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REPORTS: Yes

Memorandum to the New Jersey Law Revision Commission re: provisions governing expungement of juvenile adjudications - N.J.S. 2C:52-4.1 : September 11, 2017.
by Johnson, Jayne J., Newark, N.J.: New Jersey Law Revision Commission, 2017
Library call number: 974.90 L415, 2017z/g
Available online at <https://dspace.njstatelib.org/handle/10929/44086>

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"State briefs," Burlington County Times, December 21, 2017
"Christie signs bills to help ex-cons clear records, get jobs," The Jersey Journal, December 21, 2017
"Laws will help former convicts get fresh start," The Star-Ledger, December 21, 2017
"Christie signs criminal record bills - says they offer 'second chances'" the Record, December 21, 2017
"Christie signs criminal record expungement bills, calling them 'life-saving' measures," northjersey.com, December 20, 2017
"Christie signs bills easing restriction on expunging records" Associated Press State Wire: New Jersey, December 20, 2017
"In parting Christmas gift, Christie signs bills to ease expungement of criminal records," Politico, December 20, 2017
"NJ Politics Digest: Christie Signs Expungement Overhaul Bills," Observer, December 21, 2017

RH/CL (links verified Oct. 2019)

P.L.2017, CHAPTER 243, *approved December 20, 2017*
Senate, No. 3306 (*First Reprint*)

1 AN ACT concerning certain employment rights of persons with
2 expunged criminal records and amending P.L.2014, c.32.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 4 of P.L.2014, c.32 (C.34:6B-14) is amended to read
8 as follows:

9 4. a. Except as otherwise provided in section 6 of **[this act]**
10 P.L.2014, c.32 (C.34:6B-16):

11 (1) An employer shall not require an applicant for employment
12 to complete any employment application that makes any inquiries
13 regarding an applicant's criminal record, including an expunged
14 criminal record, during the initial employment application process.

15 (2) An employer shall not make any oral **[or]** ¹**[,]** or¹ written
16 ¹**[, or online]**¹ inquiry regarding an applicant's criminal record,
17 including an expunged criminal record, ¹or use an online
18 application that requires the disclosure of an applicant's criminal
19 record, including an expunged criminal record,¹ during the initial
20 employment application process.

21 b. Notwithstanding the provisions of subsection a. of this
22 section, if an applicant discloses any information regarding the
23 applicant's criminal record, by voluntary oral or written disclosure,
24 during the initial employment application process, the employer
25 may make inquiries regarding the applicant's criminal record during
26 the initial employment application process.

27 c. Nothing set forth in this section shall be construed to
28 prohibit an employer from requiring an applicant for employment to
29 complete an employment application that makes any inquiries
30 regarding an applicant's criminal record after the initial employment
31 application process has concluded or from making any oral or
32 written inquiries regarding an applicant's criminal record after the
33 initial employment application process has concluded. The
34 provisions of this section shall not preclude an employer from
35 refusing to hire an applicant for employment based upon the
36 applicant's criminal record, unless the criminal record or relevant
37 portion thereof has been expunged or erased through executive
38 pardon, provided that such refusal is consistent with other
39 applicable laws, rules and regulations.

40 (cf: P.L.2014, c.32, s.4)

41

42 2. This act shall take effect immediately.

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted June 29, 2017.

S3306 [1R]

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Prohibits certain employment discrimination based upon
expunged criminal record.

SENATE, No. 3306

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 15, 2017

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senator Lesniak

SYNOPSIS

Prohibits certain employment discrimination based upon expunged criminal record.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/23/2017)

1 AN ACT concerning certain employment rights of persons with
2 expunged criminal records and amending P.L.2014, c.32.

3

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

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7 1. Section 4 of P.L.2014, c.32 (C.34:6B-14) is amended to read
8 as follows:

9 4. a. Except as otherwise provided in section 6 of **[this act]**
10 P.L.2014, c.32 (C.34:6B-16):

11 (1) An employer shall not require an applicant for employment
12 to complete any employment application that makes any inquiries
13 regarding an applicant's criminal record, including an expunged
14 criminal record, during the initial employment application process.

15 (2) An employer shall not make any oral **[or]** , written, or
16 online inquiry regarding an applicant's criminal record, including an
17 expunged criminal record, during the initial employment application
18 process.

19 b. Notwithstanding the provisions of subsection a. of this
20 section, if an applicant discloses any information regarding the
21 applicant's criminal record, by voluntary oral or written disclosure,
22 during the initial employment application process, the employer
23 may make inquiries regarding the applicant's criminal record during
24 the initial employment application process.

25 c. Nothing set forth in this section shall be construed to
26 prohibit an employer from requiring an applicant for employment to
27 complete an employment application that makes any inquiries
28 regarding an applicant's criminal record after the initial employment
29 application process has concluded or from making any oral or
30 written inquiries regarding an applicant's criminal record after the
31 initial employment application process has concluded. The
32 provisions of this section shall not preclude an employer from
33 refusing to hire an applicant for employment based upon the
34 applicant's criminal record, unless the criminal record or relevant
35 portion thereof has been expunged or erased through executive
36 pardon, provided that such refusal is consistent with other
37 applicable laws, rules and regulations.

