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Jerry Carino, Asbury Park Press, 'MIDDLETOWN WOMAN'S EXPUNGEMENT BILL BECOMES LAW - OFFENSES ELIGIBLEFOR DRUG COURT GRADUATES EXPAND', Record, The (online), 19 Jan 2022 A7

DANA DIFILIPPO & SOPHIE NIETO-MUNOZ; newjerseymonitor.com, 'Murphy signs flurry of bills before term 2 Gov. Murphy signs flurry of bills just before second term begins', Press of Atlantic City, The (online), 20 Jan 2022 2A<

RWH/JA

P.L. 2021, CHAPTER 460, *approved January 18, 2022*
Assembly, No. 4771 (*First Reprint*)

1 AN ACT concerning special probation and amending N.J.S.2C:35-
2 14.

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

6
7 1. N.J.S.2C:35-14 is amended to read as follows:

8 2C:35-14. Rehabilitation Program for Drug and Alcohol
9 Dependent Persons Subject to a Presumption of Incarceration or a
10 Mandatory Minimum Period of Parole Ineligibility; Criteria for
11 Imposing Special Probation; Ineligible Offenders; Commitment to
12 Residential Treatment Facilities or Participation in a Nonresidential
13 Treatment Program; Presumption of Revocation; Brief Incarceration
14 in Lieu of Permanent Revocation.

15 a. Any person who is ineligible for probation due to a
16 conviction for a crime which is subject to a presumption of
17 incarceration or a mandatory minimum period of parole ineligibility
18 may be sentenced to a term of special probation in accordance with
19 this section, and may not apply for drug and alcohol treatment
20 pursuant to N.J.S.2C:45-1. Nothing in this section shall be
21 construed to prohibit a person who is eligible for probation in
22 accordance with N.J.S.2C:45-1 due to a conviction for an offense
23 which is not subject to a presumption of incarceration or a
24 mandatory minimum period of parole ineligibility from applying for
25 drug or alcohol treatment as a condition of probation pursuant to
26 N.J.S.2C:45-1; provided, however, that a person in need of
27 treatment as defined in subsection f. of section 2 of P.L.2012, c.23
28 (C.2C:35-14.2) shall be sentenced in accordance with that section.
29 Notwithstanding the presumption of incarceration pursuant to the
30 provisions of subsection d. of N.J.S.2C:44-1, whenever a drug or
31 alcohol dependent person who is subject to sentencing under this
32 section is convicted of or adjudicated delinquent for an offense,
33 other than one described in subsection b. of this section, the court,
34 upon notice to the prosecutor, may, on motion of the person, or on
35 the court's own motion, place the person on special probation,
36 which shall be for a term of five years, provided that the court finds
37 on the record that:

38 (1) the person has undergone a professional diagnostic
39 assessment to determine whether and to what extent the person is
40 drug or alcohol dependent and would benefit from treatment; and

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 January 6, 2022.

1 (2) the person is a drug or alcohol dependent person within the
2 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
3 time of the commission of the present offense; and

4 (3) the present offense was committed while the person was
5 under the influence of a controlled dangerous substance, controlled
6 substance analog or alcohol or was committed to acquire property
7 or monies in order to support the person's drug or alcohol
8 dependency; and

9 (4) substance use disorders treatment and monitoring will serve
10 to benefit the person by addressing the person's drug or alcohol
11 dependency and will thereby reduce the likelihood that the person
12 will thereafter commit another offense; and

13 (5) the person did not possess a firearm at the time of the
14 present offense and did not possess a firearm at the time of any
15 pending criminal charge; and

16 (6) the person has not been previously convicted on two or more
17 separate occasions of crimes of the first or second degree, other
18 than those listed in paragraph (7); or the person has not been
19 previously convicted on two or more separate occasions, where one
20 of the offenses is a crime of the third degree, other than crimes
21 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
22 first or second degree; and

23 (7) the person has not been previously convicted or adjudicated
24 delinquent for, and does not have a pending charge of murder,
25 aggravated manslaughter, manslaughter, kidnapping, aggravated
26 assault, aggravated sexual assault or sexual assault, or a similar
27 crime under the laws of any other state or the United States; and

28 (8) a suitable treatment facility licensed and approved by the
29 Division of Mental Health and Addiction Services in the
30 Department of Human Services is able and has agreed to provide
31 appropriate treatment services in accordance with the requirements
32 of this section; and

33 (9) no danger to the community will result from the person
34 being placed on special probation pursuant to this section.

