

SENATE, No. 2101

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Decriminalizes possession of 10 grams or less of marijuana and personal-use amount of regulated marijuana-infused products; requires substance abuse treatment under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/16/2020)

S2101 RICE

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1 AN ACT concerning marijuana, amending various parts of the
2 statutory law, and supplementing Title 2C of the New Jersey
3 Statutes.

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

7
8 1. N.J.S.2B:12-17 is amended to read as follows:

9 2B:12-17. Jurisdiction of specified offenses. A municipal court
10 has jurisdiction over the following cases within the territorial
11 jurisdiction of the court:

12 a. Violations of county or municipal ordinances;

13 b. Violations of the motor vehicle and traffic laws;

14 c. Disorderly persons offenses, petty disorderly persons
15 offenses and other non-indictable offenses except where exclusive
16 jurisdiction is given to the Superior Court;

17 d. Violations of the fish and game laws;

18 e. Proceedings to collect a penalty where jurisdiction is granted
19 by statute;

20 f. Violations of laws regulating boating; **[and]**

21 g. Violations of sections 10 and 11 of P.L. , c. (C.)
22 (pending before the Legislature as this bill); and

23 h. Any other proceedings where jurisdiction is granted by
24 statute.

25 (cf: P.L.1996, c.95, s.12)

26

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

28 2C:35-2. As used in this chapter:

29 "Administer" means the direct application of a controlled
30 dangerous substance or controlled substance analog, whether by
31 injection, inhalation, ingestion, or any other means, to the body of a
32 patient or research subject by: (1) a practitioner (or, in his presence,
33 by his lawfully authorized agent), or (2) the patient or research
34 subject at the lawful direction and in the presence of the
35 practitioner.

36 "Agent" means an authorized person who acts on behalf of or at
37 the direction of a manufacturer, distributor, or dispenser but does
38 not include a common or contract carrier, public warehouseman, or
39 employee thereof.

40 "Controlled dangerous substance" means a drug, substance, or
41 immediate precursor in Schedules I through V, any substance the
42 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
43 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
44 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
45 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),

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 and any drug or substance which, when ingested, is metabolized or
2 otherwise becomes a controlled dangerous substance in the human
3 body. When any statute refers to controlled dangerous substances,
4 or to a specific controlled dangerous substance, it shall also be
5 deemed to refer to any drug or substance which, when ingested, is
6 metabolized or otherwise becomes a controlled dangerous substance
7 or the specific controlled dangerous substance, and to any substance
8 that is an immediate precursor of a controlled dangerous substance
9 or the specific controlled dangerous substance. The term shall not
10 include distilled spirits, wine, malt beverages, as those terms are
11 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
12 products. The term, wherever it appears in any law or
13 administrative regulation of this State, shall include controlled
14 substance analogs.

15 "Controlled substance analog" means a substance that has a
16 chemical structure substantially similar to that of a controlled
17 dangerous substance and that was specifically designed to produce
18 an effect substantially similar to that of a controlled dangerous
19 substance. The term shall not include a substance manufactured or
20 distributed in conformance with the provisions of an approved new
21 drug application or an exemption for investigational use within the
22 meaning of section 505 of the "Federal Food, Drug and Cosmetic
23 Act," 52 Stat. 1052 (21 U.S.C. s.355).

24 "Counterfeit substance" means a controlled dangerous substance
25 or controlled substance analog which, or the container or labeling of
26 which, without authorization, bears the trademark, trade name, or
27 other identifying mark, imprint, number, or device, or any likeness
28 thereof, of a manufacturer, distributor, or dispenser other than the
29 person or persons who in fact manufactured, distributed, or
30 dispensed the substance and which thereby falsely purports or is
31 represented to be the product of, or to have been distributed by,
32 such other manufacturer, distributor, or dispenser.

33 "Deliver" or "delivery" means the actual, constructive, or
34 attempted transfer from one person to another of a controlled
35 dangerous substance or controlled substance analog, whether or not
36 there is an agency relationship.

37 "Dispense" means to deliver a controlled dangerous substance or
38 controlled substance analog to an ultimate user or research subject
39 by or pursuant to the lawful order of a practitioner, including the
40 prescribing, administering, packaging, labeling, or compounding
41 necessary to prepare the substance for that delivery. "Dispenser"
42 means a practitioner who dispenses.

43 "Distribute" means to deliver other than by administering or
44 dispensing a controlled dangerous substance or controlled substance
45 analog. "Distributor" means a person who distributes.

46 "Drugs" means (a) substances recognized in the official United
47 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the

1 United States, or official National Formulary, or any supplement to
2 any of them; and (b) substances intended for use in the diagnosis,
3 cure, mitigation, treatment, or prevention of disease in man or other
4 animals; and (c) substances (other than food) intended to affect the
5 structure or any function of the body of man or other animals; and
6 (d) substances intended for use as a component of any article
7 specified in subsections (a), (b), and (c) of this section; but does not
8 include devices or their components, parts, or accessories.

9 "Drug or alcohol dependent person" means a person who as a
10 result of using a controlled dangerous substance or controlled
11 substance analog or alcohol has been in a state of psychic or
12 physical dependence, or both, arising from the use of that controlled
13 dangerous substance or controlled substance analog or alcohol on a
14 continuous or repetitive basis. Drug or alcohol dependence is
15 characterized by behavioral and other responses, including but not
16 limited to a strong compulsion to take the substance on a recurring
17 basis in order to experience its psychic effects, or to avoid the
18 discomfort of its absence.

19 "Hashish" means the resin extracted from any part of the plant
20 Genus Cannabis L. and any compound, manufacture, salt,
21 derivative, mixture, or preparation of such resin. "Hashish" shall
22 not mean hemp or a hemp product cultivated, handled, processed,
23 transported, or sold pursuant to the "New Jersey Hemp Farming
24 Act," P.L.2019, c.238 (C.4:28-6 et al.).

25 "Manufacture" means the production, preparation, propagation,
26 compounding, conversion, or processing of a controlled dangerous
27 substance or controlled substance analog, either directly or by
28 extraction from substances of natural origin, or independently by
29 means of chemical synthesis, or by a combination of extraction and
30 chemical synthesis, and includes any packaging or repackaging of
31 the substance or labeling or relabeling of its container, except that
32 this term does not include the preparation or compounding of a
33 controlled dangerous substance or controlled substance analog by
34 an individual for his own use or the preparation, compounding,
35 packaging, or labeling of a controlled dangerous substance: (1) by
36 a practitioner as an incident to his administering or dispensing of a
37 controlled dangerous substance or controlled substance analog in
38 the course of his professional practice, or (2) by a practitioner (or
39 under his supervision) for the purpose of, or as an incident to,
40 research, teaching, or chemical analysis and not for sale.

41 "Marijuana" means all parts of the plant Genus Cannabis L.,
42 whether growing or not; the seeds thereof, and every compound,
43 manufacture, salt, derivative, mixture, or preparation of the plant or
44 its seeds, except those containing resin extracted from the plant; but
45 shall not include the mature stalks of the plant, fiber produced from
46 the stalks, oil, or cake made from the seeds of the plant, any other
47 compound, manufacture, salt, derivative, mixture, or preparation of

1 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
2 which is incapable of germination. "Marijuana" shall not mean
3 hemp or a hemp product cultivated, handled, processed, transported,
4 or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019,
5 c.238 (C.4:28-6 et al.).

6 "Marijuana concentrate" means a product consisting wholly or in
7 part of the resin extracted from any part of the plant Genus
8 Cannabis L. and having a tetrahydrocannabinol concentration
9 greater than 2.5 percent.

