ASSEMBLY, No. 5440

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 8, 2021

Sponsored by:
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District 29 (Essex)
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SYNOPSIS

Requires New Jersey Supreme Court to issue order dismissing certain charges, complaints, and arrest warrants filed with or issued by municipal courts and unresolved for five years or more; requires AOC to conduct certain studies.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/5/2021)

AN ACT concerning the dismissal of certain municipal court matters and supplementing Title 2B of the New Jersey Statutes.

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

1. The Supreme Court of New Jersey shall issue an order dismissing and recalling any unresolved charges, complaints, and arrest warrants filed with or issued by any municipal court five years or more prior to the date of enactment of P.L. , c. (C.) (pending before the Legislature as this bill) concerning the following offenses:

a. Petty disorderly persons offenses, as defined in subsection b. of N.J.S.2C:1-4, including but not limited to:

(1) Simple assault committed in a fight or scuffle entered into by mutual consent, as set forth in subsection a. of N.J.S.2C:12-1;

(2) Shoplifting if the value of the merchandise is less than $200, as set forth in paragraph (4) of subsection c. of N.J.S.2C:20-11;

(3) Disorderly conduct, as set forth in N.J.S.2C:33-2; and

(4) Harassment, as set forth in subsections a., b., or c. of N.J.S.2C:33-4; and

b. Disorderly persons offenses, as defined in subsection b. of N.J.S.2C:1-4, including but not limited to:

(1) Simple assault, other than assault committed in a fight or scuffle entered into by mutual consent, as set forth in subsection a. of N.J.S.2C:12-1;

(2) Lewdness, as set forth in subsection a. of N.J.S.2C:14-14;

(3) Bad checks in an amount of less than $200, as set forth in paragraph (4) of subsection c. of N.J.S.2C:21-5;

(4) Obstructing the administration of law or other governmental function other than by obstructing the detection or investigation of a crime or the prosecution of a person for a crime, as set forth in N.J.S.2C:29-1;

(5) Resisting arrest, as set forth in paragraph (1) of subsection a. of N.J.S.2C:29-2;

(6) Disorderly conduct, as set forth in N.J.S.2C:33-2;

(7) Use or possession with intent to use drug paraphernalia, as set forth in N.J.S.2C:36-2; and

(8) Possession of 50 grams or less of marijuana, including any adulterants or dilutants, or five grams or less of hashish, as set forth in paragraph (4) of subsection a. of N.J.S.2C:35-10.

2. The dismissal and recall of unresolved charges, complaints, and arrest warrants set forth in P.L. , c. (C.) (pending before the Legislature as this bill) shall not apply to any violation of a municipal ordinance.

3. Within six months following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) the Administrative Office of the Courts shall submit the following reports to the Legislature:

a. A study to determine the feasibility of expanding the municipal court conditional dismissal program set forth in P.L.2013, c.158 (C.2C:43-13.1 et al.) and the conditional discharge program set forth in N.J.S.2C:36A-1 to carry out the provisions of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) in dismissing and recalling unresolved charges, complaints, and arrest warrants; and

b. A study to determine the feasibility of an initiative similar to the federal "Fugitive Safe Surrender Program," whereby persons charged with non-violent criminal offenses are encouraged to voluntarily surrender in a faith-based or other neutral setting and seek favorable consideration from the courts.

4. This act shall take effect on the 90th day following enactment.

STATEMENT

This bill would require the New Jersey Supreme Court to issue an order dismissing certain unresolved charges, complaints, and arrest warrants filed with or issued by any municipal court five years or more prior to the date of enactment of the bill. The bill would apply to disorderly persons offenses and petty disorderly persons offenses.

In January 2019 the New Jersey Supreme Court issued a similar order, dismissing over 700,000 unresolved complaints and open warrants in minor municipal court matters that were more than 15 years old (those dating from before January 1, 2003). In its order, the Supreme Court noted that the existence of such old outstanding complaints and open warrants in minor matters "raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency."

In the view of the sponsor, this bill is a necessary supplement to the 2019 New Jersey Supreme Court order, which only focused on minor municipal matters. This bill would allow the court system to remove a significant portion of its backlog by dismissing unresolved complaints and arrest warrants for charges that do not reach the severity of indictable offenses. The COVID-19 pandemic and the Public Health Emergency currently in effect in New Jersey resulted in the closing of the court system for months, and our courts have still not resumed full operations. It is the view of the

sponsor that, in this context, New Jersey must focus on minimizing unnecessary contact and allowing individuals every opportunity to regain their financial footing. Removing the possibility of being summoned into court or arrested on an old warrant for a low-level offense will go a long way towards allowing New Jerseyans, especially those from communities of color, a chance to recover.

Specifically, the bill applies to the following unresolved charges, complaints, and arrest warrants that are at least five years old:

a. Petty disorderly persons offenses, as defined in subsection b. of N.J.S.2C:1-4, including but not limited to:

(1) Simple assault committed in a fight or scuffle entered into by mutual consent, as set forth in subsection a. of N.J.S.2C:12-1;

(2) Shoplifting if the value of the merchandise is less than $200, as set forth in paragraph (4) of subsection c. of N.J.S.2C:20-11;

(3) Disorderly conduct, as set forth in N.J.S.2C:33-2; and

(4) Harassment, as set forth in subsections a., b., or c. of N.J.S.2C:33-4; and

b. Disorderly persons offenses, as defined in subsection b. of N.J.S.2C:1-4, including but not limited to:

(1) Simple assault, other than assault committed in a fight or scuffle entered into by mutual consent, as set forth in subsection a. of N.J.S.2C:12-1;

(2) Lewdness, as set forth in subsection a. of N.J.S.2C:14-14;

(3) Bad checks in an amount of less than $200, as set forth in paragraph (4) of subsection c. of N.J.S.2C:21-5;

(4) Obstructing the administration of law or other governmental function other than by obstructing the detection or investigation of a crime or the prosecution of a person for a crime, as set forth in N.J.S.2C:29-1;

(5) Resisting arrest, as set forth in paragraph (1) of subsection a. of N.J.S.2C:29-2;

(6) Disorderly conduct, as set forth in N.J.S.2C:33-2;

(7) Use or possession with intent to use drug paraphernalia, as set forth in N.J.S.2C:36-2; and

(8) Possession of 50 grams or less of marijuana, including any adulterants or dilutants, or five grams or less of hashish, as set forth in paragraph (4) of subsection a. of N.J.S.2C:35-10.

This bill would not apply to any violations of municipal ordinances, providing deference to municipalities to enforce their own laws and continue their collection of revenue.

In addition to the provisions discussed above, the bill also provides that, within six months following the effective date of the bill, the Administrative Office of the Courts would submit two reports to the Legislature:

(1) A study to determine the feasibility of expanding the municipal court conditional dismissal program set forth in P.L.2013, c.158 (C.2C:43-13.1 et al.) and the conditional discharge program set forth in N.J.S.2C:36A-1 to carry out the provisions of

the bill in dismissing and recalling unresolved charges, complaints, and arrest warrants; and

(2) A study to determine the feasibility of an initiative similar to the federal "Fugitive Safe Surrender Program," whereby persons charged with non-violent criminal offenses are encouraged to voluntarily surrender in a faith-based or other neutral setting and seek favorable consideration from the courts.