

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1897 and 4269

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JUNE 15, 2020

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District 35 (Bergen and Passaic)

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District 20 (Union)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

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District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Assemblywomen Tucker, Reynolds-Jackson, Assemblyman Spearman, Assemblywoman Jasey, Assemblymen Verrelli, Johnson, Senators Gopal, Turner, Cruz-Perez and Assemblyman Calabrese

SYNOPSIS

Provides for certain criminal and civil justice reforms, particularly addressing legal consequences associated with certain marijuana and hashish offenses as well as raising awareness of available expungement relief.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 17, 2020.

(Sponsorship Updated As Of: 12/14/2020)

1 AN ACT concerning certain criminal and civil justice reforms,
2 particularly ¹【with respect to】 addressing¹ the legal
3 consequences associated with certain marijuana and hashish
4 offenses as well as ¹【broadening】 raising¹ awareness of available
5 expungement relief, and amending and supplementing various
6 parts of the statutory law.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 ³【1. N.J.S.2C:35-5 is amended to read as follows:

12 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
13 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
14 unlawful for any person knowingly or purposely:

15 (1) To manufacture, distribute or dispense, or to possess or have
16 under his control with intent to manufacture, distribute or dispense,
17 a controlled dangerous substance or controlled substance analog; or

18 (2) To create, distribute, or possess or have under his control
19 with intent to distribute, a counterfeit controlled dangerous
20 substance.

21 b. Any person who violates subsection a. with respect to:

22 (1) Heroin, or its analog, or coca leaves and any salt, compound,
23 derivative, or preparation of coca leaves, and any salt, compound,
24 derivative, or preparation thereof which is chemically equivalent or
25 identical with any of these substances, or analogs, except that the
26 substances shall not include decocainized coca leaves or extractions
27 which do not contain cocaine or ecogine, or 3,4-
28 methylenedioxyamphetamine or 3,4-
29 methylenedioxyamphetamine, in a quantity of five ounces or more
30 including any adulterants or dilutants is guilty of a crime of the first
31 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
32 be sentenced to a term of imprisonment by the court. The term of
33 imprisonment shall include the imposition of a minimum term
34 which shall be fixed at, or between, one-third and one-half of the
35 sentence imposed, during which the defendant shall be ineligible for
36 parole. Notwithstanding the provisions of subsection a. of
37 N.J.S.2C:43-3, a fine of up to **【\$500,000.00】** \$500,000 may be
38 imposed;

39 (2) A substance referred to in paragraph (1) of this subsection,
40 in a quantity of one-half ounce or more but less than five ounces,
41 including any adulterants or dilutants is guilty of a crime of the
42 second degree;

43 (3) A substance referred to paragraph (1) of this subsection in a
44 quantity less than one-half ounce including any adulterants 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted November 9, 2020.

²Senate SBA committee amendments adopted November 12, 2020.

³Assembly floor amendments adopted December 17, 2020.

1 dilutants is guilty of a crime of the third degree except that,
2 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
3 fine of up to **[\$75,000.00]** \$75,000 may be imposed;

4 (4) A substance classified as a narcotic drug in Schedule I or II
5 other than those specifically covered in this section, or the analog of
6 any such substance, in a quantity of one ounce or more including
7 any adulterants or dilutants is guilty of a crime of the second
8 degree;

9 (5) A substance classified as a narcotic drug in Schedule I or II
10 other than those specifically covered in this section, or the analog of
11 any such substance, in a quantity of less than one ounce including
12 any adulterants or dilutants is guilty of a crime of the third degree
13 except that, notwithstanding the provisions of subsection b. of
14 N.J.S.2C:43-3, a fine of up to **[\$75,000.00]** \$75,000 may be
15 imposed;

16 (6) Lysergic acid diethylamide, or its analog, in a quantity of
17 100 milligrams or more including any adulterants or dilutants, or
18 phencyclidine, or its analog, in a quantity of 10 grams or more
19 including any adulterants or dilutants, is guilty of a crime of the
20 first degree. Except as provided in N.J.S.2C:35-12, the court shall
21 impose a term of imprisonment which shall include the imposition
22 of a minimum term, fixed at, or between, one-third and one-half of
23 the sentence imposed by the court, during which the defendant shall
24 be ineligible for parole. Notwithstanding the provisions of
25 subsection a. of N.J.S.2C:43-3, a fine of up to **[\$500,000.00]**
26 \$500,000 may be imposed;

27 (7) Lysergic acid diethylamide, or its analog, in a quantity of
28 less than 100 milligrams including any adulterants or dilutants, or
29 where the amount is undetermined, or phencyclidine, or its analog,
30 in a quantity of less than 10 grams including any adulterants or
31 dilutants, or where the amount is undetermined, is guilty of a crime
32 of the second degree;

33 (8) Methamphetamine, or its analog, or phenyl-2-propanone
34 (P2P), in a quantity of five ounces or more including any
35 adulterants or dilutants is guilty of a crime of the first degree.
36 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
37 fine of up to **[\$300,000.00]** \$300,000 may be imposed;

38 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
39 (P2P), in a quantity of one-half ounce or more but less than five
40 ounces including any adulterants or dilutants is guilty of a crime of
41 the second degree;

42 (b) Methamphetamine, or its analog, or phenyl-2-propanone
43 (P2P), in a quantity of less than one-half ounce including any
44 adulterants or dilutants is guilty of a crime of the third degree
45 except that notwithstanding the provisions of subsection b. of
46 N.J.S.2C:43-3, a fine of up to **[\$75,000.00]** \$75,000 may be
47 imposed;

1 (10) (a) Marijuana in a quantity of 25 pounds or more
2 including any adulterants or dilutants, or 50 or more marijuana
3 plants, regardless of weight, or hashish in a quantity of five pounds
4 or more including any adulterants or dilutants, is guilty of a crime
5 of the first degree. Notwithstanding the provisions of subsection a.
6 of N.J.S.2C:43-3, a fine of up to ~~[\$300,000.00]~~ \$300,000 may be
7 imposed;

8 (b) Marijuana in a quantity of five pounds or more but less than
9 25 pounds including any adulterants or dilutants, or 10 or more but
10 fewer than 50 marijuana plants, regardless of weight, or hashish in a
11 quantity of one pound or more but less than five pounds, including
12 any adulterants and dilutants, is guilty of a crime of the second
13 degree;

14 (11) ²~~["Marijuana"]~~ (a) Prior to the effective date of P.L. _____,
15 c. (C. _____) (pending before the Legislature as this bill),
16 marijuana² in a quantity of ¹[one [ounce] pound or]¹ ²[more
17 ¹than]² one ounce¹ ²or more² but less than five pounds including
18 any adulterants or dilutants, or hashish in a quantity of [five grams]
19 ¹[one-half pound or]¹ ²[more ¹than]² five grams¹ ²or more² but
20 less than one pound including any adulterants or dilutants, is guilty
21 of a crime of the third degree except that, notwithstanding the
22 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
23 ~~[\$25,000.00]~~ \$25,000 may be imposed;

24 ²(b) On and after the effective date of P.L. _____, c. (C. _____)
25 (pending before the Legislature as this bill), marijuana in a quantity
26 of more than one ounce but less than five pounds including any
27 adulterants or dilutants, or hashish in a quantity of more than five
28 grams but less than one pound including any adulterants or
29 dilutants, is guilty of a crime of the third degree except that,
30 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
31 fine of up to \$25,000 may be imposed;²

32 (12) ¹~~["(a) Marijuana in a quantity of two ounces or more but~~
33 ~~less than one pound including any adulterants or dilutants, or~~
34 ~~hashish in a quantity of five grams or more but less than one-half~~
35 ~~pound including any adulterants or dilutants, is guilty of a~~
36 ~~disorderly persons offense for a first offense, and guilty of a crime~~
37 ~~of the fourth degree for a second or subsequent offense;~~

38 ~~(b)]¹ ²["Marijuana"]~~ (a) Prior to the effective date of P.L. _____,
39 c. (C. _____) (pending before the Legislature as this bill),
40 marijuana² in a quantity of ¹[less than]¹ [one ounce] ¹[two
41 ounces] ²[one ounce or]² less¹ ²than one ounce² including any
42 adulterants or dilutants, or hashish in a quantity of ¹[less than]¹
43 ²less than² five grams ²[¹or less¹]² including any adulterants or
44 dilutants, is ~~[guilty of a crime of the fourth degree]~~ guilty of a
45 crime of the fourth degree;

46 ²(b) On and after the effective date of P.L. _____, c. (C. _____)
47 (pending before the Legislature as this bill), marijuana in a quantity

1 of one ounce or less including any adulterants or dilutants, or
2 hashish in a quantity of five grams or less including any adulterants
3 or dilutants, is^{2 1}, for a first offense, ²【guilty of¹ an unlawful act】²
4 subject to a ²【civil penalty of \$50】 written warning, which also
5 indicates that any subsequent violation is a crime punishable by a
6 term imprisonment, a fine, or both^{2 1}【.】 , and for a second or
7 subsequent offense, is guilty of a crime of the fourth degree;

8 (a) ²(i)² The odor of marijuana or hashish, or burnt marijuana or
9 hashish, shall not constitute reasonable articulable suspicion to
10 initiate a search of a person to determine a violation of
11 ²subparagraph (b) of² paragraph (12) of this subsection. A person
12 who violates this ²【paragraph】 subparagraph² shall not be subject
13 to arrest, detention, or otherwise be taken into custody, unless the
14 person is being arrested, detained, or otherwise taken into custody
15 for also committing another violation of law for which that action is
16 legally permitted or required;

17 (b) ²【(i)¹ The civil penalty provided for in ¹【this subparagraph】
18 paragraph (12) of this subsection¹ shall be collected pursuant to the
19 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
20 et seq.), in a summary proceeding before the municipal court having
21 jurisdiction. A penalty recovered under the provisions of this
22 paragraph shall be recovered by and in the name of the State by the
23 local municipality. The penalty shall be paid into the treasury of
24 the municipality in which the violation occurred for the general use
25 of the municipality;

26 ¹(ii)² A person shall not be deprived of any legal or civil right,
27 privilege, benefit, or opportunity provided pursuant to any law
28 solely by reason of committing a violation of ²subparagraph (b) of²
29 paragraph (12) of this subsection, nor shall committing one or more
30 violations modify any legal or civil right, privilege, benefit, or
31 opportunity provided pursuant to any law, including, but not limited
32 to, the granting, renewal, forfeiture, or denial of a license, permit,
33 or certification, qualification for and the receipt, alteration,
34 continuation, or denial of any form of financial assistance, housing
35 assistance, or other social services, rights of or custody by a
36 biological parent, or adoptive or foster parent, or other legal
37 guardian of a child or newborn infant, or pregnant woman, in any
38 action or proceeding by the Division of Child Protection and
39 Permanency in the Department of Children and Families, or
40 qualification, approval, or disapproval to serve as a foster parent or
41 other legal guardian;

42 (c) All local and county law enforcement authorities shall,
43 following the submission process used for the uniform crime
44 reporting system established by P.L.1966, c.37 (C.52:17B-
45 5.1 et seq.), submit a quarterly report to the Uniform Crime
46 Reporting Unit, within the Division of State Police in the
47 Department of Law and Public Safety, or to another designated
48 recipient determined by the Attorney General, containing the

1 number of violations of ²suparagraph (b) of² paragraph (12) of this
2 subsection committed within their respective jurisdictions, plus the
3 race, ethnicity, gender, and age of each person committing a
4 violation, and the disposition of each person's violation. These
5 violations and associated information, along with a quarterly
6 summary of violations investigated, and associated information
7 collected, by the Division of State Police for the same period shall
8 be summarized by county and municipality in an annual report, and
9 both quarterly summaries and annual reports shall be made
10 available at no cost to the public on the Division of State Police's
11 Internet website;¹

12 (13) Any other controlled dangerous substance classified in
13 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
14 third degree, except that, notwithstanding the provisions of
15 subsection b. of N.J.S.2C:43-3, a fine of up to **【\$25,000.00】**
16 \$25,000 may be imposed; or

17 (14) Any Schedule V substance, or its analog, is guilty of a
18 crime of the fourth degree except that, notwithstanding the
19 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
20 **【\$25,000.00】** \$25,000 may be imposed.

21 c. Where the degree of the offense for violation of this section
22 depends on the quantity of the substance, the quantity involved
23 shall be determined by the trier of fact. Where the indictment or
24 accusation so provides, the quantity involved in individual acts of
25 manufacturing, distribution, dispensing or possessing with intent to
26 distribute may be aggregated in determining the grade of the
27 offense, whether distribution or dispensing is to the same person or
28 several persons, provided that each individual act of manufacturing,
29 distribution, dispensing or possession with intent to distribute was
30 committed within the applicable statute of limitations.
31 (cf: P.L.2000, c.136, s.1)**】³**

32

33 **³【2. N.J.S.2C:35-10 is amended to read as follows:**

34 2C:35-10. Possession, Use or Being Under the Influence, or
35 Failure to Make Lawful Disposition.

36 a. It is unlawful for any person, knowingly or purposely, to
37 obtain, or to possess, actually or constructively, a controlled
38 dangerous substance or controlled substance analog, unless the
39 substance was obtained directly, or pursuant to a valid prescription
40 or order form from a practitioner, while acting in the course of his
41 professional practice, or except as otherwise authorized by
42 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this
43 section with respect to:

44 (1) A controlled dangerous substance, or its analog, classified in
45 Schedule I, II, III or IV other than those specifically covered in this
46 section, is guilty of a crime of the third degree except that,
47 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
48 fine of up to **【\$35,000.00】** \$35,000 may be imposed;

1 (2) Any controlled dangerous substance, or its analog, classified
2 in Schedule V, is guilty of a crime of the fourth degree except that,
3 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
4 fine of up to ~~[\$15,000.00]~~ \$15,000 may be imposed; ¹or¹

5 (3) ²**[Possession]** (a) Prior to the effective date of P.L. _____,
6 c. (C. _____) (pending before the Legislature as this bill), possession²
7 of more than [50 grams] ¹[two ounces] ²[six ounces¹] 50 grams²
8 of marijuana, including any adulterants or dilutants, or more than
9 ¹[five grams] ²[170 grams¹] five grams² of hashish is guilty of a
10 crime of the fourth degree, except that, notwithstanding the
11 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
12 \$25,000.00 may be imposed; ¹[or]

13 ²**[(a)]** (b) On and after to the effective date of P.L. _____,
14 c. (C. _____) (pending before the Legislature as this bill),
15 possession of more than six ounces of marijuana, including any
16 adulterants or dilutants, or more than 170 grams of hashish is guilty
17 of a crime of the fourth degree, except that, notwithstanding the
18 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
19 \$25,000.00 may be imposed;

20 (i)² The odor of marijuana or hashish, or burnt marijuana or
21 hashish, shall not constitute reasonable articulable suspicion to
22 initiate a search of a person to determine a violation of
23 ²subparagraph (b) of² paragraph (3) of this subsection. A person
24 who violates this paragraph shall not be subject to arrest, detention,
25 or otherwise be taken into custody, unless the person is being
26 arrested, detained, or otherwise taken into custody for also
27 committing another violation of law for which that action is legally
28 permitted or required;