10 "Narcotic drug" means any of the following, whether produced
11 directly or indirectly by extraction from substances of vegetable
12 origin, or independently by means of chemical synthesis, or by a
13 combination of extraction and chemical synthesis:

14 (a) Opium, coca leaves, and opiates;

15 (b) A compound, manufacture, salt, derivative, or preparation of
16 opium, coca leaves, or opiates;

17 (c) A substance (and any compound, manufacture, salt,
18 derivative, or preparation thereof) which is chemically identical
19 with any of the substances referred to in subsections (a) and (b),
20 except that the words "narcotic drug" as used in this act shall not
21 include decocainized coca leaves or extracts of coca leaves, which
22 extracts do not contain cocaine or ecogine.

23 "Opiate" means any dangerous substance having an addiction-
24 forming or addiction-sustaining liability similar to morphine or
25 being capable of conversion into a drug having such addiction-
26 forming or addiction-sustaining liability. It does not include, unless
27 specifically designated as controlled pursuant to the provisions of
28 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
29 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
30 It does include its racemic and levorotatory forms.

31 "Opium poppy" means the plant of the species *Papaver*
32 *somniferum* L., except the seeds thereof.

33 "Person" means any corporation, association, partnership, trust,
34 other institution or entity, or one or more individuals.

35 "Personal-use amount of a regulated marijuana-infused product"
36 means one or more products, containing a total of no more than 100
37 milligrams of tetrahydrocannabinol, comprised of marijuana,
38 marijuana extracts, or marijuana resins and other ingredients and
39 intended for personal use or consumption, including but not limited
40 to edible products, ointments, and tinctures, lawfully obtained from
41 a jurisdiction where marijuana sales to adults are authorized under
42 the law of the jurisdiction, in its original, child-resistant, labeled
43 packaging when stored.

44 "Plant" means an organism having leaves and a readily
45 observable root formation, including, but not limited to, a cutting
46 having roots, a rootball or root hairs.

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1 "Poppy straw" means all parts, except the seeds, of the opium
2 poppy, after mowing.

3 "Practitioner" means a physician, dentist, veterinarian, scientific
4 investigator, laboratory, pharmacy, hospital, or other person
5 licensed, registered, or otherwise permitted to distribute, dispense,
6 conduct research with respect to, or administer a controlled
7 dangerous substance or controlled substance analog in the course of
8 professional practice or research in this State.

9 (a) "Physician" means a physician authorized by law to practice
10 medicine in this or any other state and any other person authorized
11 by law to treat sick and injured human beings in this or any other
12 state.

13 (b) "Veterinarian" means a veterinarian authorized by law to
14 practice veterinary medicine in this State.

15 (c) "Dentist" means a dentist authorized by law to practice
16 dentistry in this State.

17 (d) "Hospital" means any federal institution, or any institution
18 for the care and treatment of the sick and injured, operated or
19 approved by the appropriate State department as proper to be
20 entrusted with the custody and professional use of controlled
21 dangerous substances or controlled substance analogs.

22 (e) "Laboratory" means a laboratory to be entrusted with the
23 custody of narcotic drugs and the use of controlled dangerous
24 substances or controlled substance analogs for scientific,
25 experimental, and medical purposes and for purposes of instruction
26 approved by the Department of Health.

27 "Production" includes the manufacture, planting, cultivation,
28 growing, or harvesting of a controlled dangerous substance or
29 controlled substance analog.

30 "Immediate precursor" means a substance which the Division of
31 Consumer Affairs in the Department of Law and Public Safety has
32 found to be and by regulation designates as being the principal
33 compound commonly used or produced primarily for use, and
34 which is an immediate chemical intermediary used or likely to be
35 used in the manufacture of a controlled dangerous substance or
36 controlled substance analog, the control of which is necessary to
37 prevent, curtail, or limit such manufacture.

38 "Residential treatment facility" means any facility licensed and
39 approved by the Department of Human Services and which is
40 approved by any county probation department for the inpatient
41 treatment and rehabilitation of drug or alcohol dependent persons.

42 "Schedules I, II, III, IV, and V" are the schedules set forth in
43 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
44 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
45 by any regulations issued by the Director of the Division of
46 Consumer Affairs in the Department of Law and Public Safety

1 pursuant to the director's authority as provided in section 3 of
2 P.L.1970, c.226 (C.24:21-3).

3 "State" means the State of New Jersey.

4 "Ultimate user" means a person who lawfully possesses a
5 controlled dangerous substance or controlled substance analog for
6 his own use or for the use of a member of his household or for
7 administration to an animal owned by him or by a member of his
8 household.

9 "Prescription legend drug" means any drug which under federal
10 or State law requires dispensing by prescription or order of a
11 licensed physician, veterinarian, or dentist and is required to bear
12 the statement "Rx only" or similar wording indicating that such
13 drug may be sold or dispensed only upon the prescription of a
14 licensed medical practitioner and is not a controlled dangerous
15 substance or stramonium preparation.

16 "Stramonium preparation" means a substance prepared from any
17 part of the stramonium plant in the form of a powder, pipe mixture,
18 cigarette, or any other form with or without other ingredients.

19 "Stramonium plant" means the plant *Datura Stramonium* Linne,
20 including *Datura Tatula* Linne.

21 (cf: P.L.2019, c.238, s.10)

22

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

24 2C:35-10. Possession, Use or Being Under the Influence, or
25 Failure to Make Lawful Disposition.

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

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

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

43 (3) Possession of: (a) more than 50 grams of marijuana,
44 including any adulterants or dilutants [, or]; (b) more than five
45 grams of hashish or marijuana concentrate; or (c) more than two
46 times a personal-use amount of a regulated marijuana-infused
47 product as defined in N.J.S.2C:35-2, is guilty of a crime of the

1 fourth degree, except that, notwithstanding the provisions of
2 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
3 imposed; **[or]**

4 (4) Possession of : (a) more than 10 grams but less than 50
5 grams of marijuana, including any adulterants or dilutants; (b) more
6 than a personal-use amount of a regulated marijuana-infused
7 product but less than two times a personal-use amount of a
8 regulated marijuana-infused product; or (c) more than one gram but
9 less than five grams of hashish or marijuana concentrate **[or less of**
10 **marijuana, including any adulterants or dilutants]**, or five grams or
11 less of hashish is a disorderly person; or

12 (5) Possession of: (a) 10 grams or less of marijuana, including
13 any adulterants or dilutants; (b) a personal-use amount of a
14 regulated marijuana-infused product; or (c) one gram or less of
15 hashish or marijuana concentrate is not a violation of this title, but
16 shall be subject to the penalties set forth in section 10 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).

18 Any person who commits any offense defined in this section
19 while on any property used for school purposes which is owned by
20 or leased to any elementary or secondary school or school board, or
21 within 1,000 feet of any such school property or a school bus, or
22 while on any school bus, and who is not sentenced to a term of
23 imprisonment, shall, in addition to any other sentence which the
24 court may impose, be required to perform not less than 100 hours of
25 community service.

26 b. Any person who uses or who is under the influence of any
27 controlled dangerous substance, or its analog, for a purpose other
28 than the treatment of sickness or injury as lawfully prescribed or
29 administered by a physician is a disorderly person. It is not a
30 violation of this subsection if a person is under the influence of
31 marijuana.

32 In a prosecution under this subsection, it shall not be necessary
33 for the State to prove that the accused did use or was under the
34 influence of any specific drug, but it shall be sufficient for a
35 conviction under this subsection for the State to prove that the
36 accused did use or was under the influence of some controlled
37 dangerous substance, counterfeit controlled dangerous substance, or
38 controlled substance analog, other than marijuana, by proving that
39 the accused did manifest physical and physiological symptoms or
40 reactions caused by the use of any controlled dangerous substance
41 or controlled substance analog.

42 c. Any person who knowingly obtains or possesses a controlled
43 dangerous substance or controlled substance analog in violation of
44 subsection a. of this section and who fails to voluntarily deliver the
45 substance to the nearest law enforcement officer is guilty of a
46 disorderly persons offense. Nothing in this subsection shall be
47 construed to preclude a prosecution or conviction for any other

1 offense defined in this title or any other statute. It is not a violation
2 of this subsection if the substance is 10 grams or less of marijuana,
3 including any adulterants or dilutants; a personal-use amount of a
4 regulated marijuana-infused product; or one gram or less of hashish
5 or marijuana concentrate.