35 In determining whether to sentence the person pursuant to this
36 section, the court shall consider all relevant circumstances, and
37 shall take judicial notice of any evidence, testimony or information
38 adduced at the trial, plea hearing or other court proceedings, and
39 shall also consider the presentence report and the results of the
40 professional diagnostic assessment to determine whether and to
41 what extent the person is drug or alcohol dependent and would
42 benefit from treatment. The court shall give priority to a person
43 who has moved to be sentenced to special probation over a person
44 who is being considered for a sentence to special probation on the
45 court's own motion or in accordance with the provisions of section
46 2 of P.L.2012, c.23 (C.2C:35-14.2).

47 As a condition of special probation, the court shall order the
48 person to enter a residential treatment program at a facility licensed

1 and approved by the Division of Mental Health and Addiction
2 Services in the Department of Human Services or a program of
3 nonresidential treatment by a licensed and approved treatment
4 provider, which program may include the use of medication-
5 assisted treatment as defined in paragraph (7) of subsection f. of
6 this section, to comply with program rules and the requirements of
7 the course of treatment, to cooperate fully with the treatment
8 provider, and to comply with such other reasonable terms and
9 conditions as may be required by the court or by law, pursuant to
10 N.J.S.2C:45-1, and which shall include periodic urine testing for
11 drug or alcohol usage throughout the period of special probation. In
12 determining whether to order the person to participate in a
13 nonresidential rather than a residential treatment program, the court
14 shall follow the procedure set forth in subsection j. of this section.
15 Subject to the requirements of subsection d. of this section, the
16 conditions of special probation may include different methods and
17 levels of community-based or residential supervision.

18 b. A person shall not be eligible for special probation pursuant
19 to this section if the person is convicted of or adjudicated
20 delinquent for:

21 (1) a crime of the first degree;

22 (2) a crime of the first or second degree enumerated in
23 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
24 than a crime of the second degree involving N.J.S.2C:15-1
25 (robbery) or N.J.S.2C:18-2 (burglary);

26 (3) a crime, other than that defined in section 1 of P.L.1987,
27 c.101 (C.2C:35-7), for which a mandatory minimum period of
28 incarceration is prescribed under chapter 35 of this Title or any
29 other law; or

30 (4) an offense that involved the distribution or the conspiracy or
31 attempt to distribute a controlled dangerous substance or controlled
32 substance analog to a juvenile near or on school property.

33 c. (Deleted by amendment, P.L.2012, c.23)

34 d. Except as otherwise provided in subsection j. of this section,
35 a person convicted of or adjudicated delinquent for a crime of the
36 second degree or of a violation of section 1 of P.L.1987, c.101
37 (C.2C:35-7), or who previously has been convicted of or
38 adjudicated delinquent for an offense under subsection a. of
39 N.J.S.2C:35-5 or a similar offense under any other law of this State,
40 any other state or the United States, who is placed on special
41 probation under this section shall be committed to the custody of a
42 residential substance use disorders treatment facility licensed and
43 approved by the Division of Mental Health and Addiction Services
44 in the Department of Human Services. Subject to the authority of
45 the court to temporarily suspend imposition of all or any portion of
46 the term of commitment to a residential treatment facility pursuant
47 to subsection j. of this section, the person shall be committed to the
48 residential treatment facility immediately, unless the facility cannot