29 ²**[(b)]** (ii)² A person shall not be deprived of any legal or civil
30 right, privilege, benefit, or opportunity provided pursuant to any
31 law solely by reason of committing a violation of ²subparagraph (b)
32 of² paragraph (3), nor shall committing one or more violations
33 modify any legal or civil right, privilege, benefit, or opportunity
34 provided pursuant to any law, including, but not limited to, the
35 granting, renewal, forfeiture, or denial of a license, permit, or
36 certification, qualification for and the receipt, alteration,
37 continuation, or denial of any form of financial assistance, housing
38 assistance, or other social services, rights of or custody by a
39 biological parent, or adoptive or foster parent, or other legal
40 guardian of a child or newborn infant, or pregnant woman, in any
41 action or proceeding by the Division of Child Protection and
42 Permanency in the Department of Children and Families, or
43 qualification, approval, or disapproval to serve as a foster parent or
44 other legal guardian;

45 ²**[(c)]** (iii)² All local and county law enforcement authorities
46 shall, following the submission process used for the uniform crime
47 reporting system established by P.L.1966, c.37 (C.52:17B-

1 5.1 et seq.), submit a quarterly report to the Uniform Crime
2 Reporting Unit, within the Division of State Police in the
3 Department of Law and Public Safety, or to another designated
4 recipient determined by the Attorney General, containing the
5 number of violations of ²subparagraph (b) of² paragraph (3) of this
6 subsection committed within their respective jurisdictions, plus the
7 race, ethnicity, gender, and age of each person committing a
8 violation, and the disposition of each person's violation. These
9 violations and associated information, along with a quarterly
10 summary of violations investigated, and associated information
11 collected, by the Division of State Police for the same period shall
12 be summarized by county and municipality in an annual report, and
13 both quarterly summaries and annual reports shall be made
14 available at no cost to the public on the Division of State Police's
15 Internet website;^{1 2}or²

16 (4) ¹**【Possession of 【50 grams】 two ounces** or less of marijuana,
17 including any adulterants or dilutants, or five grams or less of
18 hashish is an unlawful act subject to a 【disorderly person】 civil
19 penalty of \$50, but this amount of marijuana or hashish is presumed
20 to be the lawful possession of medical cannabis or a medical
21 cannabis product in accordance with the “Jake Honig
22 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307
23 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.), and
24 the State shall establish by a preponderance of evidence that the
25 substance possessed was not medical cannabis or a medical
26 cannabis product in order to impose the \$50 civil penalty for
27 possession of marijuana or hashish pursuant to this paragraph. The
28 civil penalty provided for in this paragraph shall be collected
29 pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999,
30 c.274 (C.2A:58-10 et seq.), in a summary proceeding before the
31 municipal court having jurisdiction. A penalty recovered under the
32 provisions of this paragraph shall be recovered by and in the name
33 of the State by the local municipality. The penalty shall be paid
34 into the treasury of the municipality in which the violation occurred
35 for the general use of the municipality.】 ²**【(Deleted by amendment,**
36 P.L. , c.) (pending before the Legislature as this bill)¹】

37 (a) Prior to the effective date of P.L. , c. (C.) (pending
38 before the Legislature as this bill), possession of 50 grams or less of
39 marijuana, including any adulterants or dilutants, or five grams or
40 less of hashish is a disorderly person;

41 (b) On and after the effective date of P.L. , c. (C.)
42 (pending before the Legislature as this bill), possession of six
43 ounces or less of marijuana, including any adulterants or dilutants,
44 or 170 grams or less of hashish is not punishable as a crime,
45 offense, or civil violation of law;

46 (5) Possession of one ounce or less of psilocybin is a disorderly
47 person;²

1 Any person who commits any offense **【defined in】** set forth in
2 paragraphs (1) through (3) of this 【section】 subsection while on any
3 property used for school purposes which is owned by or leased to
4 any elementary or secondary school or school board, or within
5 1,000 feet of any such school property or a school bus, or while on
6 any school bus, and who is not sentenced to a term of
7 imprisonment, shall, in addition to any other sentence which the
8 court may impose, be required to perform not less than 100 hours of
9 community service.

10 b. ¹(1)¹ Any person who uses or who is under the influence of
11 any controlled dangerous substance, or its analog, ¹not including
12 marijuana or hashish,¹ for a purpose other than the treatment of
13 sickness or injury as lawfully prescribed or administered by a
14 physician is a disorderly person.

15 In a prosecution under this subsection, it shall not be necessary
16 for the State to prove that the accused did use or was under the
17 influence of any specific ¹, prohibited¹ drug, but it shall be
18 sufficient for a conviction under this subsection for the State to
19 prove that the accused did use or was under the influence of some
20 prohibited controlled dangerous substance, counterfeit controlled
21 dangerous substance, or controlled substance analog, by proving
22 that the accused did manifest physical and physiological symptoms
23 or reactions caused by the use of any ¹prohibited¹ controlled
24 dangerous substance or controlled substance analog.

25 ¹(2)Notwithstanding that using or being under the influence of
26 marijuana or hashish is not a punishable offense pursuant to this
27 subsection, the smoking, vaping, or aerosolizing of marijuana or
28 hashish may be prohibited or otherwise regulated on or in any
29 property by the person or entity that owns or controls that property,
30 including multifamily housing that is a multiple dwelling as defined
31 in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of a
32 condominium, as those terms are defined by section 3 of P.L.1969,
33 c.257 (C.46:8B-3), or a site in a mobile home park as defined in
34 section 3 of P.L.1983, c.386 (C.40:55D-102), which site is leased to
35 the owner of a manufactured home, as defined in that section, that is
36 installed thereon.¹

37 c. Any person who knowingly obtains or possesses a controlled
38 dangerous substance or controlled substance analog in violation of
39 ¹paragraph (1) or (2) of¹ subsection a. of this section and who fails
40 to voluntarily deliver the substance to the nearest law enforcement
41 officer is guilty of a disorderly persons offense. Nothing in this
42 subsection shall be construed to preclude a prosecution or
43 conviction for any other offense defined in this title or any other
44 statute.

45 (cf: P.L.1997, c.181, s.6)³

46

47 ³【¹3. N.J.S.2C:36-2 is amended to read as follows:

1 2C:36-2. a. Use or possession with intent to use, disorderly
2 persons offense. It shall be unlawful for any person to use, or to
3 possess with intent to use, drug paraphernalia to plant, propagate,
4 cultivate, grow, harvest, manufacture, compound, convert, produce,
5 process, prepare, test, analyze, pack, repack, store, contain, conceal,
6 ingest, inhale, or otherwise introduce into the human body a
7 controlled dangerous substance, controlled substance analog or
8 toxic chemical in violation of the provisions of chapter 35 of this
9 title, other than when used, or possessed with intent to use, for
10 ingesting, inhaling, or otherwise introducing marijuana or hashish
11 into the human body. Any person who violates this section is guilty
12 of a disorderly persons offense.

13 b. Notwithstanding that using or possessing with intent to use
14 drug paraphernalia to ingest, inhale, or otherwise introduce
15 marijuana or hashish into the human body is not a punishable
16 offense pursuant to this section, the use of drug paraphernalia for
17 that purpose may be prohibited or otherwise regulated on or in any
18 property by the person or entity that owns or controls that property,
19 including multifamily housing that is a multiple dwelling as defined
20 in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of a
21 condominium, as those terms are defined by section 3 of P.L.1969,
22 c.257 (C.46:8B-3), or a site in a mobile home park as defined in
23 section 3 of P.L.1983, c.386 (C.40:55D-102), which site is leased to
24 the owner of a manufactured home, as defined in that section, that is
25 installed thereon.¹

26 (cf: P.L.2007, c.31, s.3)]³

27
28 ¹[3.] ³[4.¹ (New section) a. Except to the extent required to
29 dismiss, withdraw, or terminate the charge, no court shall have
30 jurisdiction over any charge, including any charge of delinquency,
31 based on ¹[the distribution of] offenses that occurred prior to the
32 effective date of P.L. , c. (C.) (pending before the Legislature
33 as this bill), involving manufacturing, distributing, or dispensing, or
34 possessing or having under control with intent to manufacture,
35 distribute, or dispense,¹ marijuana or hashish in violation of
36 paragraph ²[¹(11) of subsection b. of N.J.S.2C:35-5, or a lesser
37 amount of marijuana or hashish in violation of paragraph ¹]² (12) of
38 subsection b. of ¹[N.J.S.2C:35-5, or the possession] ²[that section]
39 N.J.S.2C:35-5² , or ²[a violation of either of those paragraphs and a
40 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
41 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
42 distributing, dispensing, or possessing with intent to distribute or
43 dispense, on or within 1,000 feet of any school property, or on or
44 within 500 feet of the real property comprising a public housing
45 facility, public park, or public building, or]² obtaining, possessing,
46 using, being under the influence of, or failing to make lawful
47 disposition¹ of marijuana or hashish in violation of paragraph ¹(3)

1 or¹ (4) of subsection a. ¹, or subsection b., or subsection c.¹ of
2 N.J.S.2C:35-10, ¹【that occurred prior to the effective date of
3 P.L. , c. (C.) (pending before the Legislature as this bill)】
4 or a violation involving marijuana or hashish as described herein
5 and a violation of N.J.S.2C:36-2 for using or possessing with intent
6 to use drug paraphernalia with that marijuana or hashish, alone or in
7 combination with each other¹ , ²or possession of any controlled
8 dangerous substance while operating a motor vehicle in violation of
9 section 1 of P.L.1964, c.289 (C.39:4-49.1), or any disorderly
10 persons offense or petty disorderly persons offense subject to
11 conditional discharge pursuant to N.J.S.2C:36A-1,² unless a ¹guilty
12 verdict, plea, or other entry of guilt, or¹ final judgment of
13 conviction or adjudication of delinquency has been entered on or
14 before that effective date. These non-prosecutable charges and
15 cases shall be expeditiously dismissed, which may be accomplished
16 by appropriate action by a law enforcement agency, or on a motion
17 to the court which would otherwise have jurisdiction over a case, or
18 the court's own motion, based upon guidelines ¹【or】 ,
19 administrative¹ directives ¹, and court orders¹ issued by the
20 Attorney General, the Administrative Director of the Courts, and
21 the Supreme Court ¹, as appropriate¹.

22 b. ¹【A charge, including any charge of delinquency,
23 conviction, or adjudication of delinquency, based on a violation of
24 any of the following laws that occurred prior to, on, or after the
25 effective date of P.L. , c. (C.) (pending before the
26 Legislature as this bill), shall not be considered whenever the
27 Pretrial Services Program established by the Administrative Office
28 of the Courts pursuant to section 11 of P.L.2014, c.31 (C.2A:162-
29 25) conducts a risk assessment on an eligible defendant for the
30 purpose of making recommendations to the court concerning an
31 appropriate pretrial release decision in accordance with sections 1
32 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.): a violation of
33 paragraph (11) of subsection b. of N.J.S.2C:35-5; or a lesser amount
34 of marijuana or hashish in violation of paragraph (12) of subsection
35 b. of that section; or a violation of either of those paragraphs and a
36 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
37 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
38 distributing, or possessing or having under control with intent to
39 distribute, on or within 1,000 feet of any school property, or on or
40 within 500 feet of the real property comprising a public housing
41 facility, public park, or public building; or for obtaining,
42 possessing, using, being under the influence of, or failing to make
43 lawful disposition of marijuana or hashish in violation of paragraph
44 (3) or (4) of subsection a., or subsection b., or subsection c. of
45 N.J.S.2C:35-10; or for a violation of any of those provisions and a
46 violation of N.J.S.2C:36-2 for using or possessing with intent to use
47 drug paraphernalia with the marijuana or hashish.

1 c.】¹ (1) Regarding a ¹【conviction or adjudication of
2 delinquency】 guilty verdict, plea, or other entry of guilt¹ entered
3 prior to the effective date of P.L. , c. (C.) (pending before
4 the Legislature as this bill), it shall be grounds for ¹【post-
5 conviction】¹ relief that the ¹【conviction or adjudication of
6 delinquency】 guilty verdict, plea, or other entry of guilt¹ involved
7 ¹【unlawful distribution of, or possessing or having under control
8 with intent to distribute, marijuana or hashish in violation of
9 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount
10 of marijuana or hashish in violation of paragraph (12) of subsection
11 b. of that section, or a violation of either of those paragraphs and a
12 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
13 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1),
14 for distributing, or possessing or having under control with intent to
15 distribute, on or within 1,000 feet of any school property, or on or
16 within 500 feet of the real property comprising a public housing
17 facility, public park, or public building, or obtaining, possessing,
18 using, being under the influence of, or failing to make lawful
19 disposition of marijuana or hashish in violation of paragraph (3) or
20 (4) of subsection a., or subsection b., or subsection c. of
21 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
22 described herein and using or possessing with intent to use drug
23 paraphernalia with that marijuana or hashish in violation of
24 N.J.S.2C:36-2, alone or in combination with each other】 one or
25 more crimes or offenses, or delinquent acts which if committed by
26 an adult would constitute one or more crimes or offenses,
27 enumerated in subsection a. of this section¹, if a final judgment of
28 conviction or adjudication of delinquency had not been entered on
29 or before that effective date.

30 (2) Notwithstanding any court rule limiting the time period
31 within which a motion to reduce or change a sentence may be filed,
32 any person who, on the effective date of P.L. , c. (C.)
33 (pending before the Legislature as this bill), is ¹or will be¹ serving a
34 sentence of incarceration, probation, parole or other form of
35 community supervision solely as a result of the person's conviction
36 or adjudication of delinquency for one or more crimes or offenses ¹,
37 or delinquent acts which if committed by an adult would constitute
38 one or more crimes or offenses,¹ enumerated in ¹【paragraph (1)】
39 subsection a.¹ of this ¹【subsection】 section¹ may move to have the
40 person's sentence reviewed by the court. If the court finds that the
41 sentence under review is based solely upon a conviction or
42 adjudication of delinquency for one or more crimes or offenses ¹,
43 or delinquent acts which if committed by an adult would constitute one
44 or more crimes or offenses,¹ enumerated in ¹【paragraph (1)】
45 subsection a.¹ of this ¹【subsection】 section¹, the court shall order
46 appropriate relief.

1 (3) No fee shall be charged to a person seeking post-conviction
2 relief pursuant to this subsection. **】³**

3
4 **1【4.】³【5.1** (New section) Other than the consequences of any
5 sentence set forth in a judgment of conviction, including a term of
6 imprisonment and any court-ordered financial assessment, unless
7 otherwise provided by law, any arrest, charge, conviction, and
8 adjudication of delinquency that occurred prior to the effective date
9 of P.L. , c. (C.) (pending before the Legislature as this bill),
10 and any proceedings related thereto, for **1【unlawful distribution of】**
11 manufacturing, distributing, or dispensing¹ , or possessing or
12 having under control with intent to 1manufacture,1 distribute, 1or
13 dispense,1 marijuana or hashish in violation of paragraph (11) of
14 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
15 hashish in violation of paragraph (12) of subsection b. of that
16 section, or a violation of either of those paragraphs and a violation
17 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
18 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for
19 distributing, 1dispensing,1 or possessing or having under control
20 with intent to distribute 1or dispense¹, on or within 1,000 feet of
21 any school property, or on or within 500 feet of the real property
22 comprising a public housing facility, public park, or public
23 building, or obtaining, possessing, using, being under the influence
24 of, or failing to make lawful disposition of marijuana or hashish in
25 violation of paragraph (3) or (4) of subsection a., or subsection b.,
26 or subsection c. of N.J.S.2C:35-10, or a violation involving
27 marijuana or hashish as described herein and 1a violation of
28 N.J.S.2C:36-2 for¹ using or possessing with intent to use drug
29 paraphernalia with that marijuana or hashish **1【in violation of**
30 **N.J.S.2C:36-2】** , alone or in combination with each other,1 shall be
31 deemed not to have occurred, and the person involved in that
32 violation may answer any questions relating to their occurrence
33 accordingly, except that such information shall be revealed by that
34 person if seeking employment within the judicial branch or with a
35 law enforcement or corrections agency and such information shall
36 continue to provide a disability as otherwise provided by law. **】³**

37
38 **1【5.** (New section) The Administrative Director of the Courts
39 shall maintain and provide information to any person upon request
40 about the expungement process and legal services programs
41 Statewide and in each county which may be available to assist the
42 person with an expedited expungement pursuant to section 5 of
43 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
44 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3). **】¹**

45
46 **1【6.** (New section) a. (1) The Administrative Director of the
47 Courts shall develop and maintain a multilingual public awareness

1 campaign to promote awareness of the expungement process,
2 including an expedited expungement pursuant to section 5 of
3 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
4 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3), and the
5 expungement e-filing system established pursuant to section 11 of
6 P.L.2019, c.269 (C.2C:52-10.1), as well as information on State,
7 local, non-profit and other private job training programs in
8 consultation with the Department of Labor and Workforce
9 Development, with a focus on assisting those persons eligible for
10 the expedited expungement or “clean slate” expungement of their
11 records pursuant to section 5 of P.L.2019, c.269 (C.2C:52-5.1) or a
12 “clean slate” expungement pursuant to section 7 of P.L.2019, c.269
13 (C.2C:52-5.3), respectively.