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

7
8 4. N.J.S.2C:35-18 is amended to read as follows:

9 2C:35-18. Exemption; Burden of Proof.

10 a. If conduct is authorized by the provisions of P.L.1970, c.226
11 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:6I-1 et al.), **[or]**
12 P.L.2015, c.158 (C.18A:40-12.22 et al.), or if conduct is not subject
13 to a criminal penalty pursuant to the provisions of paragraph (5) of
14 subsection a. of N.J.S.2C:35-10, that authorization or
15 decriminalization shall, subject to the provisions of this section,
16 constitute an exemption from criminal liability under this chapter or
17 chapter 36, and the absence of such authorization or the
18 decriminalization shall not be construed to be an element of any
19 offense in this chapter or chapter 36. It is an affirmative defense to
20 any criminal action arising under this chapter or chapter 36 that the
21 defendant is the authorized holder of an appropriate registration,
22 permit, or order form or is otherwise exempted or excepted from
23 criminal liability by virtue of any provision of P.L.1970, c.226
24 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:6I-1 et al.), **[or]**
25 P.L.2015, c.158 (C.18A:40-12.22 et al.) , or the provisions of
26 paragraph (5) of subsection a. of N.J.S.2C:35-10. The affirmative
27 defense established herein shall be proved by the defendant by a
28 preponderance of the evidence. It shall not be necessary for the
29 State to negate any exemption set forth in this act or in any
30 provision of Title 24 of the Revised Statutes in any complaint,
31 information, indictment, or other pleading or in any trial, hearing,
32 or other proceeding under this act.

33 b. No liability shall be imposed by virtue of this chapter or
34 chapter 36 upon any duly authorized State officer, engaged in the
35 enforcement of any law or municipal ordinance relating to
36 controlled dangerous substances or controlled substance analogs.

37 (cf: P.L.2019, c.153, s.40)

38
39 5. N.J.S.2C:36-2 is amended to read as follows:

40 2C:36-2. Use or possession with intent to use drug paraphernalia,
41 disorderly persons offense.

42 It shall be unlawful for any person to use, or to possess with
43 intent to use, drug paraphernalia to plant, propagate, cultivate,
44 grow, harvest, manufacture, compound, convert, produce, process,
45 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
46 inhale, or otherwise introduce into the human body a controlled
47 dangerous substance, controlled substance analog or toxic chemical

1 in violation of the provisions of chapter 35 of this title. Any person
2 who violates this section is guilty of a disorderly persons offense.

3 Use, or possession with intent to use, drug paraphernalia to plant,
4 propagate, cultivate, grow, harvest, manufacture, compound,
5 convert, produce, process, prepare, test, analyze, pack, repack,
6 store, contain, conceal, ingest, inhale, or otherwise introduce into
7 the human body 10 grams or less of marijuana, including any
8 adulterants or dilutants; a personal-use amount of a regulated
9 marijuana-infused product; or one gram or less of hashish or
10 marijuana concentrate is not a violation of this section but shall be
11 subject to the penalties set forth in section 11 of
12 P.L. , c. (C.) (pending before the Legislature as this bill).
13 (cf: P.L.2007, c.31, s.3)

14
15 6. N.J.S.2C:36A-1 is amended to read as follows:

16 2C:36A-1. Conditional discharge for certain first offenses.

17 a. Whenever any person who has not previously been convicted
18 of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or
19 a disorderly persons or petty disorderly persons offense defined in
20 chapter 35 or 36 of this title or, subsequent to the effective date of
21 this title, under any law of the United States, this State or any other
22 state relating to marijuana, or stimulant, depressant, or
23 hallucinogenic drugs, and who has not previously participated in a
24 program of supervisory treatment pursuant to N.J.S.2C:43-12 or
25 conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-
26 13.1 et al.), or a Veterans Diversion Program pursuant to P.L.2017,
27 c.42 (C.2C:43-23 et al.), is charged with or convicted of any
28 disorderly persons offense or petty disorderly persons offense under
29 chapter 35 or 36 of this title, the court **【**upon notice to the
30 prosecutor and**】**, subject to subsection c. of this section, **【**may on
31 motion of the defendant or the court**】** shall:

32 (1) Suspend further proceedings and with the consent of the
33 person after reference to the State Bureau of Identification criminal
34 history record information files, place him under supervisory
35 treatment upon such reasonable terms and conditions as it may
36 require, including the terms and conditions set forth in subsection b.
37 of this section; or

38 (2) After a plea of guilty or finding of guilty, and without
39 entering a judgment of conviction, and with the consent of the
40 person after proper reference to the State Bureau of Identification
41 criminal history record information files, place him on supervisory
42 treatment upon reasonable terms and conditions as it may require,
43 including the terms and conditions set forth in subsection b. of this
44 section, or as otherwise provided by law.

45 b. The court shall order the person to undergo a diagnostic
46 assessment by a professional licensed or certified by the Division of
47 Mental Health and Addiction Services in the Department of Health

1 to perform such assessments to determine if and to what extent the
2 person is drug dependent and would benefit from treatment.

3 (1) If the person is determined to not be drug dependent he shall
4 complete a two-hour education program on marijuana and other
5 controlled dangerous substances, according to a curriculum
6 developed by the Division of Mental Health and Addiction Services
7 in the Department of Health. The curriculum shall include written
8 materials. If the professional determines that the person is not drug
9 dependent, the professional shall report to the court that no further
10 action is needed, and the records of the violation shall be expunged
11 as set forth in subparagraph (b) of paragraph (2) of this subsection.

12 (2) If the person is determined to be drug dependent within the
13 meaning of N.J.S.2C:35-2 and substance abuse treatment and
14 monitoring will serve to benefit the person by addressing his drug
15 dependency, the court shall order the person to undergo treatment
16 for drug dependency at a suitable treatment facility licensed and
17 approved by the Department of Health and to comply with the
18 requirements of the course of treatment. The person shall be
19 required to submit to periodic testing to determine compliance with
20 treatment program goals. The treatment provider shall promptly
21 report to the court any significant failures by the person to comply
22 with any court-imposed term or condition of treatment or any
23 requirements of the course of treatment, including but not limited to
24 a positive drug or alcohol test or the unexcused failure to attend any
25 session or activity.

26 A person may apply for a waiver of the cost of the substance
27 abuse assessment and substance abuse treatment by reason of
28 extreme financial hardship. Costs of the substance abuse assessment
29 may be reimbursed from the Drug Education Program Fund
30 established in section 13 of P.L. , c. (C.) (pending before
31 the Legislature as this bill).

32 (a) Upon completion of treatment, the agency designated by the
33 court to monitor or supervise the person's treatment shall report to
34 the court as to the person's progress in treatment and compliance
35 with court-imposed terms and conditions.

36 (b) After the expiration of a period six months following the
37 court's entry of the order of dismissal, the records of the person's
38 arrest shall be expunged pursuant to N.J.S.2C:52-6. Expungement
39 shall not require any action by the person or the payment of any fee.

40 In no event shall the court require as a term or condition of
41 supervisory treatment under this section, referral to any residential
42 treatment facility for a period exceeding the maximum period of
43 confinement prescribed by law for the offense for which the
44 individual has been charged or convicted, nor shall any term of
45 supervisory treatment imposed under this subsection exceed a
46 period of three years.