1 accommodate the person, in which case the person shall be
2 incarcerated to await commitment to the residential treatment
3 facility. The term of such commitment shall be for a minimum of
4 six months, or until the court, upon recommendation of the
5 treatment provider, determines that the person has successfully
6 completed the residential treatment program, whichever is later,
7 except that no person shall remain in the custody of a residential
8 treatment facility pursuant to this section for a period in excess of
9 five years. Upon successful completion of the required residential
10 treatment program, the person shall complete the period of special
11 probation, as authorized by subsection a. of this section, with credit
12 for time served for any imprisonment served as a condition of
13 probation and credit for each day during which the person
14 satisfactorily complied with the terms and conditions of special
15 probation while committed pursuant to this section to a residential
16 treatment facility. Except as otherwise provided in subsection l. of
17 this section, the person shall not be eligible for early discharge of
18 special probation pursuant to N.J.S.2C:45-2, or any other provision
19 of the law. The court, in determining the number of credits for time
20 spent in residential treatment, shall consider the recommendations
21 of the treatment provider. A person placed into a residential
22 treatment facility pursuant to this section shall be deemed to be
23 subject to official detention for the purposes of N.J.S.2C:29-5
24 (escape).

25 e. The probation department or other appropriate agency
26 designated by the court to monitor or supervise the person's special
27 probation shall report periodically to the court as to the person's
28 progress in treatment and compliance with court-imposed terms and
29 conditions. The treatment provider shall promptly report to the
30 probation department or other appropriate agency all significant
31 failures by the person to comply with any court imposed term or
32 condition of special probation or any requirements of the course of
33 treatment, including but not limited to a positive drug or alcohol
34 test, which shall only constitute a violation for a person using
35 medication-assisted treatment as defined in paragraph (7) of
36 subsection f. of this section if the positive test is unrelated to the
37 person's medication-assisted treatment, or the unexcused failure to
38 attend any session or activity, and shall immediately report any act
39 that would constitute an escape. The probation department or other
40 appropriate agency shall immediately notify the court and the
41 prosecutor in the event that the person refuses to submit to a
42 periodic drug or alcohol test or for any reason terminates the
43 person's participation in the course of treatment, or commits any act
44 that would constitute an escape.

45 f. (1) Upon a first violation of any term or condition of the
46 special probation authorized by this section or of any requirements
47 of the course of treatment, the court in its discretion may
48 permanently revoke the person's special probation.

1 (2) Upon a second or subsequent violation of any term or
2 condition of the special probation authorized by this section or of
3 any requirements of the course of treatment, the court shall, subject
4 only to the provisions of subsection g. of this section, permanently
5 revoke the person's special probation unless the court finds on the
6 record that there is a substantial likelihood that the person will
7 successfully complete the treatment program if permitted to
8 continue on special probation, and the court is clearly convinced,
9 considering the nature and seriousness of the violations, that no
10 danger to the community will result from permitting the person to
11 continue on special probation pursuant to this section. The court's
12 determination to permit the person to continue on special probation
13 following a second or subsequent violation pursuant to this
14 paragraph may be appealed by the prosecution.

15 (3) In making its determination whether to revoke special
16 probation, and whether to overcome the presumption of revocation
17 established in paragraph (2) of this subsection, the court shall
18 consider the nature and seriousness of the present infraction and any
19 past infractions in relation to the person's overall progress in the
20 course of treatment, and shall also consider the recommendations of
21 the treatment provider. The court shall give added weight to the
22 treatment provider's recommendation that the person's special
23 probation be permanently revoked, or to the treatment provider's
24 opinion that the person is not amenable to treatment or is not likely
25 to complete the treatment program successfully.

26 (4) If the court permanently revokes the person's special
27 probation pursuant to this subsection, the court shall impose any
28 sentence that might have been imposed, or that would have been
29 required to be imposed, originally for the offense for which the
30 person was convicted or adjudicated delinquent. The court shall
31 conduct a de novo review of any aggravating and mitigating factors
32 present at the time of both original sentencing and resentencing. If
33 the court determines or is required pursuant to any other provision
34 of this chapter or any other law to impose a term of imprisonment,
35 the person shall receive credit for any time served in custody
36 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
37 treatment facility pursuant to this section, and for each day during
38 which the person satisfactorily complied with the terms and
39 conditions of special probation while committed pursuant to this
40 section to a residential treatment facility. The court, in determining
41 the number of credits for time spent in a residential treatment
42 facility, shall consider the recommendations of the treatment
43 provider.