14 (2) The public awareness campaign shall, at a minimum, utilize
15 electronic and print media, and shall make available electronically
16 on an Internet website a petition form and a list of the supporting
17 information necessary for an expungement, including an expedited
18 or “clean slate” expungement pursuant to section 5 of
19 P.L.2019, c.269 (C.2C:52-5.1) or section 7 of P.L.2019, c.269
20 (C.2C:52-5.3), respectively, using the expungement e-filing system
21 once established pursuant to section 11 of P.L.2019, c.269 (C.2C:52-
22 10.1).

23 (3) The petition and supporting information shall, at a minimum,
24 be made available in English and Spanish.

25 b. The Administrative Director of the Courts shall include in the
26 annual report on the activities of the Administrative Office of the
27 Courts, prepared pursuant to N.J.S.2A:12-5, information about the
28 activities and accomplishments of the public awareness campaign
29 developed and maintained pursuant to subsection a. of this section,
30 beginning no later than one year after the effective date of
31 P.L. , c. (C.) (pending before the Legislature as this
32 bill).¹

33

34 ³1. N.J.S.2C:35-5 is amended to read as follows:

35 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
36 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
37 unlawful for any person knowingly or purposely:

38 (1) To manufacture, distribute or dispense, or to possess or have
39 under his control with intent to manufacture, distribute or dispense,
40 a controlled dangerous substance or controlled substance analog; or

41 (2) To create, distribute, or possess or have under his control
42 with intent to distribute, a counterfeit controlled dangerous
43 substance.

44 b. Any person who violates subsection a. with respect to:

45 (1) Heroin, or its analog, or coca leaves and any salt, compound,
46 derivative, or preparation of coca leaves, and any salt, compound,
47 derivative, or preparation thereof which is chemically equivalent or
48 identical with any of these substances, or analogs, except that the

1 substances shall not include decocainized coca leaves or extractions
2 which do not contain cocaine or ecogine, or 3,4-
3 methylenedioxyamphetamine or 3,4-
4 methylenedioxyamphetamine, in a quantity of five ounces or more
5 including any adulterants or dilutants is guilty of a crime of the first
6 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
7 be sentenced to a term of imprisonment by the court. The term of
8 imprisonment shall include the imposition of a minimum term
9 which shall be fixed at, or between, one-third and one-half of the
10 sentence imposed, during which the defendant shall be ineligible for
11 parole. Notwithstanding the provisions of subsection a. of
12 N.J.S.2C:43-3, a fine of up to **【\$500,000.00】** \$500,000 may be
13 imposed;

14 (2) A substance referred to in paragraph (1) of this subsection,
15 in a quantity of one-half ounce or more but less than five ounces,
16 including any adulterants or dilutants is guilty of a crime of the
17 second degree;

18 (3) A substance referred to paragraph (1) of this subsection in a
19 quantity less than one-half ounce including any adulterants or
20 dilutants is guilty of a crime of the third degree except that,
21 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
22 fine of up to **【\$75,000.00】** \$75,000 may be imposed;

23 (4) A substance classified as a narcotic drug in Schedule I or II
24 other than those specifically covered in this section, or the analog of
25 any such substance, in a quantity of one ounce or more including
26 any adulterants or dilutants is guilty of a crime of the second
27 degree;

28 (5) A substance classified as a narcotic drug in Schedule I or II
29 other than those specifically covered in this section, or the analog of
30 any such substance, in a quantity of less than one ounce including
31 any adulterants or dilutants is guilty of a crime of the third degree
32 except that, notwithstanding the provisions of subsection b. of
33 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
34 imposed;

35 (6) Lysergic acid diethylamide, or its analog, in a quantity of
36 100 milligrams or more including any adulterants or dilutants, or
37 phencyclidine, or its analog, in a quantity of 10 grams or more
38 including any adulterants or dilutants, is guilty of a crime of the
39 first degree. Except as provided in N.J.S.2C:35-12, the court shall
40 impose a term of imprisonment which shall include the imposition
41 of a minimum term, fixed at, or between, one-third and one-half of
42 the sentence imposed by the court, during which the defendant shall
43 be ineligible for parole. Notwithstanding the provisions of
44 subsection a. of N.J.S.2C:43-3, a fine of up to **【\$500,000.00】**
45 \$500,000 may be imposed;

46 (7) Lysergic acid diethylamide, or its analog, in a quantity of
47 less than 100 milligrams including any adulterants or dilutants, or
48 where the amount is undetermined, or phencyclidine, or its analog,

1 in a quantity of less than 10 grams including any adulterants or
2 dilutants, or where the amount is undetermined, is guilty of a crime
3 of the second degree;

4 (8) Methamphetamine, or its analog, or phenyl-2-propanone
5 (P2P), in a quantity of five ounces or more including any
6 adulterants or dilutants is guilty of a crime of the first degree.
7 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
8 fine of up to ~~【\$300,000.00】~~ \$300,000 may be imposed;

9 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
10 (P2P), in a quantity of one-half ounce or more but less than five
11 ounces including any adulterants or dilutants is guilty of a crime of
12 the second degree;

13 (b) Methamphetamine, or its analog, or phenyl-2-propanone
14 (P2P), in a quantity of less than one-half ounce including any
15 adulterants or dilutants is guilty of a crime of the third degree
16 except that notwithstanding the provisions of subsection b. of
17 N.J.S.2C:43-3, a fine of up to ~~【\$75,000.00】~~ \$75,000 may be
18 imposed;

19 (10) (a) Marijuana in a quantity of 25 pounds or more
20 including any adulterants or dilutants, or 50 or more marijuana
21 plants, regardless of weight, or hashish in a quantity of five pounds
22 or more including any adulterants or dilutants, is guilty of a crime
23 of the first degree. Notwithstanding the provisions of subsection a.
24 of N.J.S.2C:43-3, a fine of up to ~~【\$300,000.00】~~ \$300,000 may be
25 imposed;

26 (b) Marijuana in a quantity of five pounds or more but less than
27 25 pounds including any adulterants or dilutants, or 10 or more but
28 fewer than 50 marijuana plants, regardless of weight, or hashish in a
29 quantity of one pound or more but less than five pounds, including
30 any adulterants and dilutants, is guilty of a crime of the second
31 degree;

32 (11) ~~【Marijuana】~~ (a) Prior to the effective date of P.L. _____,
33 c. (C. _____) (pending before the Legislature as this bill), marijuana
34 in a quantity of one ounce or more but less than five pounds
35 including any adulterants or dilutants, or hashish in a quantity of
36 five grams or more but less than one pound including any
37 adulterants or dilutants, is guilty of a crime of the third degree
38 except that, notwithstanding the provisions of subsection b. of
39 N.J.S.2C:43-3, a fine of up to ~~【\$25,000.00】~~ \$25,000 may be
40 imposed;

41 (b) On and after the effective date of P.L. _____, c. (C. _____)
42 (pending before the Legislature as this bill), marijuana in a quantity
43 of more than one ounce but less than five pounds including any
44 adulterants or dilutants, or hashish in a quantity of more than five
45 grams but less than one pound including any adulterants or
46 dilutants, is guilty of a crime of the third degree except that,
47 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
48 fine of up to \$25,000 may be imposed;

1 (12) **【Marijuana】** (a) Prior to the effective date of P.L. _____,
2 c. (C. _____) (pending before the Legislature as this bill), marijuana
3 in a quantity of less than one ounce including any adulterants or
4 dilutants, or hashish in a quantity of less than five grams including
5 any adulterants or dilutants, is guilty of a crime of the fourth
6 degree;

7 (b) On and after the effective date of P.L. _____, c. (C. _____)
8 (pending before the Legislature as this bill), marijuana in a quantity
9 of one ounce or less including any adulterants or dilutants, or
10 hashish in a quantity of five grams or less including any adulterants
11 or dilutants, is, for a first offense, subject to a written warning,
12 which also indicates that any subsequent violation is a crime
13 punishable by a term of imprisonment, a fine, or both, and for a
14 second or subsequent offense, is guilty of a crime of the fourth
15 degree;

16 (i) The odor of marijuana or hashish, or burnt marijuana or
17 hashish, shall not constitute reasonable articulable suspicion to
18 initiate a search of a person to determine a violation of
19 subparagraph (b) of paragraph (12) of this subsection. A person
20 who violates this subparagraph shall not be subject to arrest,
21 detention, or otherwise be taken into custody, unless the person is
22 being arrested, detained, or otherwise taken into custody for also
23 committing another violation of law for which that action is legally
24 permitted or required;

25 (ii) A person shall not be deprived of any legal or civil right,
26 privilege, benefit, or opportunity provided pursuant to any law
27 solely by reason of committing a violation of subparagraph (b) of
28 paragraph (12) of this subsection, nor shall committing one or more
29 violations modify any legal or civil right, privilege, benefit, or
30 opportunity provided pursuant to any law, including, but not limited
31 to, the granting, renewal, forfeiture, or denial of a license, permit,
32 or certification, qualification for and the receipt, alteration,
33 continuation, or denial of any form of financial assistance, housing
34 assistance, or other social services, rights of or custody by a
35 biological parent, or adoptive or foster parent, or other legal
36 guardian of a child or newborn infant, or pregnant woman, in any
37 action or proceeding by the Division of Child Protection and
38 Permanency in the Department of Children and Families, or
39 qualification, approval, or disapproval to serve as a foster parent or
40 other legal guardian;

41 (iii) All local and county law enforcement authorities shall,
42 following the submission process used for the uniform crime
43 reporting system established by P.L.1966, c.37 (C.52:17B-
44 5.1 et seq.), submit a quarterly report to the Uniform Crime
45 Reporting Unit, within the Division of State Police in the
46 Department of Law and Public Safety, or to another designated
47 recipient determined by the Attorney General, containing the
48 number of violations of subparagraph (b) of paragraph (12) of this

1 subsection committed within their respective jurisdictions, plus the
2 race, ethnicity, gender, and age of each person committing a
3 violation, and the disposition of each person's violation. These
4 violations and associated information, along with a quarterly
5 summary of violations investigated, and associated information
6 collected, by the Division of State Police for the same period shall
7 be summarized by county and municipality in an annual report, and
8 both quarterly summaries and annual reports shall be made
9 available at no cost to the public on the Division of State Police's
10 Internet website;

11 (13) Any other controlled dangerous substance classified in
12 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
13 third degree, except that, notwithstanding the provisions of
14 subsection b. of N.J.S.2C:43-3, a fine of up to **【\$25,000.00】**
15 \$25,000 may be imposed; or

16 (14) Any Schedule V substance, or its analog, is guilty of a
17 crime of the fourth degree except that, notwithstanding the
18 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
19 **【\$25,000.00】** \$25,000 may be imposed.

20 c. Where the degree of the offense for violation of this section
21 depends on the quantity of the substance, the quantity involved
22 shall be determined by the trier of fact, other than with respect to a
23 first violation of subparagraph (b) of paragraph (12) of subsection
24 b. of this section which is subject to a written warning as set forth in
25 that subparagraph. Where the indictment or accusation so provides,
26 the quantity involved in individual acts of manufacturing,
27 distribution, dispensing or possessing with intent to distribute may
28 be aggregated in determining the grade of the offense, whether
29 distribution or dispensing is to the same person or several persons,
30 provided that each individual act of manufacturing, distribution,
31 dispensing or possession with intent to distribute was committed
32 within the applicable statute of limitations.³

33 (cf: P.L.2000, c.136, s.1)

34

35 ³2. N.J.S.2C:35-10 is amended to read as follows:

36 2C:35-10. Possession, Use or Being Under the Influence, or
37 Failure to Make Lawful Disposition.

38 a. It is unlawful for any person, knowingly or purposely, to
39 obtain, or to possess, actually or constructively, a controlled
40 dangerous substance or controlled substance analog, unless the
41 substance was obtained directly, or pursuant to a valid prescription
42 or order form from a practitioner, while acting in the course of his
43 professional practice, or except as otherwise authorized by
44 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this
45 section with respect to:

46 (1) A controlled dangerous substance, or its analog, classified in
47 Schedule I, II, III or IV other than those specifically covered in this
48 section, is guilty of a crime of the third degree except that,

1 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
2 fine of up to ~~【\$35,000.00】~~ \$35,000 may be imposed;

3 (2) Any controlled dangerous substance, or its analog, classified
4 in Schedule V, is guilty of a crime of the fourth degree except that,
5 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
6 fine of up to ~~【\$15,000.00】~~ \$15,000 may be imposed;

7 (3) ~~【Possession】~~ (a) Prior to the effective date of P.L. _____,
8 c. (C. _____) (pending before the Legislature as this bill),
9 possession of more than 50 grams of marijuana, including any
10 adulterants or dilutants, or more than five grams of hashish is guilty
11 of a crime of the fourth degree, except that, notwithstanding the
12 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
13 ~~【\$25,000.00】~~ \$25,000 may be imposed; ~~【or】~~

14 (b) On and after to the effective date of P.L. _____, c. (C. _____)
15 (pending before the Legislature as this bill), possession of more
16 than six ounces of marijuana, including any adulterants or dilutants,
17 or more than 17 grams of hashish is guilty of a crime of the fourth
18 degree, except that, notwithstanding the provisions of subsection b.
19 of N.J.S.2C:43-3, a fine of up to \$25,000 may be imposed;

20 (i) The odor of marijuana or hashish, or burnt marijuana or
21 hashish, shall not constitute reasonable articulable suspicion to
22 initiate a search of a person to determine a violation of
23 subparagraph (b) of paragraph (3) of this subsection. A person
24 who violates this paragraph shall not be subject to arrest, detention,
25 or otherwise be taken into custody, unless the person is being
26 arrested, detained, or otherwise taken into custody for also
27 committing another violation of law for which that action is legally
28 permitted or required;

