

CHAPTER 260

AN ACT concerning expungements and amending various parts of the statutory law.

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

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

Indictable Offenses.

2C:52-2. Indictable Offenses.

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

the person has been convicted of one crime under the laws of this State, and does not otherwise have any subsequent conviction for another crime, whether within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime shall not bar presenting an application seeking expungement relief for the criminal conviction that is the subject of the application; or

the person has been convicted of one crime and no more than three disorderly persons or petty disorderly persons offenses under the laws of this State, and does not otherwise have any subsequent conviction for another crime, or any subsequent conviction for another disorderly persons or petty disorderly persons offense such that the total number of convictions for disorderly persons and petty disorderly persons offenses would exceed three, whether any such crime or offense conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons offense shall not bar presenting an application seeking expungement relief for the one criminal conviction and no more than three convictions for disorderly persons or petty disorderly persons offenses that are the subject of the application; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, all of which are listed in a single judgment of conviction, and does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons offense that is not listed in a single judgment of conviction shall not bar presenting an application seeking expungement relief for the convictions listed in a single judgment of conviction that are the subject of the application; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, which crimes or combination of crimes and offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual crime or offense, and the person does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an

expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another crime, disorderly persons offense, or petty disorderly persons offense that was not interdependent or closely related in circumstances and was not committed within a comparatively short period of time as described above shall not bar presenting an application seeking expungement relief for the convictions of crimes or crimes and offenses that were interdependent or closely related and committed within a comparatively short period of time, and that are the subject of the application.

For purposes of determining eligibility to present an expungement application to the Superior Court pursuant to this section, a conviction for unlawful distribution of, or possessing or having under control with intent to distribute, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for distributing, or possessing or having under control with intent to distribute, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining or possessing marijuana or hashish in violation of paragraph (3) of subsection a. of N.J.S.2C:35-10, or for an equivalent crime in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction of a crime within this State or any other jurisdiction but shall instead be considered a conviction of a disorderly persons offense within this State or an equivalent category of offense within the other jurisdiction, and a conviction for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and using or possessing with intent to use drug paraphernalia with that marijuana or hashish in violation of N.J.S.2C:36-2, or for an equivalent crime or offense in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of his most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term “court-ordered financial assessment” as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the person resides or a county in which one or more of the person’s convictions were adjudged, which includes a duly verified petition as provided in N.J.S.2C:52-7 praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Notwithstanding the provisions concerning the five-year time requirement, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of five years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement; provided, however, that if expungement is granted the

court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collections and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The Treasurer may specify, and the Administrative Office of the Courts shall collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

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

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

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

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

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider any relevant information provided by the person submitting the application and the prosecutor, including the amount of any court-ordered financial assessment imposed, the person's age at the time of the offense or offenses, the person's financial condition, and other relevant circumstances regarding the person's ability to pay. However, regarding a determination of compelling circumstances pursuant to paragraph (1) of this subsection or a determination of compelling circumstances pursuant to any other part of this section, the person shall not be required to provide transcripts of plea or sentencing proceedings or be required to provide any presentence reports with the application or any other filing.

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

Records of conviction for the following crimes specified in the New Jersey Code of Criminal Justice shall not be subject to expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in N.J.S.2C:11-5 and strict liability vehicular homicide as specified in section 1 of P.L.2017, c.165 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal Sexual Contact); if the victim is a minor, subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor and the offender is not the parent of the victim, N.J.S.2C:13-2

(Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child, or causing the child other harm); paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or filming a child in a prohibited sexual act or for portrayal in a sexually suggestive manner); paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to engage in a prohibited sexual act or the simulation of an act, or to be portrayed in a sexually suggestive manner); subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with intent to distribute or using a file-sharing program to store items depicting the sexual exploitation or abuse of a child); subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing or viewing items depicting the sexual exploitation or abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1) (Leader of a child pornography network); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices); and conspiracies or attempts to commit such crimes.

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

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

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

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

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that compelling circumstances exist to grant the expungement. The prosecutor may object pursuant to section 11 of P.L.2019, c.269 (C.2C:52-10.1), N.J.S.2C:52-11, N.J.S.2C:52-14, or N.J.S.2C:52-24.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the petitioner shall notify the State Board of Medical Examiners upon filing an application for expungement and provide the board with a copy thereof. The petitioner shall also provide to the court a certification attesting that the requirements of this subsection were satisfied. Failure to satisfy the requirements of this subsection shall be grounds for denial of the expungement application and, if applicable, administrative discipline by the board.