38 (cf: P.L.2014, c.32, s.4)

39

40 2. This act shall take effect immediately.

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STATEMENT

44

45 This bill prohibits certain employment discrimination based upon
46 a person's expunged criminal record.

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 Under current law, an employer generally is prohibited from
2 inquiring, either orally or in writing, about a candidate's criminal
3 record and from requiring a candidate to complete an application
4 that makes an inquiry regarding the person's criminal record during
5 the initial employment application process.

6 This bill provides that, in addition to an oral or written inquiry,
7 an employer is also prohibited from making an online inquiry about
8 the candidate's criminal record. In addition, under the provisions of
9 this bill, an employer is prohibited from inquiring about an
10 applicant's expunged criminal record, in addition to the applicant's
11 current criminal record.

12 An expungement is the removal and isolation of all records on
13 file within any court, detention or correctional facility, law
14 enforcement agency, criminal justice agency, or juvenile justice
15 agency concerning a person's apprehension, arrest, detention, trial,
16 or disposition of an offense within the criminal or juvenile justice
17 system. Unless otherwise provided by law, if an order for
18 expungement is granted, the adult arrest, record of law enforcement
19 taking a person into custody as a juvenile, conviction, adjudication
20 of delinquency, disposition, and any related proceedings are
21 considered not to have occurred.

22 Currently, under N.J.S.2C:52-30, it is a disorderly persons
23 offense to reveal an expunged record. A disorderly persons offense
24 is punishable by up to six months imprisonment, a fine of up to
25 \$1,000, or both.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3306

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 29, 2017

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 3306.

This bill, as amended, would prohibit certain employment discrimination by employers based upon a person's criminal record, including an expunged record.

Under current law, during the initial employment application process, an employer generally is prohibited from (1) requiring a candidate to complete an application that makes an inquiry regarding the person's criminal record, or (2) inquiring, either orally or in writing, about a candidate's criminal record.

The bill would expressly provide that any prohibition on an employer inquiring about a person's criminal record would extend to cover any such record that had been expunged. It would also expressly prohibit an employer from using an online application that requires the disclosure of a person's criminal record, including any expunged record.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

- clarify that with respect to any online activities of employers concerning the initial application process, employers would be expressly prohibited from using an online application that requires the disclosure of a person's criminal record, including any expunged record.

ASSEMBLY, No. 5036

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 19, 2017

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Prohibits certain employment discrimination based upon expunged criminal record.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2017)

1 AN ACT concerning certain employment rights of persons with
2 expunged criminal records and amending P.L.2014, c.32.

3

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

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7 1. Section 4 of P.L.2014, c.32 (C.34:6B-14) is amended to read
8 as follows:

9 4. a. Except as otherwise provided in section 6 of **[this act]**
10 P.L.2014, c.32 (C.34:6B-16):

11 (1) An employer shall not require an applicant for employment
12 to complete any employment application that makes any inquiries
13 regarding an applicant's criminal record, including an expunged
14 criminal record, during the initial employment application process.

15 (2) An employer shall not make any oral **[or]** , written, or
16 online inquiry regarding an applicant's criminal record, including an
17 expunged criminal record, during the initial employment application
18 process.

19 b. Notwithstanding the provisions of subsection a. of this
20 section, if an applicant discloses any information regarding the
21 applicant's criminal record, by voluntary oral or written disclosure,
22 during the initial employment application process, the employer
23 may make inquiries regarding the applicant's criminal record during
24 the initial employment application process.

25 c. Nothing set forth in this section shall be construed to
26 prohibit an employer from requiring an applicant for employment to
27 complete an employment application that makes any inquiries
28 regarding an applicant's criminal record after the initial employment
29 application process has concluded or from making any oral or
30 written inquiries regarding an applicant's criminal record after the
31 initial employment application process has concluded. The
32 provisions of this section shall not preclude an employer from
33 refusing to hire an applicant for employment based upon the
34 applicant's criminal record, unless the criminal record or relevant
35 portion thereof has been expunged or erased through executive
36 pardon, provided that such refusal is consistent with other
37 applicable laws, rules and regulations.

38 (cf: P.L.2014, c.32, s.4)

39

40 2. This act shall take effect immediately.

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.

STATEMENT

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This bill prohibits certain employment discrimination based upon a person's expunged criminal record.

Under current law, an employer generally is prohibited from inquiring, either orally or in writing, about a candidate's criminal record and from requiring a candidate to complete an application that makes an inquiry regarding the person's criminal record during the initial employment application process.

This bill provides that, in addition to an oral or written inquiry, an employer is also prohibited from making an online inquiry about the candidate's criminal record. In addition, under the provisions of this bill, an employer is prohibited from inquiring about an applicant's expunged criminal record, in addition to the applicant's current criminal record.

An expungement is the removal and isolation of all records on file within any court, detention or correctional facility, law enforcement agency, criminal justice agency, or juvenile justice agency concerning a person's apprehension, arrest, detention, trial, or disposition of an offense within the criminal or juvenile justice system. Unless otherwise provided by law, if an order for expungement is granted, the adult arrest, record of law enforcement taking a person into custody as a juvenile, conviction, adjudication of delinquency, disposition, and any related proceedings are considered not to have occurred.