29 (ii) A person shall not be deprived of any legal or civil right,
30 privilege, benefit, or opportunity provided pursuant to any law
31 solely by reason of committing a violation of subparagraph (b) of
32 paragraph (3) of this subsection, nor shall committing one or more
33 violations modify any legal or civil right, privilege, benefit, or
34 opportunity provided pursuant to any law, including, but not limited
35 to, the granting, renewal, forfeiture, or denial of a license, permit,
36 or certification, qualification for and the receipt, alteration,
37 continuation, or denial of any form of financial assistance, housing
38 assistance, or other social services, rights of or custody by a
39 biological parent, or adoptive or foster parent, or other legal
40 guardian of a child or newborn infant, or pregnant woman, in any
41 action or proceeding by the Division of Child Protection and
42 Permanency in the Department of Children and Families, or
43 qualification, approval, or disapproval to serve as a foster parent or
44 other legal guardian;

45 (iii) All local and county law enforcement authorities shall,
46 following the submission process used for the uniform crime
47 reporting system established by P.L.1966, c.37 (C.52:17B-
48 5.1 et seq.), submit a quarterly report to the Uniform Crime

1 Reporting Unit, within the Division of State Police in the
2 Department of Law and Public Safety, or to another designated
3 recipient determined by the Attorney General, containing the
4 number of violations of subparagraph (b) of paragraph (3) of this
5 subsection committed within their respective jurisdictions, plus the
6 race, ethnicity, gender, and age of each person committing a
7 violation, and the disposition of each person's violation. These
8 violations and associated information, along with a quarterly
9 summary of violations investigated, and associated information
10 collected, by the Division of State Police for the same period shall
11 be summarized by county and municipality in an annual report, and
12 both quarterly summaries and annual reports shall be made
13 available at no cost to the public on the Division of State Police's
14 Internet website; or

15 (4) **【Possession】** (a) Prior to the effective date of P.L. , c.
16 (C.) (pending before the Legislature as this bill), possession of
17 50 grams or less of marijuana, including any adulterants or
18 dilutants, or five grams or less of hashish is a disorderly person;

19 (b) On and after the effective date of P.L. , c. (C.)
20 (pending before the Legislature as this bill), possession of six
21 ounces or less of marijuana, including any adulterants or dilutants,
22 or 17 grams or less of hashish is not subject to any punishment, as
23 this possession is not a crime, offense, act of delinquency, or civil
24 violation of law;

25 Any person who commits any offense **【defined in】** set forth in
26 paragraphs (1) through (3) of this 【section】 subsection while on any
27 property used for school purposes which is owned by or leased to
28 any elementary or secondary school or school board, or within
29 1,000 feet of any such school property or a school bus, or while on
30 any school bus, and who is not sentenced to a term of
31 imprisonment, shall, in addition to any other sentence which the
32 court may impose, be required to perform not less than 100 hours of
33 community service.

34 b. (1) Any person who uses or who is under the influence of
35 any controlled dangerous substance, or its analog, not including
36 marijuana or hashish, for a purpose other than the treatment of
37 sickness or injury as lawfully prescribed or administered by a
38 physician is a disorderly person.

39 In a prosecution under this subsection, it shall not be necessary
40 for the State to prove that the accused did use or was under the
41 influence of any specific, prohibited drug, but it shall be sufficient
42 for a conviction under this subsection for the State to prove that the
43 accused did use or was under the influence of some prohibited
44 controlled dangerous substance, counterfeit controlled dangerous
45 substance, or controlled substance analog, by proving that the
46 accused did manifest physical and physiological symptoms or
47 reactions caused by the use of any prohibited controlled dangerous
48 substance or controlled substance analog.

1 (2) Notwithstanding that using or being under the influence of
2 marijuana or hashish is not a punishable crime, offense, act of
3 delinquency, or civil violation pursuant to this subsection, the
4 smoking, vaping, or aerosolizing of marijuana or hashish may be
5 prohibited or otherwise regulated on or in any property by the
6 person or entity that owns or controls that property, including
7 multifamily housing that is a multiple dwelling as defined in section
8 3 of P.L.1967, c.76 (C.55:13A-3), the structure or specific units of
9 the structure of a cooperative as defined in section 3 of P.L.1987,
10 c.381 (C.46:8D-3), the units of a condominium, as those terms are
11 defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a
12 mobile home park as defined in section 3 of P.L.1983, c.386
13 (C.40:55D-102), which site is leased to the owner of a
14 manufactured home, as defined in that section, that is installed
15 thereon.

16 c. Any person who knowingly obtains or possesses a controlled
17 dangerous substance or controlled substance analog in violation of
18 paragraph (1) or (2) of subsection a. of this section and who fails to
19 voluntarily deliver the substance to the nearest law enforcement
20 officer is guilty of a disorderly persons offense. Nothing in this
21 subsection shall be construed to preclude a prosecution or
22 conviction for any other offense defined in this title or any other
23 statute.³

24 (cf: P.L.1997, c.181, s.6)

25
26 ³3. N.J.S.2C:36-2 is amended to read as follows:

27 2C:36-2. a. Use or possession with intent to use, disorderly
28 persons offense. It shall be unlawful for any person to use, or to
29 possess with intent to use, drug paraphernalia to plant, propagate,
30 cultivate, grow, harvest, manufacture, compound, convert, produce,
31 process, prepare, test, analyze, pack, repack, store, contain, conceal,
32 ingest, inhale, or otherwise introduce into the human body a
33 controlled dangerous substance, controlled substance analog or
34 toxic chemical in violation of the provisions of chapter 35 of this
35 title, other than when used, or possessed with intent to use, for
36 ingesting, inhaling, or otherwise introducing marijuana or hashish
37 into the human body. Any person who violates this section is guilty
38 of a disorderly persons offense.

39 b. Notwithstanding that using or possessing with intent to use
40 drug paraphernalia to ingest, inhale, or otherwise introduce
41 marijuana or hashish into the human body is not a punishable crime,
42 offense, act of delinquency, or civil violation pursuant to this
43 section, the use of drug paraphernalia for that purpose may be
44 prohibited or otherwise regulated on or in any property by the
45 person or entity that owns or controls that property, including
46 multifamily housing that is a multiple dwelling as defined in section
47 3 of P.L.1967, c.76 (C.55:13A-3), the structure or specific units of
48 the structure of a cooperative as defined in section 3 of P.L.1987,

1 c.381 (C.46:8D-3), the units of a condominium, as those terms are
2 defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a
3 mobile home park as defined in section 3 of P.L.1983, c.386
4 (C.40:55D-102), which site is leased to the owner of a
5 manufactured home, as defined in that section, that is installed
6 thereon.³
7 (cf: P.L.2007, c.31, s.3)

8
9 ³4. (New section) a. Except to the extent required to dismiss,
10 withdraw, or terminate the charge, no prosecutor shall pursue any
11 charge, including any charge of delinquency, based on crimes or
12 offenses pending with a court on the first day of the fifth month
13 next following the effective date of P.L. , c. (C.) (pending
14 before the Legislature as Second Reprint of Assembly Bill No. 21)
15 that occurred prior to that effective date, involving manufacturing,
16 distributing, or dispensing, or possessing or having under control
17 with intent to manufacture, distribute, or dispense, marijuana or
18 hashish in violation of paragraph (12) of subsection b. of
19 N.J.S.2C:35-5, or obtaining, possessing, using, being under the
20 influence of, or failing to make lawful disposition of marijuana or
21 hashish in violation of paragraph (3) or (4) of subsection a., or
22 subsection b., or subsection c. of N.J.S.2C:35-10, or a violation
23 involving marijuana or hashish as described herein and a violation
24 of N.J.S.2C:36-2 for using or possessing with intent to use drug
25 paraphernalia with that marijuana or hashish, alone or in
26 combination with each other, or a violation involving marijuana or
27 hashish and a violation of section 1 of P.L.1964, c.289 (C.39:4-
28 49.1) for possession of a controlled dangerous substance while
29 operating a motor vehicle, alone or in combination with each other,
30 or any disorderly persons offense or petty disorderly persons
31 offense subject to conditional discharge pursuant to N.J.S.2C:36A-
32 1. These non-prosecutable charges and cases shall be expeditiously
33 dismissed, which may be accomplished by appropriate action by the
34 prosecutor based upon guidelines issued by the Attorney General,
35 or the court's own motion based upon administrative directives
36 issued by the Administrative Director of the Courts.

37 b. (1) On the first day of the fifth month next following the
38 effective date of P.L. , c. (C.) (pending before the
39 Legislature as Second Reprint of Assembly Bill No. 21), any guilty
40 verdict, plea, placement in a diversionary program, or other entry of
41 guilt on a matter that was entered prior to that effective date, but the
42 judgment of conviction or final disposition on the matter was not
43 entered prior to that date, and the guilty verdict, plea, placement in
44 a diversionary program, or other entry of guilt solely involved one
45 or more crimes or offenses, or delinquent acts which if committed
46 by an adult would constitute one or more crimes or offenses,
47 enumerated in subsection a. of this section, that guilty verdict, plea,
48 placement in a diversionary program, or other entry of guilt shall be

1 vacated by operation of law. The Administrative Director of the
2 Courts, in consultation with the Attorney General, may take any
3 administrative action as may be necessary to vacate the guilty
4 verdict, plea, placement in a diversionary program, or other entry of
5 guilt.

6 (2) On the first day of the fifth month next following the
7 effective date of P.L. , c. (C.) (pending before the
8 Legislature as Second Reprint of Assembly Bill No. 21), any
9 conviction, remaining sentence, ongoing supervision, or unpaid
10 court-ordered financial assessment as defined in section 8 of
11 P.L.2017, c.244 (C.2C:52-23.1) of any person who, on that effective
12 date, is or will be serving a sentence of incarceration, probation,
13 parole or other form of community supervision as a result of the
14 person's conviction or adjudication of delinquency solely for one or
15 more crimes or offenses, or delinquent acts which if committed by
16 an adult would constitute one or more crimes or offenses,
17 enumerated in subsection a. of this section, shall have the
18 conviction, remaining sentence, ongoing supervision, or unpaid
19 court-ordered financial assessment vacated by operation of law.
20 The Administrative Director of the Courts, in consultation with the
21 Attorney General, may take any administrative action as may be
22 necessary to vacate the conviction, remaining sentence, ongoing
23 supervision, or unpaid court-ordered financial assessment.³

24
25 ³5. (New section) On the first day of the fifth month next
26 following the effective date of P.L. , c. (C.) (pending before
27 the Legislature as Second Reprint of Assembly Bill No. 21), any
28 case that, prior to that effective date, includes a conviction or
29 adjudication of delinquency solely for one or more crimes or
30 offenses involving manufacturing, distributing, or dispensing, or
31 possessing or having under control with intent to manufacture,
32 distribute, or dispense, marijuana or hashish in violation of
33 paragraph (12) of subsection b. of N.J.S.2C:35-5, or obtaining,
34 possessing, using, being under the influence of, or failing to make
35 lawful disposition of marijuana or hashish in violation of paragraph
36 (3) or (4) of subsection a., or subsection b., or subsection c. of
37 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
38 described herein and a violation of N.J.S.2C:36-2 for using or
39 possessing with intent to use drug paraphernalia with that marijuana
40 or hashish, alone or in combination with each other, or any
41 disorderly persons offense or petty disorderly persons offense
42 subject to conditional discharge pursuant to N.J.S.2C:36A-1, shall
43 be expunged by operation of law, and any remaining sentence,
44 ongoing supervision, or unpaid court-ordered financial assessment
45 as defined in section 8 of P.L.2017, c.244 (C.2C:52-23.1) shall be
46 vacated by operation of law. The Administrative Director of the
47 Courts, in consultation with the Attorney General, may take any
48 administrative action as may be necessary to expeditiously

1 effectuate the expungement of records associated with any
2 expunged matter.³

3

4 ¹6. Section 6 of P.L.2019, c.269 (C.2C:52-5.2) is amended to
5 read as follows:

6 6. a. (1) No later than three months after the effective date of
7 this section, the Administrative Office of the Courts shall develop
8 and maintain a system for sealing records from the public, upon
9 order of a court, pertaining to offenses **[or] ²[.] or²** delinquent acts
10 **²[, or unlawful acts subject to a civil penalty.]² ¹[or community**
11 **service in lieu of payment of a penalty.]¹** involving marijuana or
12 hashish as described in this section. Once the system is developed,
13 unless otherwise provided by law, a court shall order the
14 nondisclosure to the public of the records of the court and probation
15 services, and records of law enforcement agencies with respect to
16 any arrest, conviction, **[or] ²or²** adjudication of delinquency **²[, or**
17 **imposition of a civil penalty]² ¹[or community service]¹ , and any
18 proceedings related thereto, upon disposition of any case occurring
19 on or after the development of the system for sealing records that
20 solely includes the following convictions **[or] ²[.] or²**
21 **adjudications of delinquency ²[, or imposition of civil penalties]²**
22 **¹[or community service]¹:****

23 (a) any number of offenses for, **[or] ²or²** delinquent acts which
24 if committed by an adult would constitute, **[unlawful distribution**
25 **of] ²[or unlawful acts subject to a civil penalty ¹[, or community**
26 **service in lieu of payment of a penalty]¹ for.]² manufacturing,**
27 **distributing, or dispensing, or possessing or having under control**
28 **with intent to manufacture, distribute, or dispense, marijuana or**
29 **hashish in violation of paragraph (12) of subsection b. of**
30 **N.J.S.2C:35-5, or a violation of that paragraph and a violation of**
31 **subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or**
32 **subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for**
33 **distributing, or possessing or having under control with intent to**
34 **distribute, on or within 1,000 feet of any school property, or on or**
35 **within 500 feet of the real property comprising a public housing**
36 **facility, public park, or public building; or**

37 (b) any number of offenses for, **[or] ²or²** delinquent acts which
38 if committed by an adult would constitute, **²[or unlawful acts**
39 **subject to a civil penalty ¹[, or community service in lieu of**
40 **payment of a penalty]¹ for.]² obtaining [.] or possessing [, using,**
41 **being under the influence of, or failing to make lawful disposition**
42 **of] marijuana or hashish in violation of paragraph (3) ¹[or (4)]¹ of**
43 **subsection a. [, or subsection b., or subsection c.] of N.J.S.2C:35-**
44 **10 [; or] .**

45 (c) **[any number of offenses for, or delinquent acts which if**
46 **committed by an adult would constitute, a violation involving**

1 marijuana or hashish as described in subparagraph (a) or (b) of this
2 paragraph and using or possessing with intent to use drug
3 paraphernalia with that marijuana or hashish in violation of
4 N.J.S.2C:36-2.】 (Deleted by amendment, P.L. ____, c. __) (pending
5 before the Legislature as this bill)

6 (2) If the disposition of the case includes a court-ordered
7 financial assessment subject to collection under the comprehensive
8 enforcement program established pursuant to P.L.1995, c.9
9 (C.2B:19-1 et al.), then at the time of issuing the sealing order, the
10 court shall also enter a civil judgment for the unpaid portion of the
11 court-ordered financial assessment in the name of the Treasurer,
12 State of New Jersey and transfer collections and disbursement
13 responsibility to the State Treasurer for the outstanding amount in
14 accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The
15 term "court-ordered financial assessment" as used herein means and
16 includes any fine, fee, penalty, restitution, and other form of
17 financial assessment imposed by the court as part of the sentence
18 for the conviction or convictions that are the subject of the sealing
19 order, for which payment of restitution takes precedence in
20 accordance with chapter 46 of Title 2C of the New Jersey Statutes.
21 The Treasurer may specify, and the Administrative Office of the
22 Courts shall collaborate with, the technical and informational
23 standards required to effectuate the transfer of the collection and
24 disbursement responsibilities. Notwithstanding any provision in this
25 law or any other law to the contrary, the court shall have sole
26 discretion to amend the judgment.