1 Upon violation of a term or condition of supervisory treatment
2 the court may enter a judgment of conviction and proceed as
3 otherwise provided, or where there has been no plea of guilty or
4 finding of guilty, resume proceedings. Upon fulfillment of the terms
5 and conditions of supervisory treatment the court shall terminate the
6 supervisory treatment and dismiss the proceedings against him.
7 Termination of supervisory treatment and dismissal under this
8 section shall be without court adjudication of guilt and shall not be
9 deemed a conviction for purposes of disqualifications or
10 disabilities, if any, imposed by law upon conviction of a crime or
11 disorderly persons offense but shall be reported by the clerk of the
12 court to the State Bureau of Identification criminal history record
13 information files. Termination of supervisory treatment and
14 dismissal under this section may occur only once with respect to
15 any person. Imposition of supervisory treatment under this section
16 shall not be deemed a conviction for the purposes of determining
17 whether a second or subsequent offense has occurred under section
18 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this title or
19 any law of this State.

20 c. Proceedings under this section shall **[not]** be available to
21 **[any]** every defendant unless the court in its discretion concludes
22 that:

23 (1) The defendant's continued presence in the community, or in
24 a civil treatment center or program, will **[not]** pose a danger to the
25 community; or

26 (2) **[That the]** The terms and conditions of supervisory
27 treatment will be **[adequate]** inadequate to protect the public and
28 will benefit the defendant by serving to correct any dependence on
29 or use of controlled substances which he may manifest; **[and]** or

30 (3) The person has **[not]** previously received supervisory
31 treatment under section 27 of P.L.1970, c.226 (C.24:21-27),
32 N.J.S.2C:43-12, or the provisions of this chapter.

33 d. A person seeking conditional discharge pursuant to this
34 section shall pay to the court a fee of \$75 which shall be paid to the
35 Treasurer of the State of New Jersey for deposit in the General
36 Fund. The defendant shall also be required to pay restitution, costs
37 and other assessments as provided by law. A person may apply for a
38 waiver of this fee, by reason of poverty, pursuant to the Rules
39 Governing the Courts of the State of New Jersey, or the court may
40 permit the defendant to pay the conditional discharge fee and other
41 assessments in installments or may order other alternatives pursuant
42 to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

43 (cf: P.L.2019, c.276, s.5)

44

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

46 2C:52-1. Definition of Expungement. a. Except as otherwise
47 provided in this chapter, expungement shall mean the extraction,

1 sealing, impounding, or isolation of all records on file within any
2 court, detention or correctional facility, law enforcement or criminal
3 justice agency concerning a person's detection, apprehension, arrest,
4 detention, trial or disposition of; an offense within the criminal
5 justice system, or a violation of section 10 or 11 of
6 P.L. , c. (C.) (pending before the Legislature as this bill).

7 b. Expunged records shall include complaints, warrants,
8 arrests, commitments, processing records, fingerprints,
9 photographs, index cards, "rap sheets" and judicial docket records.
10 (cf: P.L.2019, c.269, s.1)

11
12 8. N.J.S.2C:52-3 is amended to read as follows:

13 2C:52-3. Disorderly persons offenses and petty disorderly
14 persons offenses.

15 a. Any person who has been convicted of one or more
16 disorderly persons or petty disorderly persons offenses under the
17 laws of this State who has not been convicted of any crime, whether
18 within this State or any other jurisdiction, may present an
19 expungement application to a court pursuant to this section. Any
20 person who has been convicted of one or more disorderly persons or
21 petty disorderly persons offenses under the laws of this State who
22 has also been convicted of one or more crimes shall not be eligible
23 to apply for an expungement pursuant to this section, but may
24 present an expungement application to the Superior Court pursuant
25 to N.J.S.2C:52-2.

26 b. Any person who has been convicted of one or more
27 disorderly persons or petty disorderly persons offenses under the
28 laws of this State who has not been convicted of any crime, whether
29 within this State or any other jurisdiction, may present an
30 expungement application pursuant to this section to any court
31 designated by the Rules of Court if:

32 the person has been convicted, under the laws of this State, on
33 the same or separate occasions of no more than five disorderly
34 persons offenses, no more than five petty disorderly persons
35 offenses, or a combination of no more than five disorderly persons
36 and petty disorderly persons offenses, and the person does not
37 otherwise have any subsequent conviction for a disorderly persons
38 or petty disorderly persons offense, whether within this State or any
39 other jurisdiction, such that the total number of convictions for
40 disorderly persons and petty disorderly persons offenses would
41 exceed five. Subject to the provision of subsection e. of
42 N.J.S.2C:52-14 requiring denial of an expungement petition when a
43 person has had a previous criminal conviction expunged, a prior
44 conviction for another disorderly persons offense or petty disorderly
45 persons offense shall not bar presenting an application seeking
46 expungement relief for the convictions that are the subject of the
47 application, which may include convictions for no more than five

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1 disorderly persons or petty disorderly persons offenses, or
2 combination thereof; or

3 the person has been convicted of multiple disorderly persons
4 offenses or multiple petty disorderly persons offenses under the
5 laws of this State, or a combination of multiple disorderly persons
6 and petty disorderly persons offenses under the laws of this State,
7 which convictions were entered on the same day, and does not
8 otherwise have any subsequent conviction for another offense in
9 addition to those convictions included in the expungement
10 application, whether any such conviction was within this State or
11 any other jurisdiction. Subject to the provision of subsection e. of
12 N.J.S.2C:52-14 requiring denial of an expungement petition when a
13 person has had a previous criminal conviction expunged, a prior
14 conviction for another disorderly persons or petty disorderly
15 persons offense that was not entered on the same day shall not bar
16 presenting an application seeking expungement relief for the
17 convictions entered on the same day that are the subject of the
18 application; or

19 the person has been convicted of multiple disorderly persons
20 offenses or multiple petty disorderly persons offenses under the
21 laws of this State, or a combination of multiple disorderly persons
22 and petty disorderly persons offenses under the laws of this State,
23 which offenses or combination of offenses were interdependent or
24 closely related in circumstances and were committed as part of a
25 sequence of events that took place within a comparatively short
26 period of time, regardless of the date of conviction or sentencing for
27 each individual offense, and the person does not otherwise have any
28 subsequent conviction for another offense in addition to those
29 convictions included in the expungement application, whether
30 within this State or any other jurisdiction. Subject to the provision
31 of subsection e. of N.J.S.2C:52-14 requiring denial of an
32 expungement petition when a person has had a previous criminal
33 conviction expunged, a prior conviction for another disorderly
34 persons offense or petty disorderly persons offense that was not
35 interdependent or closely related in circumstances and was not
36 committed within a comparatively short period of time as described
37 above shall not bar presenting an application seeking expungement
38 relief for the convictions of offenses that were interdependent or
39 closely related and committed within a comparatively short period
40 of time, and that are the subject of the application.

41 For purposes of determining eligibility to present an
42 expungement application to the court pursuant to this section, a
43 conviction for unlawful distribution of, or possessing or having
44 under control with intent to distribute, marijuana or hashish in
45 violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a
46 lesser amount of marijuana or hashish in violation of paragraph (12)
47 of subsection b. of that section, or a violation of either of those

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1 paragraphs and a violation of subsection a. of section 1 of P.L.1987,
2 c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327
3 (C.2C:35-7.1), for distributing, or possessing or having under
4 control with intent to distribute, on or within 1,000 feet of any
5 school property, or on or within 500 feet of the real property
6 comprising a public housing facility, public park, or public
7 building, or for obtaining or possessing marijuana or hashish in
8 violation of paragraph (3) of subsection a. of N.J.S.2C:35-10, or for
9 an equivalent crime in another jurisdiction, regardless of when the
10 conviction occurred, shall not be considered a conviction of a crime
11 within this State or any other jurisdiction but shall instead be
12 considered a conviction of a disorderly persons offense within this
13 State or an equivalent category of offense within the other
14 jurisdiction, and a conviction for obtaining, possessing, using, being
15 under the influence of, or failing to make lawful disposition of
16 marijuana or hashish in violation of paragraph (4) of subsection a.,
17 or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation
18 involving marijuana or hashish as described herein and using or
19 possessing with intent to use drug paraphernalia with that marijuana
20 or hashish in violation of N.J.S.2C:36-2, or for an equivalent crime
21 or offense in another jurisdiction, regardless of when the conviction
22 occurred, shall not be considered a conviction within this State or
23 any other jurisdiction.