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

Disorderly persons offenses and petty disorderly persons offenses.

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

a. (1) Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any

crime, whether within this State or any other jurisdiction, may present an expungement application to a court pursuant to this section.

(2) Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has also been convicted of one or more crimes shall not be eligible to apply for an expungement pursuant to this section, but may present an expungement application to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged, pursuant to N.J.S.2C:52-2.

b. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application pursuant to this section to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged if:

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

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

the person has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses under the laws of this State, or a combination of multiple disorderly persons and petty disorderly persons offenses under the laws of this State, which offenses or combination of offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual offense, and the person does not otherwise have any subsequent conviction for another offense in addition to those convictions included in the expungement application, whether within this State or any other jurisdiction. Subject to the provision of subsection e. of N.J.S.2C:52-14 requiring denial of an expungement petition when a person has had a previous criminal conviction expunged, a prior conviction for another disorderly persons offense or petty disorderly persons offense

that was not interdependent or closely related in circumstances and was not committed within a comparatively short period of time as described above shall not bar presenting an application seeking expungement relief for the convictions of offenses that were interdependent or closely related and committed within a comparatively short period of time, and that are the subject of the application.

For purposes of determining eligibility to present an expungement application to the court pursuant to this section, a conviction for unlawful distribution of, or possessing or having under control with intent to distribute, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for distributing, or possessing or having under control with intent to distribute, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining or possessing marijuana or hashish in violation of paragraph (3) of subsection a. of N.J.S.2C:35-10, or for an equivalent crime in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction of a crime within this State or any other jurisdiction but shall instead be considered a conviction of a disorderly persons offense within this State or an equivalent category of offense within the other jurisdiction, and a conviction for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or a violation involving marijuana or hashish as described herein and using or possessing with intent to use drug paraphernalia with that marijuana or hashish in violation of N.J.S.2C:36-2, or for an equivalent crime or offense in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction within this State or any other jurisdiction.

Additionally, for purposes of determining eligibility to present an expungement application to the court pursuant to this section, a conviction for unlawful distribution or dispensing of, possession with intent to distribute or dispense, or manufacture with intent to distribute or dispense, drug paraphernalia in violation of N.J.S.2C:36-3 when the paraphernalia is a hypodermic syringe or needle, or for an equivalent crime involving a hypodermic syringe or needle in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction of a crime within this State or any other jurisdiction but shall instead be considered a conviction of a disorderly persons offense within this State or an equivalent category of offense within the other jurisdiction, and a conviction for using or possessing with intent to use drug paraphernalia in violation of N.J.S.2C:36-2 when the paraphernalia is a hypodermic syringe or needle, or possession with intent to use or to distribute a hypodermic syringe or needle in violation of N.J.S.2C:36-6, or for an equivalent crime or offense in another jurisdiction, regardless of when the conviction occurred, shall not be considered a conviction within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of his most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term “court-ordered financial assessment” as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person

shall submit the expungement application to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged, which includes a duly verified petition as provided in N.J.S.2C:52-7 praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition appended to an application shall comply with the requirements of N.J.S.2C:52-1 et seq.

Notwithstanding the provisions of the five-year time requirement, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of five years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement; provided, however, that the court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collections and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The Treasurer may specify, and the Administrative Office of the Courts shall collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

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

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

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

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

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider any relevant information provided by the person submitting the application and the prosecutor, including the amount of any court-ordered financial assessment imposed, the person's age at the time of the offense or offenses, the person's financial condition, and other relevant circumstances regarding the person's ability to pay. However, regarding a determination of compelling circumstances pursuant to paragraph (1) of this subsection or a determination of compelling circumstances pursuant to any other part of this section, the person shall not be required to provide transcripts of plea or sentencing proceedings or be required to provide any presentence reports with the application or any other filing.

3. Section 7 of P.L.2019, c.269 (C.2C:52-5.3) is amended to read as follows:

C.2C:52-5.3 "Clean slate" expungement by petition.