27 b. Notice of the sealing order issued pursuant to subsection a.
28 of this section shall be provided to:

29 (1) The Attorney General, county prosecutor, or municipal
30 prosecutor handling the case; and

31 (2) The State Police and any local law enforcement agency
32 having custody of the files and records.

33 c. Upon the entry of a sealing order issued pursuant to
34 subsection a. of this section, the proceedings in the case shall be
35 sealed and all index references shall be marked "not available" or
36 "no record." Law enforcement agencies shall reply to requests for
37 information or records of a person subject to a sealing order that
38 there is no information or records. The person may also reply to
39 any inquiry that there is no information or record, except that
40 information subject to a sealing order shall be revealed by that
41 person if seeking employment within the judicial branch or with a
42 law enforcement or corrections agency, and the information shall
43 continue to provide a disability to the extent provided by law.

44 d. Records subject to a sealing order issued pursuant to
45 subsection a. of this section may be maintained for purposes of
46 prior offender status, identification, and law enforcement purposes,
47 provided that the records shall not be 【considered whenever the
48 Pretrial Services Program established by the Administrative Office

1 of the Courts pursuant to section 11 of P.L.2014, c.31 (C.2A:162-
2 25) conducts a risk assessment on an eligible defendant for the
3 purpose of making recommendations to the court concerning an
4 appropriate pretrial release decision in accordance with sections 1
5 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) or] ²considered
6 whenever the Pretrial Services Program established by the
7 Administrative Office of the Courts pursuant to section 11 of
8 P.L.2014, c.31 (C.2A:162-25) conducts a risk assessment on an
9 eligible defendant for the purpose of making recommendations to
10 the court concerning an appropriate pretrial release decision in
11 accordance with sections 1 through 11 of P.L.2014, c.31 (C.2A:162-
12 15 et seq.) or² used for sentencing purposes in any other case.¹
13 (cf: P.L.2019, c.269, s.6)

14
15 ¹⁷. Section 3 of P.L.2014, c.31 (C.2A:162-17) is amended to
16 read as follows:

17 3. Except as otherwise provided under sections 4 and 5 of
18 P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19) concerning a
19 hearing on pretrial detention, a court shall make, pursuant to this
20 section, a pretrial release decision for an eligible defendant without
21 unnecessary delay, but in no case later than 48 hours after the
22 eligible defendant's commitment to jail.

23 a. The court shall order the pretrial release of the eligible
24 defendant on personal recognizance or on the execution of an
25 unsecured appearance bond when, after considering all the
26 circumstances, the Pretrial Services Program's risk assessment and
27 recommendations on conditions of release prepared pursuant to
28 section 11 of P.L.2014, c.31 (C.2A:162-25), and any information
29 that may be provided by a prosecutor or the eligible defendant, the
30 court finds that the release would reasonably assure the eligible
31 defendant's appearance in court when required, the protection of the
32 safety of any other person or the community, and that the eligible
33 defendant will not obstruct or attempt to obstruct the criminal
34 justice process.

35 b. (1) If the court does not find, after consideration, that the
36 release described in subsection a. of this section will reasonably
37 assure the eligible defendant's appearance in court when required,
38 the protection of the safety of any other person or the community,
39 and that the eligible defendant will not obstruct or attempt to
40 obstruct the criminal justice process, the court may order the
41 pretrial release of the eligible defendant subject to the following:

42 (a) the eligible defendant shall not commit any offense during
43 the period of release;

44 (b) the eligible defendant shall avoid all contact with an alleged
45 victim of the crime;

46 (c) the eligible defendant shall avoid all contact with all
47 witnesses who may testify concerning the offense that are named in

1 the document authorizing the eligible defendant's release or in a
2 subsequent court order; and

3 (d) any one or more non-monetary conditions as set forth in
4 paragraph (2) of this subsection.

5 (2) The non-monetary condition or conditions of a pretrial
6 release ordered by the court pursuant to this paragraph shall be the
7 least restrictive condition, or combination of conditions, that the
8 court determines will reasonably assure the eligible defendant's
9 appearance in court when required, the protection of the safety of
10 any other person or the community, and that the eligible defendant
11 will not obstruct or attempt to obstruct the criminal justice process,
12 which may include that the eligible defendant:

13 (a) remain in the custody of a designated person, who agrees to
14 assume supervision and to report any violation of a release
15 condition to the court, if the designated person is able to reasonably
16 assure the court that the eligible defendant will appear in court
17 when required, will not pose a danger to the safety of any other
18 person or the community, and will not obstruct or attempt to
19 obstruct the criminal justice process;

20 (b) maintain employment, or, if unemployed, actively seek
21 employment;

22 (c) maintain or commence an educational program;

23 (d) abide by specified restrictions on personal associations,
24 place of abode, or travel;

25 (e) report on a regular basis to a designated law enforcement
26 agency, or other agency, or pretrial services program;

27 (f) comply with a specified curfew;

28 (g) refrain from possessing a firearm, destructive device, or
29 other dangerous weapon;

30 (h) refrain from excessive use of alcohol, or any ²unlawful² use
31 of a narcotic drug or other controlled substance without a
32 prescription by a licensed medical practitioner ²[, except that, the
33 court's order shall not refrain the eligible defendant from using
34 marijuana or hashish]²;

35 (i) undergo available medical, psychological, or psychiatric
36 treatment, including treatment for drug or alcohol dependency, and
37 remain in a specified institution if required for that purpose;

38 (j) return to custody for specified hours following release for
39 employment, schooling, or other limited purposes;

40 (k) be placed in a pretrial home supervision capacity with or
41 without the use of an approved electronic monitoring device. The
42 court may order the eligible defendant to pay all or a portion of the
43 costs of the electronic monitoring, but the court may waive the
44 payment for an eligible defendant who is indigent and who has
45 demonstrated to the court an inability to pay all or a portion of the
46 costs; or

47 (l) satisfy any other condition that is necessary to reasonably
48 assure the eligible defendant's appearance in court when required,

1 the protection of the safety of any other person or the community,
2 and that the eligible defendant will not obstruct or attempt to
3 obstruct the criminal justice process, which shall not include any
4 prohibition or restriction concerning ²]:

5 (a) an unlawful act subject only to a civil penalty for ²
6 manufacturing, distributing, or dispensing, or possessing or having
7 under control with intent to manufacture, distribute, or dispense,
8 marijuana or hashish in violation of paragraph (12) of subsection b.
9 of N.J.S.2C:35-5, or ²[possessing any amount] possession² of
10 marijuana or hashish ²[that does not violate] in violation of²
11 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²]; or

12 (b) the presence of any cannabinoid metabolites in any bodily
13 fluids of the eligible defendant ².

14 c. (1) If the court does not find, after consideration, that the
15 release described in subsection a. or b. of this section will
16 reasonably assure the eligible defendant's appearance in court when
17 required, the court may order the pretrial release of the eligible
18 defendant on monetary bail, other than an unsecured appearance
19 bond. The court may only impose monetary bail pursuant to this
20 subsection to reasonably assure the eligible defendant's appearance.
21 The court shall not impose the monetary bail to reasonably assure
22 the protection of the safety of any other person or the community or
23 that the eligible defendant will not obstruct or attempt to obstruct
24 the criminal justice process, or for the purpose of preventing the
25 release of the eligible defendant.

26 (2) If the eligible defendant is unable to post the monetary bail
27 imposed by the court pursuant to this subsection, and for that reason
28 remains detained in jail, the provisions of section 8 of P.L.2014,
29 c.31 (C.2A:162-22) shall apply to the eligible defendant.

30 d. (1) If the court does not find, after consideration, that the
31 release described in subsection a., b., or c. will reasonably assure
32 the eligible defendant's appearance in court when required, the
33 protection of the safety of any other person or the community, and
34 that the eligible defendant will not obstruct or attempt to obstruct
35 the criminal justice process, the court may order the pretrial release
36 of the eligible defendant using a combination of non-monetary
37 conditions as set forth in subsection b. of this section, and monetary
38 bail as set forth in subsection c. of this section.

39 (2) If the eligible defendant is unable to post the monetary bail
40 imposed by the court in combination with non-monetary conditions
41 pursuant to this subsection, and for that reason remains detained in
42 jail, the provisions of section 8 of P.L.2014, c.31 (C.2A:162-22)
43 shall apply to the eligible defendant.

44 e. For purposes of the court's consideration for pretrial release
45 described in this section, with respect to whether the particular
46 method of release will reasonably assure that the eligible defendant
47 will not obstruct or attempt to obstruct the criminal justice process,
48 this reasonable assurance may be deemed to exist if the prosecutor

1 does not provide the court with information relevant to the risk of
2 whether the eligible defendant will obstruct or attempt to obstruct
3 the criminal justice process.¹

4 (cf: P.L.2014, c.31, s.3)

5

6 ¹8. Section 6 of P.L.2014, c.31 (C.2A:162-20) is amended to
7 read as follows:

8 6. In determining in a pretrial detention hearing whether no
9 amount of monetary bail, non-monetary conditions or combination
10 of monetary bail and conditions would reasonably assure the
11 eligible defendant's appearance in court when required, the
12 protection of the safety of any other person or the community, or
13 that the eligible defendant will not obstruct or attempt to obstruct
14 the criminal justice process, the court may take into account
15 information concerning:

16 a. The nature and circumstances of the offense charged;

17 b. The weight of the evidence against the eligible defendant,
18 except that the court may consider the admissibility of any evidence
19 sought to be excluded;

20 c. The history and characteristics of the eligible defendant,
21 including:

22 (1) the eligible defendant's character, physical and mental
23 condition, family ties, employment, financial resources, length of
24 residence in the community, community ties, past conduct, history
25 relating to drug or alcohol abuse, criminal history, and record
26 concerning **[appearance]** appearances at court proceedings, except
27 with respect to these factors, the court shall not consider ²**[an**
28 **unlawful act subject only to a civil penalty for]**² manufacturing,
29 distributing, or dispensing, or possessing or having under control
30 with intent to manufacture, distribute, or dispense, marijuana or
31 hashish in violation of paragraph (12) of subsection b. of
32 N.J.S.2C:35-5, or ²**[possessing any amount]** possession² of
33 marijuana or hashish ²**[that does not violate]** in violation of²
34 paragraph (3) of subsection a. of N.J.S.2C:35-10; and

35 (2) whether, at the time of the current offense or arrest, the
36 eligible defendant was on probation, parole, or on other release
37 pending trial, sentencing, appeal, or completion of sentence for an
38 offense under federal law, or the law of this or any other state;

39 d. The nature and seriousness of the danger to any other person
40 or the community that would be posed by the eligible defendant's
41 release, if applicable;

42 e. The nature and seriousness of the risk of obstructing or
43 attempting to obstruct the criminal justice process that would be
44 posed by the eligible defendant's release, if applicable; and

45 f. The release recommendation of the pretrial services program
46 obtained using a risk assessment instrument under section 11 of
47 P.L.2014, c.31 (C.2A:162-25).¹

48 (cf: P.L.2014, c.31, s.6)

1 ¹9. Section 10 of P.L.2014, c.31 (C.2A:162-24) is amended to
2 read as follows:

3 10. a. Upon motion of a prosecutor, when an eligible defendant
4 is released from custody before trial pursuant to section 3 or 8 of
5 P.L.2014, c.31 (C.2A:162-17 or C.2A:162-22), the court, upon a
6 finding that the eligible defendant while on release has violated a
7 restraining order or condition of release, or upon a finding of
8 probable cause to believe that the eligible defendant has committed
9 a new crime while on release, may not revoke the eligible
10 defendant's release and order that the eligible defendant be detained
11 pending trial unless the court, after considering all relevant
12 circumstances including but not limited to the nature and
13 seriousness of the violation or criminal act committed, finds clear
14 and convincing evidence that no monetary bail, non-monetary
15 conditions of release or combination of monetary bail and
16 conditions would reasonably assure the eligible defendant's
17 appearance in court when required, the protection of the safety of
18 any other person or the community, or that the eligible defendant
19 will not obstruct or attempt to obstruct the criminal justice process.

20 b. A court shall not revoke an eligible defendant's release and
21 order that the eligible defendant be detained pending trial based on
22 ²[(1) an unlawful act subject only to a civil penalty for]²
23 manufacturing, distributing, or dispensing, or possessing or having
24 under control with intent to manufacture, distribute, or dispense,
25 marijuana or hashish in violation of paragraph (12) of subsection b.
26 of N.J.S.2C:35-5, or ²[possessing any amount] possession² of
27 marijuana or hashish ²[that does not violate] in violation of²
28 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²]; or

29 (2) the presence of any cannabinoid metabolites in any bodily
30 fluids of the eligible defendant]² .¹
31 (cf: P.L.2014, c.31, s.10)

32

33 ¹10. Section 11 of P.L.2014, c.31 (C.2A:162-25) is amended to
34 read as follows:

35 11. a. The Administrative Director of the Courts shall establish
36 and maintain a Statewide Pretrial Services Program which shall
37 provide pretrial services to effectuate the purposes of sections 1
38 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).

39 b. The Pretrial Services Program shall, after an eligible
40 defendant is temporarily detained pursuant to subsection a. of
41 section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
42 a complaint-warrant, conduct a risk assessment on that eligible
43 defendant for the purpose of making recommendations to the court
44 concerning an appropriate pretrial release decision, including
45 whether the eligible defendant shall be: released on the eligible
46 defendant's own personal recognizance or on execution of an
47 unsecured appearance bond; released on a non-monetary condition
48 or conditions as set forth under subsection b. of section 3 of

1 P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
2 an unsecured appearance bond; released on a combination of
3 monetary bail and non-monetary conditions set forth under section
4 3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
5 necessary to effectuate the purposes of sections 1 through 11 of
6 P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
7 completed and presented to the court so that the court can, without
8 unnecessary delay, but in no case later than 48 hours after the
9 eligible defendant's commitment to jail, make a pretrial release
10 decision on the eligible defendant pursuant to section 3 of P.L.2014,
11 c.31 (C.2A:162-17).

12 c. The pretrial risk assessment shall be conducted using a risk
13 assessment instrument approved by the Administrative Director of
14 the Courts that meets the requirements of this subsection.

15 (1) (a) The approved risk assessment instrument shall be
16 objective, standardized, and developed based on analysis of
17 empirical data and risk factors relevant to the risk of failure to
18 appear in court when required and the danger to the community
19 while on pretrial release. The risk assessment instrument shall not
20 be required to include factors specifically pertaining to the risk for
21 obstructing or attempting to obstruct the criminal justice process.

22 (b) The approved risk assessment instrument shall not consider a
23 charge, including any charge of delinquency, conviction, or
24 adjudication of delinquency, or civil penalty if the act was an
25 unlawful act and not a crime or offense, based on a violation of any
26 of the following, as risk factors relevant to the risk of failure to
27 appear in court when required and the danger to the community
28 while on pretrial release: manufacturing, distributing, or dispensing,
29 or possessing or having under control with intent to manufacture,
30 distribute, or dispense, marijuana or hashish in violation of
31 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount
32 of marijuana or hashish in violation of paragraph (12) of subsection
33 b. of that section; or a violation of either of those paragraphs and a
34 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
35 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
36 distributing, dispensing, or possessing with intent to distribute or
37 dispense, on or within 1,000 feet of any school property, or on or
38 within 500 feet of the real property comprising a public housing
39 facility, public park, or public building; or obtaining, possessing,
40 using, being under the influence of, or failing to make lawful
41 disposition of marijuana or hashish in violation of paragraph (3) or
42 (4) of subsection a., or subsection b., or subsection c. of
43 N.J.S.2C:35-10; or a violation involving marijuana or hashish as
44 described herein and a violation of N.J.S.2C:36-2 for using or
45 possessing with intent to use drug paraphernalia with that marijuana
46 or hashish.