Currently, under N.J.S.2C:52-30, it is a disorderly persons offense to reveal an expunged record. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5036

STATE OF NEW JERSEY

DATED: JUNE 19, 2017

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5036.

This bill prohibits certain employment discrimination based upon a person's expunged criminal record.

Under current law, an employer generally is prohibited from inquiring, either orally or in writing, about a candidate's criminal record and from requiring a candidate to complete an application that makes an inquiry regarding the person's criminal record during the initial employment application process.

This bill provides that, in addition to an oral or written inquiry, an employer is also prohibited from making an online inquiry about the candidate's criminal record. The bill also provides that an employer is prohibited from inquiring about an applicant's expunged criminal record, in addition to the applicant's current criminal record.

An expungement is the removal and isolation of all records on file within any court, detention or correctional facility, law enforcement agency, criminal justice agency, or juvenile justice agency concerning a person's apprehension, arrest, detention, trial, or disposition of an offense within the criminal or juvenile justice system. Unless otherwise provided by law, if an order for expungement is granted, the adult arrest, record of law enforcement taking a person into custody as a juvenile, conviction, adjudication of delinquency, disposition, and any related proceedings are considered not to have occurred.

Currently, under N.J.S.2C:52-30, it is a disorderly persons offense to reveal an expunged record. A person convicted of this disorderly persons offense may be punished by up to six months imprisonment, a fine of up to \$200, or both.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

STATEMENT TO
ASSEMBLY, No. 5036

with Assembly Floor Amendments
(Proposed by Assemblyman GREEN)

ADOPTED: JUNE 29, 2017

Assembly Bill No. 5036 prohibits certain employment discrimination based upon a person's expunged criminal record. As introduced, the bill prohibited an employer from making any oral, written, or online inquiry regarding an applicant's criminal record, including an expunged criminal record, during the initial employment application process.

These Assembly amendments prohibit an employer from using an online application that requires the disclosure of an applicant's criminal record, including an expunged criminal record, rather than prohibiting the employer from making an online inquiry regarding an applicant's criminal record.

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Governor Christie Signs Model Legislation To Help Minor Offenders Reclaim Their Lives

Wednesda, December 20, 2017 Tags: [Addiction Taskforce](#)



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Expungement Reform Bills Aimed at Helping Those Suffering With Disease of Addiction

Trenton, NJ – Governor Chris Christie today signed a bipartisan package of bills that changes and modernizes the state’s expungement system in an effort to help minor criminal offenders reclaim their lives.

“Having a criminal record often impedes the ability to get a job, purchase a home or vehicle, or simply have and take care of a family,” said Governor Christie. “We want to give those overcoming incarceration or the disease of addiction, young offenders, and all who have earned and deserve it, a second chance at life. I want to thank Senator Sandra Cunningham whose leadership and partnership helped to make this legislation a true model for other states to replicate.”

The life-saving reform legislation signed into law today by Governor Christie includes:

Senate Bill 3306: Strengthens the original “Ban the Box” legislation by further preventing employers from making any oral, written or online inquiries about the candidate’s criminal record, and from using an online application that requires disclosure of an applicant’s criminal record, including an expungement criminal record. This action will provide people with an opportunity to provide their own personal history during an employment interview rather than being judged on their own criminal record.

Senate Bill 3307: Revises procedures for expunging criminal and other records and information, including shortening certain waiting periods for expungement eligibility and increasing the number of convictions that may be expunged. These include:

- Allows a petitioner to expunge up to four instead of three, offenses or multiple offenses that occurred within a short timeframe, if the petitioner has not been convicted of any prior or subsequent offense;
- Reduces the expungement eligibility waiting period from 10 years to six years, following the latest of any conviction, payment of fine, and completion of probation, parole, or prison sentence;
- Further reduces the expungement eligibility waiting period if satisfaction of a fine or restitution is the petitioner’s only remaining barrier and the court finds that the expungement is in the public’s interest; and
- Aligns expungement and sentencing statutes, allowing expungement for possession of marijuana with the intent to sell up to one ounce, which is the threshold for a fourth-degree crime

Senate Bill 3308: Allows young adults to expunge their juvenile records two years sooner than current law permits, decreasing the waiting period from five to three years to expunge an entire juvenile record, and maintaining all other requirements and provisions. As a result, young offenders will have fewer barriers to overcome as they re-enter society and begin their lives as adults.

“Giving people second chances has been a guiding principle of my administration and a driving force behind many of my policies and initiatives, especially in regard to prisoner reentry and substance use disorder,” said Governor Christie. “The revisions we are implementing today will provide people with an even greater opportunity to become employed and become productive members of society once again after they have paid their debt to society.”

Visit ReachNJ.gov for assistance with addiction prevention, treatment and recovery, as well as a record of Governor Christie's initiatives, programs, policies and services at the forefront of America's fight against this deadly disease.

###

Press Contact:
Brian Murray
609-777-2600



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