
23 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3
24 (Aggravated Criminal Sexual Contact); if the victim is a minor,
25 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the
26 victim is a minor and the offender is not the parent of the victim,
27 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False
28 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson
29 and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering
30 the welfare of a child by engaging in sexual conduct which would
31 impair or debauch the morals of the child, or causing the child other
32 harm); paragraph (4) of subsection b. of N.J.S.2C:24-4
33 (Photographing or filming a child in a prohibited sexual act or for
34 portrayal in a sexually suggestive manner); paragraph (3) of
35 subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to
36 engage in a prohibited sexual act or the simulation of an act, or to
37 be portrayed in a sexually suggestive manner); subparagraph (a) of
38 paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing,
39 possessing with intent to distribute or using a file-sharing program
40 to store items depicting the sexual exploitation or abuse of a child);
41 subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4
42 (Possessing or viewing items depicting the sexual exploitation or
43 abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1)
44 (Leader of a child pornography network); N.J.S.2C:28-1 (Perjury);
45 N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of
46 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's
47 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);
48 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing

1 or Possessing Chemical Weapons, Biological Agents or Nuclear or
2 Radiological Devices); and conspiracies or attempts to commit such
3 crimes.

4 Records of conviction for any crime committed by a person
5 holding any public office, position or employment, elective or
6 appointive, under the government of this State or any agency or
7 political subdivision thereof and any conspiracy or attempt to
8 commit such a crime shall not be subject to expungement if the
9 crime involved or touched such office, position or employment.

10 c. In the case of conviction for the sale or distribution of a
11 controlled dangerous substance or possession thereof with intent to
12 sell, expungement shall be denied except where the crimes involve:

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

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

17 (3) Any controlled dangerous substance provided that the
18 conviction is of the third or fourth degree, where the court finds that
19 expungement is consistent with the public interest, giving due
20 consideration to the nature of the offense and the petitioner's
21 character and conduct since conviction.

22 d. In the case of a State licensed physician or podiatrist
23 convicted of an offense involving drugs or alcohol or pursuant to
24 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the
25 court shall notify the State Board of Medical Examiners upon
26 receipt of a petition for expungement of the conviction and records
27 and information pertaining thereto.

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

29

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

31 2C:52-3. Disorderly persons offenses and petty disorderly
32 persons offenses.

33 a. Any person who has been convicted of one or more
34 disorderly persons or petty disorderly persons offenses under the
35 laws of this State who has not been convicted of any crime, whether
36 within this State or any other jurisdiction, may present an
37 expungement application to the Superior Court pursuant to this
38 section. Any person who has been convicted of one or more
39 disorderly persons or petty disorderly persons offenses under the
40 laws of this State who has also been convicted of one or more
41 crimes shall not be eligible to apply for an expungement pursuant to
42 this section, but may present an expungement application to the
43 Superior Court pursuant to N.J.S.2C:52-2.

44 b. Any person who has been convicted of one or more
45 disorderly persons or petty disorderly persons offenses under the
46 laws of this State who has not been convicted of any crime, whether
47 within this State or any other jurisdiction, may present an

1 expungement application to the Superior Court pursuant to this
2 section if:

3 the person has been convicted, under the laws of this State, on
4 the same or separate occasions of no more than four disorderly
5 persons offenses, no more than four petty disorderly persons
6 offenses, or a combination of no more than four disorderly persons
7 and petty disorderly persons offenses, and the person does not
8 otherwise have any prior or subsequent conviction for a disorderly
9 persons or petty disorderly persons offense, whether within this
10 State or any other jurisdiction, such that the total number of
11 convictions for disorderly persons and petty disorderly persons
12 offenses would exceed four; or

13 the person has been convicted of multiple disorderly persons
14 offenses or multiple petty disorderly persons offenses under the
15 laws of this State, or a combination of multiple disorderly persons
16 and petty disorderly persons offenses under the laws of this State,
17 which convictions were entered on the same day, and does not
18 otherwise have any prior or subsequent conviction for another
19 offense in addition to those convictions included in the
20 expungement application, whether any such conviction was within
21 this State or any other jurisdiction; or

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

34 The person, if eligible, may present the expungement application
35 after the expiration of a period of five years from the date of his
36 most recent conviction, payment of fine, satisfactory completion of
37 probation or release from incarceration, whichever is later. The
38 term "fine" as used herein and throughout this section means and
39 includes any fine, restitution, and other court-ordered financial
40 assessment imposed by the court as part of the sentence for the
41 conviction, for which payment of restitution takes precedence in
42 accordance with chapter 46 of Title 2C of the New Jersey Statutes.
43 The person shall submit the expungement application 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,】** one duly verified petition as
47 provided in N.J.S.2C:52-7 for **【each conviction】** the one or more
48 convictions sought to be expunged, praying that the conviction, or

1 convictions if applicable, and all records and information pertaining
2 thereto be expunged. The petition for **【each】** the conviction or
3 convictions appended to an application shall comply with the
4 requirements of N.J.S.2C:52-1 et seq.

5 Notwithstanding the provisions of the five-year time
6 requirement, an application may be filed and presented, and the
7 court may grant an expungement pursuant to this section, when the
8 court finds:

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

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

19 the person has not been otherwise convicted of a crime,
20 disorderly persons offense, or petty disorderly persons offense since
21 the time of the most recent conviction; and the court finds in its
22 discretion that expungement is in the public interest, giving due
23 consideration to the nature of the offense or offenses, and the
24 applicant's character and conduct since the conviction or
25 convictions.

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

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

32
33 3. This act shall take effect immediately.
34
35

36 STATEMENT

37
38 This bill would permit an applicant to submit one, single duly
39 verified petition when seeking the expungement of one or more
40 convictions.

41 Under current law, an applicant seeking expungement of one or
42 more convictions would submit one application, with one separate,
43 duly verified petition as provided in N.J.S.A.2C:52-7 for each
44 conviction sought to be expunged. This bill would permit the
45 applicant to submit only one duly verified petition for all
46 convictions sought to be expunged. This petition would comply
47 with the requirements set forth in N.J.S.A.2C:52-1 et seq.

48 This bill would take effect immediately.