

ASSEMBLY, No. 880

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Eliminates certain prohibitions to expungements of criminal records.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning expungement and amending N.J.S.2C:52-6 and
2 N.J.S.2C:52-14.

3

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:52-6 is amended to read as follows:

8 2C:52-6. Arrests not resulting in conviction.

9 a. In all cases, except as herein provided, wherein a person has
10 been arrested or held to answer for a crime, disorderly persons
11 offense, petty disorderly persons offense or municipal ordinance
12 violation under the laws of this State or of any governmental entity
13 thereof and against whom proceedings were dismissed, or who was
14 acquitted, or who was discharged without a conviction or finding of
15 guilt, may at any time following the disposition of proceedings,
16 present a duly verified petition as provided in N.J.S.2C:52-7 to the
17 Superior Court in the county in which the disposition occurred
18 praying that records of such arrest and all records and information
19 pertaining thereto be expunged.

20 b. **Any person who has had charges dismissed against him**
21 pursuant to P.L.1970, c.226, s.27 (C.24:21-27) or pursuant to a
22 program of supervisory treatment pursuant to N.J.S.2C:43-12, or
23 conditional discharge pursuant to N.J.S.2C:36A-1, or conditional
24 dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), shall be
25 barred from the relief provided in this section until six months after
26 the entry of the order of dismissal. **Deleted by amendment, P.L. __,**
27 **c. (C. __) (pending before the Legislature as this bill).**

28 c. Any person who has been arrested or held to answer for a
29 crime shall be barred from the relief provided in this section where
30 the dismissal, discharge, or acquittal resulted from a determination
31 that the person was insane or lacked the mental capacity to commit
32 the crime charged.

33 (cf: P.L.2013, c.158, s.13)

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

36 2C:52-14. A petition for expungement filed pursuant to this
37 chapter shall be denied when:

38 a. Any statutory prerequisite, including any provision of this
39 chapter, is not fulfilled or there is any other statutory basis for
40 denying relief.

41 b. The need for the availability of the records outweighs the
42 desirability of having a person freed from any disabilities as
43 otherwise provided in this chapter. An application may be denied
44 under this subsection only following objection of a party given
45 notice pursuant to 2C:52-10 and the burden of asserting such

**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 grounds shall be on the objector, except that in regard to
2 expungement sought for third or fourth degree drug offenses
3 pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the
4 court shall consider whether this factor applies regardless of
5 whether any party objects on this basis.

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

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

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

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

22 (2) When the person is seeking the expungement of records
23 pursuant to section 2C:52-6.

24 f. **【The person seeking the relief of expungement of a**
25 **conviction for a disorderly persons, petty disorderly persons, or**
26 **criminal offense has prior to or subsequent to said conviction been**
27 **granted the dismissal of criminal charges following completion of a**
28 **supervisory treatment or other diversion program.】 Deleted by**
29 **amendment, P.L. , c. (C.) (pending before the Legislature**
30 **as this bill).**

31 (cf: P.L.2009, c.188, s.3)

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33 3. This act shall take effect immediately.
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36 STATEMENT

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38 This bill would eliminate certain bars to expungement of
39 criminal records.

40 Currently, N.J.S.2C:52-6 provides that a person can apply for
41 expungement of an arrest or charge at any time following the
42 disposition of proceedings in cases where the arrest or charge did
43 not result in a conviction. However, if the charges were dismissed
44 pursuant to a program of supervisory treatment, conditional
45 discharge, or conditional dismissal, the person must wait six months
46 before applying for expungement of the arrest or charge. This bill
47 would eliminate the waiting period and allow the person to apply

1 for expungement at any time following the disposition of
2 proceedings.

3 In addition, subsection f. of N.J.S.2C:52-14 bars expungement of
4 a conviction if, prior to or subsequent to that conviction, criminal
5 charges against the person were dismissed following completion of
6 a supervisory treatment or other diversion program. This bill would
7 eliminate the bar on expungement under these circumstances and
8 allow the person to petition the court for expungement of the
9 conviction.