7. "Clean slate" expungement by petition. a. A person, who is not otherwise eligible to present an expungement application pursuant to any other section of chapter 52 of Title 2C of the New Jersey Statutes or other section of law, may present an expungement application to the Superior Court pursuant to this section if the person has been convicted of one or more crimes, one or more disorderly persons or petty disorderly persons offenses, one or more municipal violations, or a combination of one or more crimes, offenses, or violations under the laws of this State, unless the person has a conviction for a crime which is not subject to expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. The person may present an application pursuant to this section regardless of whether the person would otherwise be ineligible pursuant to subsection e. of N.J.S.2C:52-14 for having had a previous criminal conviction expunged, or due to having been granted an expungement pursuant to this or any other provision of law.

b. The person, if eligible, may present the expungement application after the expiration of a period of ten years from the date of the person's most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term "court-ordered financial assessment" as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged, which includes a duly verified petition as provided in N.J.S.2C:52-7 praying that all the person's convictions, and all records and information pertaining thereto, be expunged. The petition appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

c. (1) Notwithstanding the provisions concerning the ten-year time requirement, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of ten years is otherwise satisfied, the person may submit the expungement application and the court shall grant an expungement in accordance with this section; provided, however, that at the time of the expungement the court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collection and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1). The Treasurer may specify, and the Administrative Office of the Courts shall collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

(2) Additionally, an application may be filed and presented, and the court shall grant an expungement pursuant to this section, although less than ten years have expired in accordance with the time requirements when the court finds that the court-ordered financial assessment is satisfied but less than ten years have expired from the date of satisfaction, the ten-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq. or could not do so due to compelling circumstances affecting the person's ability to satisfy the assessment. In determining whether compelling circumstances exist for the purposes of this paragraph, a court

may consider any relevant information provided by the person submitting the application and the prosecutor, including the amount of any court-ordered financial assessment imposed, the person's age at the time of the offense or offenses, the person's financial condition, and other relevant circumstances regarding the person's ability to pay. However, regarding a determination of compelling circumstances pursuant to this paragraph, the person shall not be required to provide transcripts of plea or sentencing proceedings or be required to provide any presentence reports with the application or any other filing.

d. No expungement applications may be filed pursuant to this section after the establishment of the automated "clean slate" process pursuant to subsection a. of section 8 of P.L.2019, c.269 (C.2C:52-5.4).

4. N.J.S.2C:52-4 is amended to read as follows:

Ordinances.

2C:52-4. Ordinances.

In all cases wherein a person has been found guilty of violating a municipal ordinance of any governmental entity of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and who has not been adjudged a disorderly person or petty disorderly person on more than two occasions, may, after the expiration of a period of 2 years from the date of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 herein to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged praying that such conviction and all records and information pertaining thereto be expunged.

5. N.J.S.2C:52-5 is amended to read as follows:

Expungement of records of young drug offenders.

2C:52-5. Expungement of Records of Young Drug Offenders. Notwithstanding the provisions of N.J.S.2C:52-2 and N.J.S.2C:52-3, after a period of not less than one year following conviction, termination of probation or parole, or discharge from custody, whichever is later, any person convicted of an offense under chapter 35 or 36 of this title for the possession or use of a controlled dangerous substance, convicted of violating P.L.1955, c.77, s.3 (C.2A:170-77.5), or convicted of violating P.L.1962, c.113, s.1 (C.2A:170-77.8), and who at the time of the offense was 21 years of age or younger, may apply to the Superior Court in the county wherein the person resides or the county in which the person's conviction was disposed of for the expungement of such person's conviction and all records pertaining thereto. The relief of expungement under this section shall be granted only if said person has not, prior to the time of hearing, violated any of the conditions of his probation or parole, albeit subsequent to discharge from probation or parole, has not been convicted of any previous or subsequent criminal act or any previous or subsequent violation of chapter 35 or 36 of this title or of P.L.1955, c.277, s.3 (C.2A:170-77.5) or of P.L.1962, c.113, s.1 (C.2A:170-77.8), or who has not had a prior or subsequent criminal matter dismissed because of acceptance into a supervisory treatment or other diversion program.

This section shall not apply to any person who has been convicted of the sale or distribution of a controlled dangerous substance or possession with the intent to sell any controlled dangerous substance except:

(1) Marihuana, where the total sold, distributed or possessed with intent to sell was less than one ounce, or

(2) Hashish, where the total amount sold, distributed or possessed with intent to sell was less than five grams.

6. Section 5 of P.L.2019, c.269 (C.2C:52-5.1), is amended to read as follows:

C.2C:52-5.1 Eligibility to file petition for expungement.