24 The person, if eligible, may present the expungement application
25 after the expiration of a period of five years from the date of his
26 most recent conviction, payment of any court-ordered financial
27 assessment, satisfactory completion of probation or parole, or
28 release from incarceration, whichever is later. The term "court-
29 ordered financial assessment" as used herein and throughout this
30 section means and includes any fine, fee, penalty, restitution, and
31 other form of financial assessment imposed by the court as part of
32 the sentence for the conviction or convictions that are the subject of
33 the application, for which payment of restitution takes precedence
34 in accordance with chapter 46 of Title 2C of the New Jersey
35 Statutes. The person shall submit the expungement application to a
36 court in the county in which the most recent conviction for a
37 disorderly persons or petty disorderly persons offense was
38 adjudged, which includes a duly verified petition as provided in
39 N.J.S.2C:52-7 praying that the conviction, or convictions if
40 applicable, and all records and information pertaining thereto be
41 expunged. The petition appended to an application shall comply
42 with the requirements of N.J.S.2C:52-1 et seq.

43 Notwithstanding the provisions of the five-year time
44 requirement, if, at the time of application, a court-ordered financial
45 assessment subject to collection under the comprehensive
46 enforcement program established pursuant to P.L.1995, c.9
47 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than

1 willful noncompliance, but the time requirement of five years is
2 otherwise satisfied, the person may submit the expungement
3 application and the court may grant an expungement; provided,
4 however, that the court shall enter a civil judgment for the unpaid
5 portion of the court-ordered financial assessment in the name of the
6 Treasurer, State of New Jersey and transfer collections and
7 disbursement responsibility to the State Treasurer for the
8 outstanding amount in accordance with section 8 of P.L.2017, c.244
9 (C.2C:52-23.1). The Treasurer may specify, and the Administrative
10 Office of the Courts shall collaborate with, the technical and
11 informational standards required to effectuate the transfer of the
12 collection and disbursement responsibilities. Notwithstanding any
13 provision in this law or any other law to the contrary, the court shall
14 have sole discretion to amend the judgment. Additionally, an
15 application may be filed and presented, and the court may grant an
16 expungement pursuant to this section, although less than five years
17 have expired in accordance with the time requirements when the
18 court finds:

19 (1) the court-ordered financial assessment is satisfied but less
20 than five years have expired from the date of satisfaction, and the
21 five-year time requirement is otherwise satisfied, and the court finds
22 that the person substantially complied with any payment plan
23 ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to
24 compelling circumstances affecting his ability to satisfy the
25 assessment; or

26 (2) at least three but less than five years have expired from the
27 date of the most recent conviction, payment of any court-ordered
28 financial assessment, satisfactory completion of probation or parole,
29 or release from incarceration, whichever is later; and

30 the person has not been otherwise convicted of a crime,
31 disorderly persons offense, or petty disorderly persons offense since
32 the time of the most recent conviction; and the court finds in its
33 discretion that compelling circumstances exist to grant the
34 expungement. The prosecutor may object pursuant to section 11 of
35 P.L.2019, c.269 (C.2C:52-10.1), N.J.S.2C:52-11, N.J.S.2C:52-14,
36 or N.J.S.2C:52-24.

37 In determining whether compelling circumstances exist for the
38 purposes of paragraph (1) of this subsection, a court may consider
39 the amount of any court-ordered financial assessment imposed, the
40 person's age at the time of the offense or offenses, the person's
41 financial condition and other relevant circumstances regarding the
42 person's ability to pay.

43 c. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14
44 shall not apply to an expungement of a conviction of any of the
45 following offenses that occurred prior to the enactment of
46 P.L. , c. (C.) (pending before the Legislature as this bill)
47 and no fee shall be charged to the person making such application:

(1) a violation of subsections a., b., or c. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; or

(2) a violation of subsection b. of N.J.S.2C:36-2 involving paraphernalia for the use of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

(cf: P.L.2019, c.269, s.3)

9. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to read as follows:

1. A person shall not operate a motor vehicle on any highway while knowingly having in the person's possession or in the motor vehicle any controlled dangerous substance as classified in Schedules I, II, III, IV and V of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.) or any prescription legend drug, unless the person has obtained the substance or drug from, or on a valid written prescription of, a duly licensed physician, veterinarian, dentist, or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in humans or animals or unless the person possesses a controlled dangerous substance pursuant to a lawful order of a practitioner or lawfully possesses a Schedule V substance.

A person who violates this section, except a person who violates the provisions of N.J.S.2C:35-10, shall be fined not less than \$50. This section shall not apply to possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

(cf: P.L.2019, c.276, s.12)

10. (New section) a. Any person who, in violation of paragraph (5) of subsection a. of N.J.S.2C:35-10, possesses 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate, shall be subject to the following civil penalties:

- (1) \$150 for a first violation;
- (2) \$200 for a second violation;
- (3) \$500 for a third or subsequent violation.

No additional fines, penalties, or fees shall be imposed by the court, except court costs.

1 The penalty shall be collected pursuant to the “Penalty
2 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.),
3 in a summary proceeding before the municipal court having
4 jurisdiction. A penalty recovered under the provisions of this
5 section shall be recovered by and in the name of the State by the
6 local municipality. The penalty shall be paid into the treasury of
7 the municipality in which the violation occurred. Of each penalty
8 imposed pursuant to this section, \$50 shall be forwarded by the
9 municipality to the State to be deposited in the “Drug Education
10 Program Fund” established pursuant to section 13 of
11 P.L. , c. C.) (pending before the Legislature as this bill). The
12 remainder of the penalty monies collected pursuant to this section
13 shall be retained by the municipality for the general uses of the
14 municipality.

15 A violation of this section shall be proved by a preponderance of
16 the evidence.

17 The court may waive the penalties in cases of extreme financial
18 hardship. The court shall waive the penalties for a single violation
19 within a three-year period upon proof that, within 60 days of the
20 violation, the person completed a substance abuse assessment by a
21 professional licensed by the Division of Mental Health and
22 Addiction Services in the Department of Health to perform such
23 assessments. A person who intends to undergo such an assessment
24 shall notify the court, which shall schedule the matter for review
25 after 180 days. If proof of completion of the assessment is filed on
26 or before 180 days, the court shall waive the penalties without a
27 hearing unless requested by a party.

28 b. The substance abuse assessment shall determine if, and to
29 what extent, the person is a drug dependent person within the
30 meaning of N.J.S.2C:35-2 and would benefit from treatment. If the
31 person is determined to not be drug dependent he shall complete a
32 two-hour education program on marijuana and other controlled
33 dangerous substances according to a curriculum developed by the
34 Division of Mental Health and Addiction Services in the
35 Department of Health. The curriculum shall include written
36 materials. If the professional determines that the person is not drug
37 dependent, the professional shall report to the court that no further
38 action is needed, and the records of the violation shall be expunged
39 as set forth in subsection e. of this section.

40 c. If the person is determined to be drug dependent within the
41 meaning of N.J.S.2C:35-2 and substance abuse treatment and
42 monitoring will serve to benefit the person by addressing his drug
43 dependency, the court shall order the person to undergo treatment
44 for drug dependency at a suitable treatment facility licensed and
45 approved by the Department of Health and to comply with the
46 requirements of the course of treatment. The person shall be
47 required to submit to periodic testing to determine compliance with

1 treatment program goals. The treatment provider shall promptly
2 report to the court any significant failures by the person to comply
3 with any court-imposed term or condition of treatment or any
4 requirements of the course of treatment, including but not limited to
5 a positive drug or alcohol test or the unexcused failure to to attend
6 any session or activity.

7 d. Upon completion of treatment, the agency designated by the
8 court to monitor or supervise the person's treatment shall report to
9 the court as to the person's progress in treatment and compliance
10 with court-imposed terms and conditions.

