

ASSEMBLY, No. 2235

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Provides that records of convictions for carjacking and promoting prostitution of child shall not be expunged.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

3

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

6

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

8 2C:52-2. Indictable Offenses.

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

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

15 Records of conviction for the following crimes specified in the
16 New Jersey Code of Criminal Justice shall not be subject to
17 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except
18 death by auto as specified in N.J.S.2C:11-5 and strict liability
19 vehicular homicide as specified in section 1 of P.L.2017, c.165
20 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993,
21 c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77
22 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or
23 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3
24 (Aggravated Criminal Sexual Contact); if the victim is a minor,
25 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the
26 victim is a minor and the offender is not the parent of the victim,
27 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False
28 Imprisonment); N.J.S.2C:15-1 (Robbery); section 1 of P.L.1993,
29 c.221 (C.2C:15-2) (Carjacking); N.J.S.2C:17-1 (Arson and Related
30 Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare
31 of a child by engaging in sexual conduct which would impair or
32 debauch the morals of the child, or causing the child other harm);
33 paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or
34 filming a child in a prohibited sexual act or for portrayal in a
35 sexually suggestive manner); paragraph (3) of subsection b. of
36 N.J.S.2C:24-4 (Causing or permitting a child to engage in a
37 prohibited sexual act or the simulation of an act, or to be portrayed
38 in a sexually suggestive manner); subparagraph (a) of paragraph (5)
39 of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with
40 intent to distribute or using a file-sharing program to store items
41 depicting the sexual exploitation or abuse of a child); subparagraph
42 (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing
43 or viewing items depicting the sexual exploitation or abuse of a
44 child); section 8 of P.L.2017, c.8 (C.2C:24-4.1) (Leader of a child
45 pornography network); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2
46 (False Swearing); paragraph (3) of subsection b. of N.J.S.2C:34-1
47 (Knowingly promoting the prostitution of a child); paragraph (4) of
48 subsection b. of N.J.S.2C:34-1 (Knowingly promoting the

1 prostitution of the actor's child); section 2 of P.L.2002, c.26
2 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002,
3 c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons,
4 Biological Agents or Nuclear or Radiological Devices); and
5 conspiracies or attempts to commit such crimes.

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

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

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

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

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

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

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

31
32 2. This act shall take effect immediately.
33
34

35 STATEMENT

36
37 Under current law, criminal records may generally be expunged
38 after six years. Records may be expunged after five years under
39 certain circumstances. However, the records of certain serious
40 offenses, such as criminal homicide, kidnapping, and sexual assault,
41 are not subject to expungement. This bill would add two crimes to
42 the list of crimes which may not be expunged: carjacking and
43 promoting prostitution of a child.

44 Carjacking, set out in N.J.S.2C:15-2, is a crime of the first
45 degree. Ordinarily a crime of the first degree is punishable by a
46 term of imprisonment of 10 to 20 years or a fine of up to \$200,000,
47 or both. However, a defendant convicted of carjacking is subject to
48 a term of imprisonment of 10 to 30 years with a mandatory

A2235 DANCER

6

1 minimum term of five years during which the defendant is not
2 eligible for parole.

3 Knowingly promoting prostitution of a child, set out in
4 paragraph (3) of subsection b. of N.J.S.2C:34-1, is also a crime of
5 the first degree, punishable by the ordinary term of imprisonment
6 for this crime of 10 to 20 years or a fine of up to \$200,000, or both.