5. a. (1) Notwithstanding the requirements of N.J.S.2C:52-2 and N.J.S.2C:52-3 or any other provision of law to the contrary, beginning on the effective date of this section, the following persons may file a petition for an expungement with the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged at any time, provided they have satisfied, except as otherwise set forth in this subsection, payment of any court-ordered financial assessment as defined in section 8 of P.L.2017, c.244 (C.2C:52-23.1), satisfactorily completed probation or parole, been released from incarceration, or been discharged from legal custody or supervision at the time of application:

(a) any person who, prior to the development of a system for sealing records from the public pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), was charged with, convicted of, or adjudicated delinquent for, any number of offenses for, or delinquent acts which if committed by an adult would constitute, unlawful distribution of, or possessing or having under control with intent to distribute, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or a violation of that paragraph and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, or possessing or having under control with intent to distribute, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building; or

(b) any person who, prior to the development of a system for sealing records from the public pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), was charged with, convicted of, or adjudicated delinquent for, any number of offenses for, or delinquent acts which if committed by an adult would constitute, obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10; or

(c) any person who, prior to the development of a system for sealing records from the public pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), was charged with, convicted of, or adjudicated delinquent for, any number of offenses for, or delinquent acts which if committed by an adult would constitute, a violation involving marijuana or hashish as described in subparagraph (a) or (b) of this paragraph and using or possessing with intent to use drug paraphernalia with that marijuana or hashish in violation of N.J.S.2C:36-2.

(2) If, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the provisions of paragraph (1) of this subsection are otherwise satisfied, the person may submit the expungement application and the court shall grant an expungement in accordance with subsection c. of this section; provided, however, that at the time the expungement is granted the court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collection and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52:23.1). The Treasurer may specify, and the Administrative Office of the Courts shall

collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

b. (1) Notwithstanding the requirements of N.J.S.2C:52-2 and N.J.S.2C:52-3 or any other provision of law to the contrary, beginning on the effective date of this section, a person who, prior, on, or after that effective date is charged with, convicted of, or adjudicated delinquent for, any number of offenses for, or delinquent acts which if committed by an adult would constitute, unlawful distribution of, or possessing or having under control with intent to distribute, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, may file a petition for an expungement with a court after the expiration of three years from the date of the most recent conviction, payment of any court-ordered financial assessment as defined in section 8 of P.L.2017, c.244 (C.2C:52-23.1), satisfactory completion of probation or parole, release from incarceration, or discharge from legal custody or supervision, whichever is later.

(2) (a) Notwithstanding the provisions concerning the three-year time requirement set forth in paragraph (1) of this subsection, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement is otherwise satisfied, the person may submit the expungement application and the court shall grant an expungement in accordance with subsection c. of this section; provided, however, that at the time the expungement is granted the court shall enter a civil judgment for the unpaid portion of the court-ordered financial assessment in the name of the Treasurer, State of New Jersey and transfer collection and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52:23.1). The Treasurer may specify, and the Administrative Office of the Courts shall collaborate with, the technical and informational standards required to effectuate the transfer of the collection and disbursement responsibilities. Notwithstanding any provision in this law or any other law to the contrary, the court shall have sole discretion to amend the judgment.

(b) Additionally, an application may be filed and presented, and an expungement granted pursuant to subsection c. of this section, although less than three years have expired in accordance with the time requirement set forth in paragraph (1) of this subsection, when the court finds that the court-ordered financial assessment is satisfied but less than three years have expired from the date of satisfaction, the time requirement of three years is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq. or could not do so due to compelling circumstances affecting the person's ability to satisfy the financial assessment. In determining whether compelling circumstances exist for the purposes of this subparagraph, a court may consider any relevant information provided by the person submitting the application and the prosecutor, including the amount of any court-ordered financial assessment imposed, the person's age at the time of the offense or offenses, the person's financial condition, and other relevant circumstances regarding the person's ability to pay. However, regarding a determination of compelling circumstances pursuant to this subparagraph, the person shall not be required to provide transcripts of plea or sentencing proceedings or be required to provide any presentence reports with the application or other filing.

c. (1) The provisions of N.J.S.2C:52-8 through N.J.S.2C:52-14 shall not apply to an expungement as set forth in this section.