11 e. After the expiration of a period of six months following the
12 completion of the education program set forth in subsection b. of
13 this section or following substance abuse treatment as set forth in
14 subsection c. of this section, the records of the violation shall be
15 expunged in accordance with the provisions of section 12 of
16 P.L. , c. (C.) (pending before the Legislature as this bill).
17 Expungement shall not require any action by the person or the
18 payment of any fee.

19 f. A person may apply for a waiver of court fees and the cost
20 of the substance abuse assessment and treatment set forth in this
21 section by reason of extreme financial hardship. Costs of the
22 substance abuse assessment may be reimbursed from the Drug
23 Education Program Fund established in section 13 of
24 P.L. , c. (C.) (pending before the Legislature as this bill).
25

26 11. (New section) a. Any person who possesses drug
27 paraphernalia, as defined in N.J.S.2C:36-1, for the personal use of
28 10 grams or less of marijuana, a personal-use amount of a regulated
29 marijuana-infused product, or one gram or less of hashish or
30 marijuana concentrate, shall be subject to a civil penalty of \$100.
31 No additional fines, penalties, or fees shall be imposed by the court,
32 except court costs.

33 The penalty shall be collected pursuant to the "Penalty
34 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
35 in a summary proceeding before the municipal court having
36 jurisdiction. A penalty recovered under the provisions of this
37 section shall be recovered by and in the name of the State by the
38 local municipality. The penalty shall be paid into the treasury of
39 the municipality in which the violation occurred. Of each penalty
40 imposed pursuant to this section, \$50 shall be forwarded by the
41 municipality to the State to be deposited in the "Drug Education
42 Program Fund" established pursuant to section 13 of
43 P.L. , c. C.) (pending before the Legislature as this bill). The
44 remainder of the penalty monies collected pursuant to this section
45 shall be retained by the municipality for the general uses of the
46 municipality.

1 A violation of this section shall be proved by a preponderance of
2 the evidence.

3 The court may waive the penalty in cases of extreme financial
4 hardship. The court shall waive the penalty for a single violation
5 within a three-year period upon proof that, within 60 days of the
6 violation, the person completed a substance abuse assessment by a
7 professional licensed by the Division of Mental Health and
8 Addiction Services in the Department of Health to perform such
9 assessments. A person who intends to undergo such an assessment
10 shall notify the court, which shall schedule the matter for review
11 after 180 days. If proof of completion of the assessment is filed on
12 or before 180 days, the court shall waive the penalties without a
13 hearing unless requested by a party.

14 b. The substance abuse assessment shall determine if, and to
15 what extent, the person is a drug dependent person within the
16 meaning of N.J.S.2C:35-2 and would benefit from treatment. If the
17 person is determined to not be drug dependent he shall complete a
18 two-hour education program on marijuana and other controlled
19 dangerous substances according to a curriculum developed by the
20 Division of Mental Health and Addiction Services in the
21 Department of Health. The curriculum shall include written
22 materials. If the professional determines that the person is not drug
23 dependent, the professional shall report to the court that no further
24 action is needed, and the records of the violation shall be expunged
25 as set forth in subsection e. of this section.

26 c. If the person is determined to be drug dependent within the
27 meaning of N.J.S.2C:35-2 and substance abuse treatment and
28 monitoring will serve to benefit the person by addressing his drug
29 dependency, the court shall order the person to undergo treatment
30 for drug dependency at a suitable treatment facility licensed and
31 approved by the Department of Health and to comply with the
32 requirements of the course of treatment. The person shall be
33 required to submit to periodic testing to determine compliance with
34 treatment program goals. The treatment provider shall promptly
35 report to the court any significant failures by the person to comply
36 with any court-imposed term or condition of treatment or any
37 requirements of the course of treatment, including but not limited to
38 a positive drug or alcohol test or the unexcused failure to attend
39 any session or activity.

40 d. Upon completion of treatment, the agency designated by the
41 court to monitor or supervise the person's treatment shall report to
42 the court as to the person's progress in treatment and compliance
43 with court-imposed terms and conditions.

44 e. After the expiration of a period of six months following the
45 completion of the education program set forth in subsection b. of
46 this section or following substance abuse treatment as set forth in
47 subsection c. of this section, the records of the violation shall be

1 expunged in accordance with the provisions of section 12 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).
3 Expungement shall not require any action by the person or the
4 payment of any fee.

5 f. A person may apply for a waiver of court fees and the cost
6 of the substance abuse assessment and treatment set forth in this
7 section by reason of extreme financial hardship. Costs of the
8 substance abuse assessment may be reimbursed from the Drug
9 Education Program Fund established in section 13 of
10 P.L. , c. (C.) (pending before the Legislature as this bill).

11
12 12. (New section) Pursuant to the provisions of subsection e. of
13 section 10 of P.L. , c. (C.) (pending before the Legislature
14 as this bill) and subsection e. of section 11 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 the court shall order the expungement of all records and information
17 relating to a violation of section 10 or 11 of P.L. , c. (C.)
18 (pending before the Legislature as this bill). The provisions of
19 N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to the
20 expungement of such records and no fee shall be charged to the
21 person.

22
23 13. (New section) The “Drug Education Program Fund” is
24 established as a dedicated, nonlapsing, revolving fund in the
25 Department of the Treasury. Monies deposited in the fund shall be
26 appropriated to the Department of Health, Division of Mental
27 Health and Addiction Services for drug education programs.
28 Monies shall also be used to reimburse the costs of substance abuse
29 assessment and treatment pursuant to subsection b. of
30 N.J.S.2C:36A-1 and sections 10 and 11 of P.L. , c. (C.)
31 (pending before the Legislature as this bill).

32
33 14. (New section) In addition to the provisions of any other law,
34 a person who negligently stores a regulated marijuana-infused
35 product, resulting in a minor under the age of 18 years possessing
36 such product, shall be guilty of a disorderly persons offense.

37 It shall be prima facie evidence that the person did not act
38 negligently pursuant to this section if he lawfully obtained the
39 regulated marijuana-infused product from a jurisdiction where
40 marijuana sales to adults are authorized under the law of the
41 jurisdiction, and stored the product in its original, child-resistant,
42 labeled packaging. Failure to store a regulated marijuana-infused
43 product in its original, child-resistant, labeled packaging shall be
44 prima facie evidence of negligence pursuant to this section.

45
46 15. (New section) Any person who is serving a sentence on the
47 effective date of P.L. , c. (C.) (pending before the

1 Legislature as this bill) for a violation of: (1) subsection a. of
2 N.J.S.2C:35-10 involving possession of 10 grams or less of
3 marijuana, including any adulterants or dilutants; a personal-use
4 amount of a regulated marijuana-infused product as defined in
5 N.J.S.2C:35-2; or one gram or less of hashish or marijuana
6 concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or (3)
7 N.J.S.2C:36-2 may move to have his sentence reviewed by the
8 sentencing court. The court may impose a civil penalty pursuant to
9 section 10 or 11 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11
12 16. (New section) P.L. , c. (C.) (pending before the
13 Legislature as this bill) shall apply to all persons convicted of, but
14 not yet sentenced as of the effective date of P.L. , c. (C.)
15 (pending before the Legislature as this bill) for a violation of: (1)
16 subsection a. of N.J.S.2C:35-10 involving possession of 10 grams
17 or less of marijuana, including any adulterants or dilutants; a
18 personal-use amount of a regulated marijuana-infused product as
19 defined in N.J.S.2C:35-2; or one gram or less of hashish or
20 marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or
21 (3) N.J.S.2C:36-2. The defendant may move to have his conviction
22 overturned by the court. The court may impose a civil penalty
23 pursuant to section 10 or 11 of P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25
26 17. (New section) P.L. , c. (C.) (pending before the
27 Legislature as this bill) shall apply to all criminal charges pending
28 on the effective date of P.L. , c. (C.) (pending before the
29 Legislature as this bill) for a violation of: (1) subsection a. of
30 N.J.S.2C:35-10 involving possession of 10 grams or less of
31 marijuana, including any adulterants or dilutants; a personal-use
32 amount of a regulated marijuana-infused product as defined in
33 N.J.S.2C:35-2; or one gram or less of hashish or marijuana
34 concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or (3)
35 N.J.S.2C:36-2. On and after the effective date of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 the court shall dismiss any such criminal charges but the prosecutor
38 may charge the defendant with a violation pursuant to section 10 or
39 11 of P.L. , c. (C.) (pending before the Legislature as this
40 bill).