47 (2) The approved risk assessment instrument shall gather
48 demographic information about the eligible defendant including, but
49 not limited to, race, ethnicity, gender, financial resources, and

1 socio-economic status. Recommendations for pretrial release shall
2 not be discriminatory based on race, ethnicity, gender, or socio-
3 economic status.

4 d. In addition to the pretrial risk assessments made pursuant to
5 this section, the Pretrial Services Program shall monitor appropriate
6 eligible defendants released on conditions as ordered by the court.¹
7 (cf: P.L.2014, c.31, s.11)

8
9 ¹11. N.J.S.2C:45-1 is amended to read as follows:

10 2C:45-1. Conditions of Suspension or Probation.

11 a. (1) When the court suspends the imposition of sentence on a
12 person who has been convicted of an offense or sentences him to be
13 placed on probation, it shall attach such reasonable conditions,
14 authorized by this section, as it deems necessary to insure that he
15 will lead a law-abiding life or is likely to assist him to do so. These
16 conditions may be set forth in a set of standardized conditions
17 promulgated by the county probation department and approved by
18 the court.

19 (2) The following shall not be prohibited or restricted based on
20 any conditions imposed pursuant to this section: ²[(a) An unlawful
21 act subject only to a civil penalty for]² manufacturing, distributing,
22 or dispensing, or possessing or having under control with intent to
23 manufacture, distribute, or dispense, marijuana or hashish in
24 violation of paragraph (12) of subsection b. of N.J.S.2C:35-5; or
25 ²[possessing any amount] possession² of marijuana or hashish
26 ²[that does not violate] in violation of² paragraph (3) of subsection
27 a. of N.J.S.2C:35-10 ²]; or

28 (b) The presence of any cannabinoid metabolites in any bodily
29 fluids of the person]².

30 b. The court, as a condition of its order, may require the
31 defendant:

32 (1) To support his dependents and meet his family
33 responsibilities;

34 (2) To find and continue in gainful employment;

35 (3) To undergo available medical or psychiatric treatment and to
36 enter and remain in a specified institution, when required for that
37 purpose;

38 (4) To pursue a prescribed secular course of study or vocational
39 training;

40 (5) To attend or reside in a facility established for the
41 instruction, recreation or residence of persons on probation;

42 (6) To refrain from frequenting unlawful or disreputable places
43 or consorting with disreputable persons;

44 (7) Not to have in his possession any firearm or other dangerous
45 weapon unless granted written permission;

46 (8) (Deleted by amendment, P.L.1991, c.329);

- 1 (9) To remain within the jurisdiction of the court and to notify
2 the court or the probation officer of any change in his address or his
3 employment;
- 4 (10) To report as directed to the court or the probation officer,
5 to permit the officer to visit his home, and to answer all reasonable
6 inquiries by the probation officer;
- 7 (11) To pay a fine;
- 8 (12) To satisfy any other conditions reasonably related to the
9 rehabilitation of the defendant and not unduly restrictive of his
10 liberty or incompatible with his freedom of conscience;
- 11 (13) To require the performance of community-related service;
12 and
- 13 (14) To be subject to Internet access conditions pursuant to
14 paragraph (2) of subsection d. of this section.

15 In addition to any condition of probation, the court may enter an
16 order prohibiting a defendant who is convicted of a sex offense
17 from having any contact with the victim including, but not limited
18 to, entering the victim's residence, place of employment or business,
19 or school, and from harassing or stalking the victim or victim's
20 relatives in any way, and may order other protective relief as
21 provided in section 2 of P.L.2007, c.133 (C.2C:14-12).

22 c. The court, as a condition of its order, shall require the
23 defendant to pay any assessments required by section 2 of P.L.1979,
24 c.396 (C.2C:43-3.1) and shall, consistent with the applicable
25 provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or
26 section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to
27 make restitution.

28 d. (1) In addition to any condition imposed pursuant to
29 subsection b. or c., the court shall order a person placed on
30 probation to pay a fee, not exceeding \$25.00 per month for the
31 probationary term, to probation services for use by the State, except
32 as provided in subsection g. of this section. This fee may be waived
33 in cases of indigency upon application by the chief probation officer
34 to the sentencing court.

35 (2) In addition to any conditions imposed pursuant to subsection
36 b. or c., the court may order a person who has been convicted or
37 adjudicated delinquent of a sex offense as defined in subsection b.
38 of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to
39 register as provided in subsections c. and d. of section 2 of
40 P.L.1994, c.133 (C.2C:7-2), or who has been convicted or
41 adjudicated delinquent for a violation of N.J.S.2C:34-3 to be
42 subject to any of the following Internet access conditions:

43 (a) Prohibit the person from accessing or using a computer or
44 any other device with Internet capability without the prior written
45 approval of the court, except the person may use a computer or any
46 other device with Internet capability in connection with that
47 person's employment or search for employment with the prior
48 approval of the person's probation officer;

1 (b) Require the person to submit to periodic unannounced
2 examinations of the person's computer or any other device with
3 Internet capability by a probation officer, law enforcement officer
4 or assigned computer or information technology specialist,
5 including the retrieval and copying of all data from the computer or
6 device and any internal or external peripherals and removal of such
7 information, equipment or device to conduct a more thorough
8 inspection;

9 (c) Require the person to submit to the installation on the
10 person's computer or device with Internet capability, at the person's
11 expense, one or more hardware or software systems to monitor the
12 Internet use; and

13 (d) Require the person to submit to any other appropriate
14 restrictions concerning the person's use or access of a computer or
15 any other device with Internet capability.

16 e. When the court sentences a person who has been convicted
17 of a crime to be placed on probation, it may require him to serve a
18 term of imprisonment not exceeding 364 days as an additional
19 condition of its order. When the court sentences a person convicted
20 of a disorderly persons offense to be placed on probation, it may
21 require him to serve a term of imprisonment not exceeding 90 days
22 as an additional condition of its order. In imposing a term of
23 imprisonment pursuant to this subsection, the sentencing court shall
24 specifically place on the record the reasons which justify the
25 sentence imposed. The term of imprisonment imposed hereunder
26 shall be treated as part of the sentence, and in the event of a
27 sentence of imprisonment upon the revocation of probation, the
28 term of imprisonment served hereunder shall be credited toward
29 service of such subsequent sentence. A term of imprisonment
30 imposed under this section shall be governed by the "Parole Act of
31 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

32 Whenever a person is serving a term of parole as a result of a
33 sentence of incarceration imposed as a condition of probation,
34 supervision over that person shall be maintained pursuant to the
35 provisions of the law governing parole. Upon termination of the
36 period of parole supervision provided by law, the county probation
37 department shall assume responsibility for supervision of the person
38 under sentence of probation. Nothing contained in this section shall
39 prevent the sentencing court from at any time proceeding under the
40 provisions of this chapter against any person for a violation of
41 probation.

42 f. The defendant shall be given a copy of the terms of his
43 probation or suspension of sentence and any requirements imposed
44 pursuant to this section, stated with sufficient specificity to enable
45 him to guide himself accordingly. The defendant shall
46 acknowledge, in writing, his receipt of these documents and his
47 consent to their terms.

48 g. Of the moneys collected under the provisions of subsection
49 d. of this section, \$15.00 of each monthly fee collected before

1 January 1, 1995 shall be deposited in the temporary reserve fund
2 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall
3 be deposited into a "Community Service Supervision Fund" which
4 shall be established by each county. The moneys in the
5 "Community Service Supervision Fund" shall be expended only in
6 accordance with the provisions of State law as shall be enacted to
7 provide for expenditures from this fund for the purpose of
8 supervising and monitoring probationers performing community
9 service to ensure, by whatever means necessary and appropriate,
10 that probationers are performing the community service ordered by
11 the court and that the performance is in the manner and under the
12 terms ordered by the court.¹
13 (cf: P.L.2007, c.219, s.4)
14

15 ¹12. N.J.S.2C:45-3 is amended to read as follows:

16 2C:45-3. a. At any time before the discharge of the defendant or
17 the termination of the period of suspension or probation:

18 (1) The court may summon the defendant to appear before it or
19 may issue a warrant for his arrest;

20 (2) A probation officer or peace officer, upon request of the
21 chief probation officer or otherwise having probable cause to
22 believe that the defendant has failed to comply with a requirement
23 imposed as a condition of the order or that he has committed
24 another offense, may arrest him without a warrant;

25 (3) The court, if there is probable cause to believe that the
26 defendant has committed another offense or if he has been held to
27 answer therefor, may commit him without bail, pending a
28 determination of the charge by the court having jurisdiction
29 thereof;

30 (4) The court, if satisfied that the defendant has inexcusably
31 failed to comply with a substantial requirement imposed as a
32 condition of the order or if he has been convicted of another
33 offense, may revoke the suspension or probation and sentence or
34 resentence the defendant, as provided in this section. No revocation
35 of suspension or probation shall be based on: (a) failure to pay a
36 fine or make restitution, unless the failure was willful; ²or² (b) ²[an
37 unlawful act subject only to a civil penalty for]² manufacturing,
38 distributing, or dispensing, or possessing or having under control
39 with intent to manufacture, distribute, or dispense, marijuana or
40 hashish in violation of paragraph (12) of subsection b. of
41 N.J.S.2C:35-5, or ²[possessing any amount]² possession² of
42 marijuana or hashish ²[that does not violate]² in violation of²
43 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²[;]; or (c) the
44 presence of any cannabinoid metabolites in any bodily fluids,
45 detected as a result of the administration of a drug test or any other
46 means]².

1 b. When the court revokes a suspension or probation, it may
2 impose on the defendant any sentence that might have been
3 imposed originally for the offense of which he was convicted.

4 c. The commencement of a probation revocation proceeding
5 shall toll the probationary period until termination of such
6 proceedings. In the event that the court does not find a violation of
7 probation, this subsection shall not operate to toll the probationary
8 period.¹

9 (cf: P.L.1981, c.290, s.41)

10
11 ¹13. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended
12 to read as follows:

13 15. a. Each adult parolee shall at all times remain in the legal
14 custody of the Commissioner of Corrections and under the
15 supervision of the State Parole Board, except that the Commissioner
16 of Corrections, after providing notice to the Attorney General, may
17 consent to the supervision of a parolee by the federal government
18 pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
19 U.S.C. s.3521 et seq.). An adult parolee, except those under the
20 Witness Security Reform Act, shall remain under the supervision of
21 the State Parole Board and in the legal custody of the Department of
22 Corrections in accordance with the policies and rules of the board.

23 b. (1) (a) Each parolee shall agree, as evidenced by his
24 signature to abide by specific conditions of parole established by
25 the appropriate board panel which shall be enumerated in writing in
26 a certificate of parole and shall be given to the parolee upon release.
27 Such conditions shall include, among other things, a requirement
28 that the parolee conduct himself in society in compliance with all
29 laws and refrain from committing any crime, a requirement that the
30 parolee will not own or possess any firearm as defined in subsection
31 f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r.
32 of N.J.S.2C:39-1, a requirement that the parolee refrain from the
33 ²unlawful² use, ²or the² possession or distribution of a controlled
34 dangerous substance, controlled substance analog or imitation
35 controlled dangerous substance as defined in N.J.S.2C:35-2 and
36 N.J.S.2C:35-11, other than ²[the use of marijuana or hashish, the]²
37 possession ²[of any amount]² of marijuana or hashish ²[that does
38 not violate] in violation of² paragraph (3) of subsection a. of
39 N.J.S.2C:35-10, and distribution ²[that is an unlawful act subject
40 only to a civil penalty pursuant to] of marijuana or hashish in
41 violation of² paragraph (12) of subsection b. of N.J.S.2C:35-5, a
42 requirement that the parolee obtain permission from his parole
43 officer for any change in his residence, and a requirement that the
44 parolee report at reasonable intervals to an assigned parole officer.
45 In addition, based on prior history of the parolee or information
46 provided by a victim or a member of the family of a murder victim,
47 the member or board panel certifying parole release pursuant to
48 section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any

1 other specific conditions of parole deemed reasonable in order to
2 reduce the likelihood of recurrence of criminal or delinquent
3 behavior, including a requirement that the parolee comply with the
4 Internet access conditions set forth in paragraph (2) of this
5 subsection. Such special conditions may include, among other
6 things, a requirement that the parolee make full or partial
7 restitution, the amount of which restitution shall be set by the
8 sentencing court upon request of the board. In addition, the member
9 or board panel certifying parole release may, giving due regard to a
10 victim's request, impose a special condition that the parolee have no
11 contact with the victim, which special condition may include, but
12 need not be limited to, restraining the parolee from entering the
13 victim's residence, place of employment, business or school, and
14 from harassing or stalking the victim or victim's relatives in any
15 way. Further, the member, board panel or board certifying parole
16 release may impose a special condition that the person shall not
17 own or possess an animal for an unlawful purpose or to interfere in
18 the performance of duties by a parole officer.

19 (b) The member or board panel certifying parole release shall
20 not impose on any parolee any condition that would prohibit or
21 restrict ²[(i) the commission of an unlawful act subject only to a
22 civil penalty for]² manufacturing, distributing, or dispensing, or
23 possessing or having under control with intent to manufacture,
24 distribute, or dispense, marijuana or hashish in violation of
25 paragraph (12) of subsection b. of N.J.S.2C:35-5, or ²[possessing
26 any amount] possession² of marijuana or hashish ²[that does not
27 violate] in violation of² paragraph (3) of subsection a. of
28 N.J.S.2C:35-10 ²]; or (ii) the presence of any cannabinoid
29 metabolites in any bodily fluids of the person]².

30 (2) In addition, the member or board panel certifying parole
31 release may impose on any person who has been convicted for the
32 commission of a sex offense as defined in subsection b. of section 2
33 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as
34 provided in subsections c. and d. of section 2 of P.L.1994, c.133
35 (C.2C:7-2), or who has been convicted for a violation of
36 N.J.S.2C:34-3 any of the following Internet access conditions:

37 (a) Prohibit the person from accessing or using a computer or
38 any other device with Internet capability without the prior written
39 approval of the court, except the person may use a computer or any
40 other device with Internet capability in connection with that
41 person's employment or search for employment with the prior
42 approval of the person's parole officer;

43 (b) Require the person to submit to periodic unannounced
44 examinations of the person's computer or any other device with
45 Internet capability by a parole officer, law enforcement officer or
46 assigned computer or information technology specialist, including
47 the retrieval and copying of all data from the computer or device
48 and any internal or external peripherals and removal of such

1 information, equipment or device to conduct a more thorough
2 inspection;

3 (c) Require the person to submit to the installation on the
4 person's computer or device with Internet capability, at the person's
5 expense, one or more hardware or software systems to monitor the
6 Internet use; and

7 (d) Require the person to submit to any other appropriate
8 restrictions concerning the person's use or access of a computer or
9 any other device with Internet capability.

10 c. The appropriate board panel may in writing relieve a parolee
11 of any parole conditions, and may permit a parolee to reside outside
12 the State pursuant to the provisions of the Uniform Act for Out-of-
13 State Parolee Supervision (N.J.S.2A:168-14 et seq.) and, with the
14 consent of the Commissioner of the Department of Corrections after
15 providing notice to the Attorney General, the federal Witness
16 Security Reform Act, if satisfied that the change will not result in a
17 substantial likelihood that the parolee will commit an offense which
18 would be a crime under the laws of this State. The appropriate
19 board panel may revoke permission, except in the case of a parolee
20 under the Witness Security Reform Act, or reinstate relieved parole
21 conditions for any period of time during which a parolee is under its
22 jurisdiction.