(2) Upon review of the petition, the court shall immediately grant an expungement for each arrest, conviction, or adjudication of delinquency as described in subsection a. or b. of this

section, as applicable. The court shall provide copies of the expungement order to the person who is the subject of the petition or that person's representative.

(3) A court order vacating an expungement that is granted to a person pursuant to this subsection may be issued upon an action filed by a county prosecutor with the court that granted the expungement, if filed no later than 30 days after the expungement order was issued, with notice to the person, and a hearing is scheduled at which the county prosecutor shows proof that the expungement was granted in error due to a statutory disqualification to expungement that existed at the time the relief was initially granted.

d. Any public employee or public agency that provides information or records pursuant to this section shall be immune from criminal and civil liability as a result of an act of commission or omission by that person or entity arising out of and in the course of participation in, or assistance with, in good faith, an expungement. The immunity shall be in addition to and not in limitation of any other immunity provided by law.

7. N.J.S.2C:52-6 is amended to read as follows:

Arrests not resulting in conviction.

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

a. When a person has been arrested or held to answer for a crime, disorderly persons offense, petty disorderly persons offense, or municipal ordinance violation under the laws of this State or of any governmental entity thereof and proceedings against the person were dismissed, the person was acquitted, or the person was discharged without a conviction or finding of guilt, the Superior Court shall, at the time of dismissal, acquittal, or discharge, or, in any case set forth in paragraph (1) of this subsection, order the expungement of all records and information relating to the arrest.

(1) If proceedings took place in municipal court, the municipal court shall follow procedures developed by the Administrative Director of the Courts.

(2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an expungement pursuant to this subsection.

(3) An expungement under this subsection shall not be ordered where the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges. This bar, however, shall not apply once the conviction is itself expunged.

(4) The court shall forward a copy of the expungement order to the county prosecutor. The county prosecutor shall promptly distribute copies of the expungement order to appropriate law enforcement agencies and correctional institutions who have custody and control of the records specified in the order so that they may comply with the requirements of N.J.S.2C:52-15.

(5) An expungement related to a dismissal, acquittal, or discharge ordered pursuant to this subsection shall not bar any future expungement.

(6) Where a dismissal of an offense is based on an eligible servicemember's successful participation in a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county prosecutor, on behalf of the eligible servicemember, may move before the court for the expungement of all records and information relating to the arrest and the diversion at the time of dismissal pursuant to this section.

(7) Where a dismissal of an offense is based on an eligible person's successful participation in a Mental Health Diversion Program pursuant to P.L.2023, c.188 (C.2C:43-32 et al.), the eligible person may make a motion before the court for the expungement of all records and information relating to the arrest or charge and the diversion, at the time of dismissal pursuant to this section.

b. When a person did not apply or a prosecutor did not move on behalf of an eligible servicemember for an expungement of an arrest not resulting in a conviction pursuant to subsection a. of this section, the person may at any time following the disposition of proceedings, present a duly verified petition as provided in N.J.S.2C:52-7 to the Superior Court in the county in which the person resides or the county in which the disposition occurred praying that records of such arrest and all records and information pertaining thereto be expunged.

c. (1) Any person who has had charges dismissed against him pursuant to a program of supervisory treatment pursuant to N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-1, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), shall be barred from the relief provided in this section until six months after the entry of the order of dismissal.

(2) A servicemember who has successfully participated in a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.) may apply for expungement pursuant to this section at any time following the order of dismissal if an expungement was not granted at the time of dismissal.

(3) An eligible person who has successfully participated in the Mental Health Diversion Program pursuant to P.L.2023, c.188 (C.2C:43-32 et al.), may apply for expungement pursuant to this section at any time following the order of dismissal if an expungement was not granted at the time of dismissal.

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

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

Petition for expungement.

2C:52-7. Petition for expungement. Every petition for expungement filed pursuant to this chapter shall be filed in the Superior Court in the county in which the petitioner resides or a county in which one or more of the petitioner's matters were disposed of, and shall be verified and include:

- a. Petitioner's date of birth.
- b. Petitioner's date of arrest.
- c. The statute or statutes and offense or offenses for which petitioner was arrested and of which petitioner was convicted.
- d. The original indictment, summons, or complaint number.
- e. Petitioner's date of conviction or date of disposition of the matter if no conviction resulted.
- f. The court's disposition of the matter and the punishment imposed, if any.

9. This act shall take effect immediately.

Approved January 12, 2023.