41
42 18. (New section) The Attorney General shall issue guidelines
43 for prosecutors and law enforcement to effectuate the provisions of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45
46 19. (New section) The Commissioner of Health, in consultation
47 with the Attorney General, shall adopt rules and regulations

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23

1 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
2 (C.52:14B-1 et seq.), in order to effectuate the purposes of
3 P.L. , c. (C.) (pending before the Legislature as this bill).
4

5 20. This act shall take effect on the 60th day following
6 enactment.
7
8

9 **STATEMENT**

10
11 This bill would decriminalize possession of 10 grams or less of
12 marijuana and certain marijuana products and impose civil penalties
13 for such possession. The bill would also eliminate all penalties for
14 being under the influence of marijuana.

15 **CIVIL PENALTIES.** The bill amends N.J.S.2C:35-10, Possession,
16 Use or Being Under the Influence, to provide that a person who
17 possesses 10 grams or less of marijuana, including any adulterants
18 or dilutants; a “personal-use amount of a regulated marijuana-
19 infused product”; or one gram or less of hashish or marijuana
20 concentrate would be subject to a civil penalty: a fine of \$150 for a
21 first violation, a \$200 fine for a second violation, and a \$500 fine
22 for a third or subsequent violation. The bill would allow the court to
23 waive the penalties in case of extreme financial hardship and under
24 certain other circumstances.

25 **DEFINITIONS.** The bill defines “personal-use amount of a
26 regulated marijuana-infused product” as “one or more products,
27 containing a total of no more than 100 milligrams of
28 tetrahydrocannabinol, comprised of marijuana, marijuana extracts,
29 or marijuana resins and other ingredients and intended for personal
30 use or consumption, including but not limited to edible products,
31 ointments, and tinctures, lawfully obtained from a jurisdiction
32 where marijuana sales to adults are authorized under the law of the
33 jurisdiction, in its original, child-resistant, labeled packaging when
34 stored.”

35 The bill defines “marijuana concentrate” as “a product consisting
36 wholly or in part of the resin extracted from any part of the plant
37 Genus Cannabis L. and having a tetrahydrocannabinol
38 concentration greater than 2.5 percent.”

39 **CURRENT LAW.** Under current law, possession of 50 grams or
40 less of marijuana or five grams or less of hashish is a disorderly
41 persons offense. Possession of more than 50 grams of marijuana or
42 more than five grams of hashish is a crime of the fourth degree,
43 with an enhanced fine of up to \$25,000. A crime of the fourth
44 degree is generally punishable by a term of imprisonment of up to
45 18 months or a fine up to \$10,000, or both; a disorderly persons
46 offense, by a term of imprisonment of up to six months or a fine of
47 up to \$1,000 or both.

1 Under subsection b. of N.J.S.2C:35-10, it is a disorderly persons
2 offense to use or be under the influence of any controlled dangerous
3 substance, or its analog, for a purpose other than the treatment of
4 sickness or injury as lawfully prescribed or administered by a
5 physician. This bill provides that it would not be a violation to be
6 under the influence of marijuana.

7 Subsection c. of N.J.S.2C:35-10 provides that it is a disorderly
8 person offense to unlawfully obtain or possess a controlled
9 dangerous substance, or its analog, and to fail to voluntarily deliver
10 it to the nearest law enforcement officer. The bill provides that this
11 statute would not apply to possession of 10 grams or less of
12 marijuana, a personal-use amount of a regulated marijuana-infused
13 product, or one gram or less of hashish or marijuana concentrate.

14 N.J.S.2C:36-2 provides that it is a disorderly persons offense to
15 be in possession of drug paraphernalia. Under the bill, this statute
16 would not apply to a person who possesses drug paraphernalia for
17 the use of 10 grams or less of marijuana, a personal-use amount of a
18 regulated marijuana-infused product, or one gram or less of hashish
19 or marijuana concentrate. Instead, the person would be subject to a
20 civil penalty of \$100.

21 SUBSTANCE ABUSE ASSESSMENT. The bill requires the court to
22 waive the penalties for a single violation within a three-year period
23 upon proof that, within 60 days of the violation, the person
24 completed a substance abuse assessment by a professional licensed
25 by the Division of Mental Health and Addiction Services in the
26 Department of Health to perform such assessments. Under the bill, a
27 person who intends to undergo such an assessment would notify the
28 court, which would schedule the matter for review after 180 days.
29 If proof of completion of the assessment is filed on or before 180
30 days, the court would waive the penalties without a hearing unless
31 requested by a party. The bill provides that the substance abuse
32 assessment would determine if, and to what extent, the person is a
33 drug dependent person within the meaning of N.J.S.2C:35-2 and
34 would benefit from treatment.

35 EDUCATION PROGRAM; EXPUNGEMENT OF RECORDS. If the
36 person is determined to not be drug dependent the person would be
37 required to complete a two-hour education program on marijuana
38 and other controlled dangerous substances according to a
39 curriculum developed by the Division of Mental Health and
40 Addiction Services in the Department of Health. The curriculum
41 would include written materials. If the person is not drug
42 dependent, the professional would report to the court that no further
43 action is needed, and the records of the violation would be
44 expunged after the expiration of six months following completion
45 of the education program. Expungement would not require any
46 action by the person or the payment of any fee.

1 SUBSTANCE ABUSE TREATMENT; EXPUNGEMENT OF RECORDS.
2 The bill provides that if the person is a drug dependent person
3 within the meaning of N.J.S.2C:35-2 and substance abuse treatment
4 and monitoring would serve to benefit the person by addressing his
5 drug dependency, the court would order him to undergo treatment
6 for drug dependency at a suitable treatment facility licensed and
7 approved by the Department of Health and to comply with the
8 requirements of the course of treatment. The person would be
9 required to submit to periodic testing to determine compliance with
10 treatment program goals. The treatment provider would promptly
11 report to the court any significant failures by the person to comply
12 with any court-imposed term or condition of treatment or any
13 requirements of the course of treatment, including but not limited to
14 a positive drug or alcohol test or the unexcused failure to attend
15 any session or activity.

16 Under the bill, upon completion of treatment, the agency
17 designated by the court to monitor or supervise the person's
18 treatment would report to the court as to the person's progress in
19 treatment and compliance with court-imposed terms and conditions.
20 Records would be expunged after the expiration of a period of six
21 months. Expungement would not require any action by the person
22 or the payment of any fee.

23 WAIVER OF FEES AND COST OF ASSESSMENT. The bill provides
24 that a person may apply for a waiver of court fees and the cost of
25 the substance abuse assessment and treatment by reason of extreme
26 financial hardship. Costs of the substance abuse assessment may be
27 reimbursed from the Drug Education Program Fund established in
28 the bill.

29 POSSESSION IN A MOTOR VEHICLE. Under N.J.S.A.39:4-49.1, a
30 person who operates a motor vehicle while in possession of a
31 controlled dangerous substance or prescription drug without a valid
32 prescription is subject to a fine of not less \$50. The bill provides
33 that these penalties would not apply to possession of 10 grams or
34 less of marijuana, including any adulterants or dilutants; a personal-
35 use amount of a regulated marijuana-infused product as defined in
36 N.J.S.2C:35-2; or one gram or less of hashish or marijuana
37 concentrate.