23 d. The appropriate board panel may parole an inmate to any
24 residential facility funded in whole or in part by the State if the
25 inmate would not otherwise be released pursuant to section 9 of
26 P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the
27 residential facility provides treatment for mental illness or mental
28 retardation, the board panel only may parole the inmate to the
29 facility pursuant to the laws and admissions policies that otherwise
30 govern the admission of persons to that facility, and the facility
31 shall have the authority to discharge the inmate according to the
32 laws and policies that otherwise govern the discharge of persons
33 from the facility, on 10 days' prior notice to the board panel. The
34 board panel shall acknowledge receipt of this notice in writing prior
35 to the discharge. Upon receipt of the notice the board panel shall
36 resume jurisdiction over the inmate.

37 e. Parole officers shall provide assistance to the parolee in
38 obtaining employment, education, or vocational training or in
39 meeting other obligations to assure the parolee's compliance with
40 meeting legal requirements related to sex offender notification,
41 address changes and participation in rehabilitation programs as
42 directed by the assigned parole officer.

43 f. (Deleted by amendment, P.L.2019, c.363)

44 g. If the board has granted parole to any inmate from a State
45 correctional facility and the court has imposed a fine on the inmate,
46 the appropriate board panel shall release the inmate on condition
47 that the parolee make specified fine payments to the State Parole
48 Board. For violation of these conditions, or for violation of a
49 special condition requiring restitution, parole may be revoked only

1 for refusal or failure to make a good faith effort to make the
2 payment.

3 h. Upon collection of the fine the Department of Corrections
4 shall forward it to the State Treasury.¹

5 (cf: P.L.2019, c.363, s.12)

6

7 ¹14. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended
8 to read as follows:

9 16. a. Any parolee who violates a condition of parole may be
10 subject to an order pursuant to section 17 of P.L.1979, c.441
11 (C.30:4-123.61) providing for one or more of the following:

12 (1) **【That】** that he be required to conform to one or more
13 additional conditions of parole;

14 (2) **【That】** that he forfeit all or a part of commutation time
15 credits granted pursuant to R.S.30:4-140.

16 An order as described in this subsection shall not be based on ²【:
17 an unlawful act subject only to a civil penalty for ² manufacturing,
18 distributing, or dispensing, or possessing or having under control
19 with intent to manufacture, distribute, or dispense, marijuana or
20 hashish in violation of paragraph (12) of subsection b. of
21 N.J.S.2C:35-5, or ²【possessing any amount】 possession² of
22 marijuana or hashish ²【that does not violate】 in violation of²
23 paragraph (3) of subsection a. of N.J.S.2C:35-10 ²【; or the presence
24 of any cannabinoid metabolites in any bodily fluids, detected as a
25 result of the administration of a drug test or any other means】².

26 b. (1) Any parolee who has seriously or persistently violated
27 the conditions of his parole, may have his parole revoked and may
28 be returned to custody pursuant to sections 18 and 19 of P.L.1979,
29 c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
30 immediately upon the arrest or indictment of a parolee or upon the
31 filing of charges that the parolee committed an act which, if
32 committed by an adult, would constitute a crime. The board shall
33 not revoke parole on the basis of new charges which have not
34 resulted in a disposition at the trial level except that upon
35 application by the prosecuting authority or the Director of the State
36 Parole Board's Division of Parole or his designee, the chairman of
37 the board or his designee may at any time detain the parolee and
38 commence revocation proceedings pursuant to sections 18 and 19 of
39 P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
40 chairman determines that the new charges against the parolee are of
41 a serious nature and it appears that the parolee otherwise poses a
42 danger to the public safety. In such cases, a parolee shall be
43 informed that, if he testifies at the revocation proceedings, his
44 testimony and the evidence derived therefrom shall not be used
45 against him in a subsequent criminal prosecution.

46 (2) An action to revoke parole as described in this subsection
47 shall not be based on ²【: (a) an unlawful act subject only to a civil

1 penalty for]² manufacturing, distributing, or dispensing, or
2 possessing or having under control with intent to manufacture,
3 distribute, or dispense, marijuana or hashish in violation of
4 paragraph (12) of subsection b. of N.J.S.2C:35-5, or² [possessing
5 any amount] possession² of marijuana or hashish ² [that does not
6 violate] in violation of² paragraph (3) of subsection a. of
7 N.J.S.2C:35-10 ²]; or

8 (b) the presence of any cannabinoid metabolites in any bodily
9 fluids, detected as a result of the administration of a drug test or any
10 other means]².

11 c. The parole of any parolee who is convicted of a crime
12 committed while on parole shall be revoked and the parolee shall be
13 returned to custody unless the parolee demonstrates, by clear and
14 convincing evidence at a hearing pursuant to section 19 of
15 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why the
16 parolee should not be returned to confinement.¹

17 (cf: P.L.2019, c.363, s.13)

18

19 ¹[7.] 15.¹ (New section) a. An employer shall not be permitted
20 to ² [consider] ² when making an employment decision, ² rely
21 solely on, or² require any applicant to disclose or reveal, or take any
22 adverse action against any applicant for employment ² solely² on the
23 basis of, any arrest, charge, conviction, or adjudication of
24 delinquency, ² [or civil penalty or community service imposed in
25 lieu of a civil penalty if the act was an unlawful act and not a crime
26 or offense,]² for manufacturing, distributing, or dispensing, or
27 possessing or having under control with intent to manufacture,
28 distribute, or dispense, marijuana or hashish in violation of
29 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount
30 of marijuana or hashish in violation of paragraph (12) of subsection
31 b. of that section, or a violation of either of those paragraphs and a
32 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
33 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
34 distributing, dispensing, or possessing with intent to distribute or
35 dispense, on or within 1,000 feet of any school property, or on or
36 within 500 feet of the real property comprising a public housing
37 facility, public park, or public building, or obtaining, possessing,
38 using, being under the influence of, or failing to make lawful
39 disposition of marijuana or hashish in violation of paragraph (3) or
40 (4) of subsection a., or subsection b., or subsection c. of
41 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
42 described herein and a violation of N.J.S.2C:36-2 for using or
43 possessing with intent to use drug paraphernalia with that marijuana
44 or hashish, or an arrest, charge, conviction, or adjudication of
45 delinquency under the laws of another state or of the United States
46 of a crime ² [,] or² offense, ² [or other unlawful act,]² which, if
47 committed in this State, would be a violation of any of the

1 aforementioned crimes ²~~],~~ ^{or}² offenses, ²~~],~~ ^{or}² unlawful acts,²
2 regardless of when any such arrest, charge, conviction, or
3 adjudication of delinquency ²~~],~~ or imposition of a civil penalty or
4 community service,² occurred, unless the employment sought or
5 being considered is for a position in law enforcement, corrections,
6 the judiciary, homeland security, or emergency management.

7 b. Any employer who commits an act in violation of this section
8 shall be liable for a civil penalty in an amount not to exceed \$1,000
9 for the first violation, \$5,000 for the second violation, and \$10,000
10 for each subsequent violation, which shall be collectible by the
11 Commissioner of Labor and Workforce Development in a summary
12 proceeding pursuant to the “Penalty Enforcement Law of 1999,”
13 P.L.1999, c.274 (C.2A:58-10 et seq.). The penalties set forth in this
14 subsection shall be the sole remedy provided for violations of this
15 section.

16 c. Nothing set forth in this section shall be construed as
17 creating or establishing a standard of care or duty for employers
18 with respect to any other law. Evidence that an employer has
19 violated, or is alleged to have violated, the provisions of this
20 section, shall not be admissible in any legal proceeding with respect
21 to any law or claim other than a proceeding to enforce the
22 provisions of this section. Nothing set forth in this section shall be
23 construed as creating, establishing, or authorizing a private cause of
24 action by an aggrieved person against an employer who has
25 violated, or is alleged to have violated, the provisions of this
26 section.

27
28 ¹~~[8]~~ 16.¹ (New section) a. A person that makes a mortgage
29 loan in this State shall not discriminate against an applicant in
30 accepting an application, granting, withholding, extending,
31 modifying or renewing, or in the fixing of the rates, terms,
32 conditions, or provisions of any mortgage loan based on an
33 applicant’s arrest, charge, conviction, or adjudication of
34 delinquency, ²~~],~~ ^{or}² civil penalty or community service imposed in
35 lieu of a civil penalty if the act was an unlawful act and not a crime
36 or offense,² for manufacturing, distributing, or dispensing, or
37 possessing or having under control with intent to manufacture,
38 distribute, or dispense, marijuana or hashish in violation of
39 paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount
40 of marijuana or hashish in violation of paragraph (12) of subsection
41 b. of that section, or a violation of either of those paragraphs and a
42 violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-
43 7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
44 distributing, dispensing, or possessing with intent to distribute or
45 dispense, on or within 1,000 feet of any school property, or on or
46 within 500 feet of the real property comprising a public housing
47 facility, public park, or public building, or obtaining, possessing,
48 using, being under the influence of, or failing to make lawful

1 disposition of marijuana or hashish in violation of paragraph (3) or
2 (4) of subsection a., or subsection b., or subsection c. of
3 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
4 described herein and a violation of N.J.S.2C:36-2 for using or
5 possessing with intent to use drug paraphernalia with that marijuana
6 or hashish, or an arrest, charge, conviction, or adjudication of
7 delinquency under the laws of another state or of the United States
8 of a crime ²[.] or² offense, ²[or other unlawful act,]² which, if
9 committed in this State, would be a violation of any of the
10 aforementioned crimes ²[.] or² offenses, ²[or unlawful acts,]²
11 regardless of when any such arrest, charge, conviction, or
12 adjudication of delinquency ²[, or imposition of a civil penalty or
13 community service,]² occurred.

14 b. Any applicant who has been discriminated against as a result
15 of a violation of this section may bring an action in New Jersey in a
16 court of competent jurisdiction. Upon finding that a person is in
17 violation of this section, the court may award actual damages,
18 reasonable attorneys' fees, and court costs.

19 c. The Commissioner of Banking and Insurance shall have the
20 power to:

21 (1) Make such investigations into any matter pertaining to this
22 section, including the power to hold hearings and issue subpoenas
23 to compel the attendance of witnesses and the production of
24 evidence. In case of a failure of any person to comply with any
25 subpoena, the Superior Court may issue an order requiring the
26 attendance of such person and the giving of testimony or production
27 of evidence. Any person failing to obey the court's order may be
28 punished for contempt.

29 (2) Order a person found to be in violation of this section to
30 cease its unlawful practices, subject to review, hearing, and relief in
31 the Superior Court. A person that continues to violate the
32 provisions of this act after having been ordered by the
33 commissioner to cease such practices shall be liable to a penalty of
34 \$10,000 for each offense instead of the penalty for a continuous
35 violation set forth in section 10 of P.L.1977, c.1 (C.17:16F-
36 10). This penalty may be collected in a summary proceeding
37 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
38 c.274 (C.2A:58-10 et seq.). Except as set forth herein, the penalty
39 provided by this section shall be in addition to and not in lieu of any
40 other provision of law applicable upon a person's failure to comply
41 with an order of the commissioner.

42
43 ¹[9.] 17.¹ (New section) a. A person alleging discrimination in
44 public or private housing, real property, or a place of public
45 accommodation, based on a prior arrest, charge, conviction, or
46 adjudication of delinquency, ²[or civil penalty or community
47 service imposed in lieu of a civil penalty if the act was an unlawful
48 act and not a crime or offense,]² for manufacturing, distributing, or

1 dispensing, or possessing or having under control with intent to
2 manufacture, distribute, or dispense, marijuana or hashish in
3 violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a
4 lesser amount of marijuana or hashish in violation of paragraph (12)
5 of subsection b. of that section, or a violation of either of those
6 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
7 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
8 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent
9 to distribute or dispense, on or within 1,000 feet of any school
10 property, or on or within 500 feet of the real property comprising a
11 public housing facility, public park, or public building, or obtaining,
12 possessing, using, being under the influence of, or failing to make
13 lawful disposition of marijuana or hashish in violation of paragraph
14 (3) or (4) of subsection a., or subsection b., or subsection c. of
15 N.J.S.2C:35-10, or a violation involving marijuana or hashish as
16 described herein and a violation of N.J.S.2C:36-2 for using or
17 possessing with intent to use drug paraphernalia with that marijuana
18 or hashish, or an arrest, charge, conviction, or adjudication of
19 delinquency under the laws of another state or of the United States
20 of a crime ²[.] or² offense ²[, or other unlawful act,]² which, if
21 committed in this State, would be a violation of any of the
22 aforementioned crimes ²[.] or² offenses ²[, or unlawful acts]²,
23 regardless of when any such arrest, charge, conviction, or
24 adjudication of delinquency ²[, or imposition of a civil penalty or
25 community service,]² occurred, may institute a civil action in the
26 Superior Court for relief. All remedies available in common law
27 tort actions shall be available to a prevailing plaintiff. The court
28 may also order any or all of the following relief:

29 (1) an assessment of a civil fine of not less than \$1,000 and not
30 more than \$2,000 for the first violation of any of the provisions of
31 this section, and not more than \$5,000 for each subsequent
32 violation;

33 (2) an injunction to restrain the continued violation of
34 subsection a. of this section;

35 (3) if the discrimination impacted the person's employment, and
36 if applicable:

37 (a) reinstatement of the person to the same position of
38 employment or to a position equivalent to that which the person
39 held prior to unlawful discharge or retaliatory action;

40 (b) reinstatement of full fringe benefits and seniority rights; and

41 (c) compensation for any lost wages, benefits and other
42 remuneration; and

43 (4) payment of reasonable costs and attorney's fees.

44 b. An action brought under this section shall be commenced
45 within one year of the date of the alleged violation.

46 c. The private cause of action provided for in this section shall
47 be the sole remedy for a violation of this section.

1 ¹**[10.] 18.**¹ Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is
2 amended to read as follows:

3 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended
4 and supplemented:

5 "Biotechnology" means any technique that uses living
6 organisms, or parts of living organisms, to make or modify
7 products, to improve plants or animals, or to develop micro-
8 organisms for specific uses; including the industrial use of
9 recombinant DNA, cell fusion, and novel bioprocessing techniques.

10 "Custodian of a government record" or "custodian" means in the
11 case of a municipality, the municipal clerk and in the case of any
12 other public agency, the officer officially designated by formal
13 action of that agency's director or governing body, as the case may
14 be.

15 "Government record" or "record" means any paper, written or
16 printed book, document, drawing, map, plan, photograph,
17 microfilm, data processed or image processed document,
18 information stored or maintained electronically or by sound-
19 recording or in a similar device, or any copy thereof, that has been
20 made, maintained or kept on file in the course of his or its official
21 business by any officer, commission, agency or authority of the
22 State or of any political subdivision thereof, including subordinate
23 boards thereof, or that has been received in the course of his or its
24 official business by any such officer, commission, agency, or
25 authority of the State or of any political subdivision thereof,
26 including subordinate boards thereof. The terms shall not include
27 inter-agency or intra-agency advisory, consultative, or deliberative
28 material.