38 DISORDERLY PERSONS OFFENSE: NEGLIGENT STORAGE OF
39 REGULATED MARIJUANA-INFUSED PRODUCT. The bill also
40 establishes a new criminal offense. Under the bill, a person who
41 negligently stores a regulated marijuana-infused product, resulting
42 in a minor under the age of 18 years possessing such product, would
43 be guilty of a disorderly persons offense. It would be prima facie
44 evidence that the person did not act negligently if he lawfully
45 obtained the regulated marijuana-infused product from a
46 jurisdiction where marijuana sales to adults are authorized under the
47 law of the jurisdiction, and stored the product in its original, child-

1 resistant, labeled packaging. Failure to store a regulated marijuana-
2 infused product in its original, child-resistant, labeled packaging
3 would be prima facie evidence of negligence.

4 EXPUNGEMENT OF CERTAIN PRIOR CRIMINAL OFFENSES
5 INVOLVING MARIJUANA. The bill provides that in the case of
6 conviction for the possession of 10 grams or less of marijuana, a
7 personal-use amount of a regulated marijuana-infused product, or
8 one gram or less of hashish or marijuana concentrate that occurred
9 prior to the effective date of the bill, an expungement petition may
10 be filed and presented at any time, without the usual waiting period
11 for expungement. Upon review of the petition, the court would
12 immediately grant the expungement.

13 CONDITIONAL DISCHARGE FOR FIRST OFFENDERS. The bill
14 amends N.J.S.2C:36A-2, which provides conditional discharge for
15 certain first offenders charged with disorderly persons or petty
16 disorderly persons drug offenses, to mandate drug treatment in
17 certain cases. Under the bill, when a first offender is charged with a
18 disorderly persons or petty disorderly persons drug offense, the
19 court would suspend further proceedings and place the person on
20 supervisory treatment. The person would be required to undergo a
21 diagnostic assessment by a professional licensed or certified to
22 perform such assessments by the Division of Mental Health and
23 Addiction Services in the Department of Health to determine if and
24 to what extent the person is drug dependent and would benefit from
25 treatment. If the person is determined to not be drug dependent he
26 would complete a two-hour education program on marijuana and
27 other controlled dangerous substances, according to a curriculum
28 developed by the Division of Mental Health and Addiction Services
29 in the Department of Health. The curriculum would include written
30 materials. If the professional determines that the person is not drug
31 dependent, the professional would report to the court that no further
32 action is needed, and the records of the violation would be
33 expunged.

34 If the person is determined to be drug dependent and substance
35 abuse treatment and monitoring would serve to benefit the person
36 by addressing his drug dependency, the court would order the
37 person to undergo treatment for drug dependency at a suitable
38 treatment facility licensed and approved by the Department of
39 Health and to comply with the requirements of the course of
40 treatment. The person would be required to submit to periodic
41 testing to determine compliance with treatment program goals.
42 Upon completion of treatment, the agency designated by the court
43 to monitor or supervise the person's treatment would report to the
44 court as to the person's progress in treatment and compliance with
45 court-imposed terms and conditions. The treatment provider would
46 promptly report to the court any significant failures by the person to
47 comply with any court-imposed term or condition of treatment or

1 any requirements of the course of treatment, including but not
2 limited to a positive drug or alcohol test or the unexcused failure to
3 to attend any session or activity. The bill provides that a person may
4 apply for a waiver of court fees and the cost of the substance abuse
5 assessment and treatment by reason of extreme financial hardship.
6 Costs of the substance abuse assessment may be reimbursed from
7 the Drug Education Program Fund established in the bill.

8 After the expiration of a period of six months following the
9 completion of the education program or following substance abuse
10 treatment, the records of the violation would be expunged.
11 Expungement would not require any action by the person or the
12 payment of any fee. A person may apply for a waiver of court fees
13 and the cost of the substance abuse assessment by reason of extreme
14 financial hardship.

15 Conditional discharge would be available to every defendant
16 unless the court in its discretion concludes that:

17 (1) The defendant's continued presence in the community, or in
18 a civil treatment center or program, will pose a danger to the
19 community; or

20 (2) The terms and conditions of supervisory treatment will be
21 inadequate to protect the public and will not benefit the defendant
22 by serving to correct any dependence on or use of controlled
23 substances which he may manifest; or

24 (3) The person has previously received supervisory treatment
25 under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12,
26 or the conditional discharge program.

27 MUNICIPAL COURT JURISDICTION. The bill would amend
28 N.J.S.2B:12-17, which sets out the jurisdiction of the municipal
29 court, to add jurisdiction for the new civil penalties created by the
30 bill.

31 DRUG EDUCATION PROGRAM FUND. The bill provides that \$50 of
32 each penalty imposed would be forwarded by the municipality to
33 the State to be deposited in the "Drug Education Program Fund"
34 established pursuant to the bill. The remainder of the penalty
35 monies would be retained by the municipality for the general uses
36 of the municipality. Monies deposited in the "Drug Education
37 Program Fund" would be appropriated to the Department of Health,
38 Division of Mental Health and Addiction Services for drug
39 education programs. Monies in the fund would also be used to
40 reimburse the costs of substance abuse assessment and treatment
41 pursuant to the bill.

42 APPLICABILITY. The bill encompasses persons convicted and
43 serving sentences for marijuana offenses under current law; persons
44 convicted but not yet sentenced; and persons charged with offenses
45 who have not yet gone to trial or otherwise had the charges
46 resolved, as follows:

1 -- Any person who is serving a sentence on the effective date of
2 the bill may move to have his sentence reviewed by the sentencing
3 court, and the court may impose a civil penalty pursuant to the bill,
4 if the person is serving a sentence for a violation of: (1) subsection
5 a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana,
6 including any adulterants or dilutants; a personal-use amount of a
7 regulated marijuana-infused product; or one gram or less of hashish
8 or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10
9 (being under the influence of marijuana, or failing to deliver
10 marijuana to law enforcement); or (3) N.J.S.2C:36-2 (paraphernalia
11 for marijuana use).

12 -- Any person who has been convicted, but is not yet sentenced,
13 on the effective date of the bill may move to have his conviction
14 overturned by the court, and the court may impose a civil penalty
15 pursuant to the bill, if the person has been convicted of a violation
16 of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or
17 less of marijuana, including any adulterants or dilutants; a personal-
18 use amount of a regulated marijuana-infused product; or one gram
19 or less of hashish or marijuana concentrate; (2) subsection b. or c.
20 of N.J.S.2C:35-10 (being under the influence of marijuana, or
21 failing to deliver marijuana to law enforcement); or (3)
22 N.J.S.2C:36-2 (paraphernalia for marijuana use).

23 -- Any person who has criminal charges pending on the effective
24 date of the bill would have those criminal charges dismissed, and
25 the prosecutor may charge the person with the civil penalty
26 pursuant to the bill, if the person has been charged with a violation
27 of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or
28 less of marijuana, including any adulterants or dilutants; a personal-
29 use amount of a regulated marijuana-infused product; or one gram
30 or less of hashish or marijuana concentrate; (2) subsection b. or c.
31 of N.J.S.2C:35-10 (being under the influence of marijuana, or
32 failing to deliver marijuana to law enforcement); or (3)
33 N.J.S.2C:36-2 (paraphernalia for marijuana use).

34 ATTORNEY GENERAL GUIDELINES. The bill requires the Attorney
35 General to issue guidelines for prosecutors and law enforcement to
36 effectuate the provisions of the bill.

37 COMMISSIONER OF HEALTH GUIDELINES. The Commissioner of
38 Health, in consultation with the Attorney General, would be
39 required to adopt rules and regulations pursuant to the
40 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
41 1 et seq.), in order to effectuate the purposes of the bill.

42 MEDICAL MARIJUANA NOT AFFECTED. This bill would not be
43 applicable to any person in compliance with the “New Jersey
44 Compassionate Use Medical Marijuana Act,” P.L.2009, c.307
45 (C.24:6I-1 et al.).