29 A government record shall not include the following information
30 which is deemed to be confidential for the purposes of P.L.1963,
31 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

32 information received by a member of the Legislature from a
33 constituent or information held by a member of the Legislature
34 concerning a constituent, including but not limited to information in
35 written form or contained in any e-mail or computer data base, or in
36 any telephone record whatsoever, unless it is information the
37 constituent is required by law to transmit;

38 any memorandum, correspondence, notes, report or other
39 communication prepared by, or for, the specific use of a member of
40 the Legislature in the course of the member's official duties, except
41 that this provision shall not apply to an otherwise publicly-
42 accessible report which is required by law to be submitted to the
43 Legislature or its members;

44 any copy, reproduction or facsimile of any photograph, negative
45 or print, including instant photographs and videotapes of the body,
46 or any portion of the body, of a deceased person, taken by or for the
47 medical examiner at the scene of death or in the course of a post

1 mortem examination or autopsy made by or caused to be made by
2 the medical examiner except:
3 when used in a criminal action or proceeding in this State which
4 relates to the death of that person,
5 for the use as a court of this State permits, by order after good
6 cause has been shown and after written notification of the request
7 for the court order has been served at least five days before the
8 order is made upon the county prosecutor for the county in which
9 the post mortem examination or autopsy occurred,
10 for use in the field of forensic pathology or for use in medical or
11 scientific education or research, or
12 for use by any law enforcement agency in this State or any other
13 state or federal law enforcement agency;
14 criminal investigatory records;
15 the portion of any criminal record concerning a person's
16 detection, apprehension, arrest, detention, trial or disposition for
17 unlawful ¹[distribution of] manufacturing, distributing, or
18 dispensing¹, or possessing or having under control with intent to
19 ¹manufacture,¹ distribute,¹ or dispense,¹ marijuana or hashish in
20 violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a
21 lesser amount of marijuana or hashish in violation of paragraph (12)
22 of subsection b. of that section, or a violation of either of those
23 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
24 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
25 (C.2C:35-7.1) for distributing, ¹dispensing,¹ or possessing ¹,¹ or
26 having under control with intent to distribute ¹or dispense¹, on or
27 within 1,000 feet of any school property, or on or within 500 feet of
28 the real property comprising a public housing facility, public park,
29 or public building, or for obtaining, possessing, using, being under
30 the influence of, or failing to make lawful disposition of marijuana
31 or hashish in violation of paragraph (3) or (4) of subsection a., or
32 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation
33 of any of those provisions and a violation of N.J.S.2C:36-2 for
34 using or possessing with intent to use drug paraphernalia with
35 ¹[the] that¹ marijuana or hashish;
36 ²[on and after the effective date of P.L. _____, c. _____)
37 (pending before the Legislature as this bill), any record concerning
38 a person's commission of an unlawful act of manufacturing,
39 distributing, or dispensing, or possessing or having under control
40 with intent to manufacture, distribute, or dispense, marijuana or
41 hashish in violation of paragraph (12) of subsection b. of
42 N.J.S.2C:35-5, ¹[or possessing marijuana or hashish in violation of
43 paragraph (4) of subsection a. of N.J.S.2C:35-10,]¹ for which a
44 civil penalty was imposed;]²
45 victims' records, except that a victim of a crime shall have access
46 to the victim's own records;
47 any written request by a crime victim for a record to which the
48 victim is entitled to access as provided in this section, including,

1 but not limited to, any law enforcement agency report, domestic
2 violence offense report, and temporary or permanent restraining
3 order;

4 personal firearms records, except for use by any person
5 authorized by law to have access to these records or for use by any
6 government agency, including any court or law enforcement
7 agency, for purposes of the administration of justice;

8 personal identifying information received by the Division of Fish
9 and Wildlife in the Department of Environmental Protection in
10 connection with the issuance of any license authorizing hunting
11 with a firearm. For the purposes of this paragraph, personal
12 identifying information shall include, but not be limited to, identity,
13 name, address, social security number, telephone number, fax
14 number, driver's license number, email address, or social media
15 address of any applicant or licensee;

16 trade secrets and proprietary commercial or financial information
17 obtained from any source. For the purposes of this paragraph, trade
18 secrets shall include data processing software obtained by a public
19 body under a licensing agreement which prohibits its disclosure;

20 any record within the attorney-client privilege. This paragraph
21 shall not be construed as exempting from access attorney or
22 consultant bills or invoices except that such bills or invoices may be
23 redacted to remove any information protected by the attorney-client
24 privilege;

25 administrative or technical information regarding computer
26 hardware, software and networks which, if disclosed, would
27 jeopardize computer security;

28 emergency or security information or procedures for any
29 buildings or facility which, if disclosed, would jeopardize security
30 of the building or facility or persons therein;

31 security measures and surveillance techniques which, if
32 disclosed, would create a risk to the safety of persons, property,
33 electronic data or software;

34 information which, if disclosed, would give an advantage to
35 competitors or bidders;

36 information generated by or on behalf of public employers or
37 public employees in connection with any sexual harassment
38 complaint filed with a public employer or with any grievance filed
39 by or against an individual or in connection with collective
40 negotiations, including documents and statements of strategy or
41 negotiating position;

42 information which is a communication between a public agency
43 and its insurance carrier, administrative service organization or risk
44 management office;

45 information which is to be kept confidential pursuant to court
46 order;

47 any copy of form DD-214, NGB-22, or that form, issued by the
48 United States Government, or any other certificate of honorable
49 discharge, or copy thereof, from active service or the reserves of a

1 branch of the Armed Forces of the United States, or from service in
2 the organized militia of the State, that has been filed by an
3 individual with a public agency, except that a veteran or the
4 veteran's spouse or surviving spouse shall have access to the
5 veteran's own records;

6 any copy of an oath of allegiance, oath of office or any
7 affirmation taken upon assuming the duties of any public office, or
8 that oath or affirmation, taken by a current or former officer or
9 employee in any public office or position in this State or in any
10 county or municipality of this State, including members of the
11 Legislative Branch, Executive Branch, Judicial Branch, and all law
12 enforcement entities, except that the full name, title, and oath date
13 of that person contained therein shall not be deemed confidential;

14 that portion of any document which discloses the social security
15 number, credit card number, unlisted telephone number or driver
16 license number of any person; except for use by any government
17 agency, including any court or law enforcement agency, in carrying
18 out its functions, or any private person or entity acting on behalf
19 thereof, or any private person or entity seeking to enforce payment
20 of court-ordered child support; except with respect to the disclosure
21 of driver information by the New Jersey Motor Vehicle
22 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
23 3.4); and except that a social security number contained in a record
24 required by law to be made, maintained or kept on file by a public
25 agency shall be disclosed when access to the document or
26 disclosure of that information is not otherwise prohibited by State
27 or federal law, regulation or order or by State statute, resolution of
28 either or both houses of the Legislature, Executive Order of the
29 Governor, rule of court or regulation promulgated under the
30 authority of any statute or executive order of the Governor;

31 a list of persons identifying themselves as being in need of
32 special assistance in the event of an emergency maintained by a
33 municipality for public safety purposes pursuant to section 1 of
34 P.L.2017, c.266 (C.40:48-2.67); and

35 a list of persons identifying themselves as being in need of
36 special assistance in the event of an emergency maintained by a
37 county for public safety purposes pursuant to section 6 of P.L.2011,
38 c.178 (C.App.A:9-43.13).

39 A government record shall not include, with regard to any public
40 institution of higher education, the following information which is
41 deemed to be privileged and confidential:

42 pedagogical, scholarly and/or academic research records and/or
43 the specific details of any research project conducted under the
44 auspices of a public higher education institution in New Jersey,
45 including, but not limited to research, development information,
46 testing procedures, or information regarding test participants,
47 related to the development or testing of any pharmaceutical or
48 pharmaceutical delivery system, except that a custodian may not
49 deny inspection of a government record or part thereof that gives

1 the name, title, expenditures, source and amounts of funding and
2 date when the final project summary of any research will be
3 available;

4 test questions, scoring keys and other examination data
5 pertaining to the administration of an examination for employment
6 or academic examination;

7 records of pursuit of charitable contributions or records
8 containing the identity of a donor of a gift if the donor requires non-
9 disclosure of the donor's identity as a condition of making the gift
10 provided that the donor has not received any benefits of or from the
11 institution of higher education in connection with such gift other
12 than a request for memorialization or dedication;

13 valuable or rare collections of books and/or documents obtained
14 by gift, grant, bequest or devise conditioned upon limited public
15 access;

16 information contained on individual admission applications; and
17 information concerning student records or grievance or
18 disciplinary proceedings against a student to the extent disclosure
19 would reveal the identity of the student.

20 "Personal firearms record" means any information contained in a
21 background investigation conducted by the chief of police, the
22 county prosecutor, or the Superintendent of State Police, of any
23 applicant for a permit to purchase a handgun, firearms identification
24 card license, or firearms registration; any application for a permit to
25 purchase a handgun, firearms identification card license, or firearms
26 registration; any document reflecting the issuance or denial of a
27 permit to purchase a handgun, firearms identification card license,
28 or firearms registration; and any permit to purchase a handgun,
29 firearms identification card license, or any firearms license,
30 certification, certificate, form of register, or registration statement.
31 For the purposes of this paragraph, information contained in a
32 background investigation shall include, but not be limited to,
33 identity, name, address, social security number, phone number, fax
34 number, driver's license number, email address, social media
35 address of any applicant, licensee, registrant or permit holder.

36 "Public agency" or "agency" means any of the principal
37 departments in the Executive Branch of State Government, and any
38 division, board, bureau, office, commission or other instrumentality
39 within or created by such department; the Legislature of the State
40 and any office, board, bureau or commission within or created by
41 the Legislative Branch; and any independent State authority,
42 commission, instrumentality or agency. The terms also mean any
43 political subdivision of the State or combination of political
44 subdivisions, and any division, board, bureau, office, commission or
45 other instrumentality within or created by a political subdivision of
46 the State or combination of political subdivisions, and any
47 independent authority, commission, instrumentality or agency
48 created by a political subdivision or combination of political
49 subdivisions.

1 "Law enforcement agency" means a public agency, or part
2 thereof, determined by the Attorney General to have law
3 enforcement responsibilities.

4 "Constituent" means any State resident or other person
5 communicating with a member of the Legislature.

6 "Member of the Legislature" means any person elected or
7 selected to serve in the New Jersey Senate or General Assembly.

8 "Criminal investigatory record" means a record which is not
9 required by law to be made, maintained or kept on file that is held
10 by a law enforcement agency which pertains to any criminal
11 investigation or related civil enforcement proceeding.

12 "Victim's record" means an individually-identifiable file or
13 document held by a victims' rights agency which pertains directly to
14 a victim of a crime except that a victim of a crime shall have access
15 to the victim's own records.

16 "Victim of a crime" means a person who has suffered personal or
17 psychological injury or death or incurs loss of or injury to personal
18 or real property as a result of a crime, or if such a person is
19 deceased or incapacitated, a member of that person's immediate
20 family.

21 "Victims' rights agency" means a public agency, or part thereof,
22 the primary responsibility of which is providing services, including
23 but not limited to food, shelter, or clothing, medical, psychiatric,
24 psychological or legal services or referrals, information and referral
25 services, counseling and support services, or financial services to
26 victims of crimes, including victims of sexual assault, domestic
27 violence, violent crime, child endangerment, child abuse or child
28 neglect, and the Victims of Crime Compensation Board, established
29 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
30 the Victims of Crime Compensation Office pursuant to P.L.2007,
31 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
32 (cf: P.L.2019, c.255, s.4)

33

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

35 2C:52-30. Except as otherwise provided in this chapter, **[any]**

36 a. Any person who reveals to another the existence of an arrest,
37 conviction, unlawful act violation, or related legal proceeding with
38 knowledge that the records and information pertaining thereto have
39 been expunged or sealed is a disorderly person. Notwithstanding
40 the provisions of [section] N.J.S.2C:43-3, the maximum fine which
41 can be imposed for violation of this section is **[\$200.00] \$2,000.**

42 b. (1) Any person or entity regularly engaged in the business
43 of collecting, assembling, evaluating or disseminating persons'
44 records of occurrences or related legal proceedings described in
45 subsection a. of this section for a fee shall regularly update the
46 records to ensure accuracy, promptly delete a record that has been
47 expunged or sealed, provide clients with the date collected and
48 explain to clients that records are valid only as of the date collected.

1 (2) Any person or entity regularly engaged in the business of
2 collecting, assembling, evaluating or disseminating records of
3 occurrences or related legal proceedings described in subsection a.
4 of this section for a fee, which disseminates a record that has been
5 expunged or sealed and knows or should have known at the time of
6 dissemination that the record has been expunged or sealed is liable
7 to the person who is the subject of the record for damages totaling
8 \$5,000 or the actual damages caused by the violation, whichever is
9 greater, plus costs and attorney fees.¹

10 (cf: N.J.S.2C:52-30)]²

11
12 ²[¹20.] 19.² (New section) The Administrative Director of the
13 Courts shall maintain and provide information to any person upon
14 request about the expungement process and legal services programs
15 Statewide and in each county which may be available to assist the
16 person with an expedited expungement pursuant to section 5 of
17 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
18 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3).¹

19
20 ²[¹21.] 20.² (New section) a. (1) The Administrative Director
21 of the Courts shall develop and maintain a multilingual public
22 awareness campaign to promote awareness of the expungement
23 process, including an expedited expungement pursuant to section 5
24 of P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
25 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3), and the
26 expungement e-filing system established pursuant to section 11 of
27 P.L.2019, c.269 (C.2C:52-10.1), as well as information on State,
28 local, non-profit and other private job training programs in
29 consultation with the Department of Labor and Workforce
30 Development, with a focus on assisting those persons eligible for
31 the expedited expungement of their records pursuant to section 5 of
32 P.L.2019, c.269 (C.2C:52-5.1) or a “clean slate” expungement
33 pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3),
34 respectively.

35 (2) The public awareness campaign shall, at a minimum, utilize
36 electronic and print media, and shall make available electronically
37 on an Internet website a petition form and a list of the supporting
38 information necessary for an expungement, including an expedited
39 or “clean slate” expungement pursuant to section 5 of
40 P.L.2019, c.269 (C.2C:52-5.1) or section 7 of P.L.2019, c.269
41 (C.2C:52-5.3), respectively, using the expungement e-filing system
42 once established pursuant to section 11 of P.L.2019, c.269
43 (C.2C:52-10.1).

44 (3) The petition and supporting information shall, at a minimum,
45 be made available in English and Spanish.

46 b. The Administrative Director of the Courts shall include in
47 the annual report on the activities of the Administrative Office of
48 the Courts, prepared pursuant to N.J.S.2A:12-5, information about

1 the activities and accomplishments of the public awareness
2 campaign developed and maintained pursuant to subsection a. of
3 this section, beginning no later than one year after the effective date
4 of P.L. , c. (C.) (pending before the Legislature as this
5 bill).¹
6
7 ¹~~[11.]~~ ²~~[22.]~~ ¹ 21.² ³~~[This]~~ Sections 1 through 5 of this³ act
8 shall take effect ¹~~[on the 90th day following enactment, except that~~
9 ~~the Attorney General, Administrative Director of the Courts, and~~
10 ~~the Supreme Court may take any anticipatory action as may be~~
11 ~~necessary to effectuate the provisions of this act]~~ ²~~[immediately]~~¹
12 ³~~[on the 120th day following enactment]~~² immediately, and the
13 remaining sections of this act shall take effect on the same date as
14 the date that actions occur on matters based on provisions in any
15 sections in P.L. , c. (C.) (pending before the Legislature as
16 Second Reprint of Assembly Bill No. 21), in which those actions
17 are to occur on the first day of the fifth month next following the
18 date of enactment of that act³ .