44 (5) Following a violation, if the court permits the person to
45 continue on special probation pursuant to this section, the court
46 shall order the person to comply with such additional terms and
47 conditions, including but not limited to more frequent drug or

1 alcohol testing, as are necessary to deter and promptly detect any
2 further violation.

3 (6) Notwithstanding any other provision of this subsection, if
4 the person at any time refuses to undergo urine testing for drug or
5 alcohol usage as provided in subsection a. of this section, the court
6 shall, subject only to the provisions of subsection g. of this section,
7 permanently revoke the person's special probation.
8 Notwithstanding any other provision of this section, if the person at
9 any time while committed to the custody of a residential treatment
10 facility pursuant to this section commits an act that would constitute
11 an escape, the court shall forthwith permanently revoke the person's
12 special probation.

13 (7) An action for a violation under this section may be brought
14 by a probation officer or prosecutor or on the court's own motion.
15 Failure to complete successfully the required treatment program
16 shall constitute a violation of the person's special probation. In the
17 case of the temporary or continued management of a person's drug
18 or alcohol dependency by means of medication-assisted treatment
19 as defined herein, whenever supported by a report from the
20 treatment provider of existing satisfactory progress and reasonably
21 predictable long-term success with or without further medication-
22 assisted treatment, the person's use of the medication-assisted
23 treatment, even if continuing, shall not be the basis to constitute a
24 failure to complete successfully the treatment program. A person
25 who fails to comply with the terms of the person's special probation
26 pursuant to this section and is thereafter sentenced to imprisonment
27 in accordance with this subsection shall thereafter be ineligible for
28 entry into the Intensive Supervision Program, provided however
29 that this provision shall not affect the person's eligibility for entry
30 into the Intensive Supervision Program for a subsequent conviction.

31 As used in this section, the term "medication-assisted treatment"
32 means the use of any medications approved by the federal Food and
33 Drug Administration to treat substance use disorders, including
34 extended-release naltrexone, methadone, and buprenorphine, in
35 combination with counseling and behavioral therapies, to provide a
36 whole-patient approach to the treatment of substance use disorders.

37 g. When a person on special probation is subject to a
38 presumption of revocation on a second or subsequent violation
39 pursuant to paragraph (2) of subsection f. of this section, or when
40 the person refuses to undergo drug or alcohol testing pursuant to
41 paragraph (6) of subsection f. of this section, the court may, in lieu
42 of permanently revoking the person's special probation, impose a
43 term of incarceration for a period of not less than 30 days nor more
44 than six months, after which the person's term of special probation
45 pursuant to this section may be reinstated. In determining whether
46 to order a period of incarceration in lieu of permanent revocation
47 pursuant to this subsection, the court shall consider the
48 recommendations of the treatment provider with respect to the

1 likelihood that such confinement would serve to motivate the
2 person to make satisfactory progress in treatment once special
3 probation is reinstated. This disposition may occur only once with
4 respect to any person unless the court is clearly convinced that there
5 are compelling and extraordinary reasons to justify reimposing this
6 disposition with respect to the person. Any such determination by
7 the court to reimpose this disposition may be appealed by the
8 prosecution. Nothing in this subsection shall be construed to limit
9 the authority of the court at any time during the period of special
10 probation to order a person on special probation who is not subject
11 to a presumption of revocation pursuant to paragraph (2) of
12 subsection f. of this section to be incarcerated over the course of a
13 weekend, or for any other reasonable period of time, when the court
14 in its discretion determines that such incarceration would help to
15 motivate the person to make satisfactory progress in treatment.

16 h. The court, as a condition of its order, and after considering
17 the person's financial resources, shall require the person to pay that
18 portion of the costs associated with the person's participation in any
19 residential or nonresidential treatment program imposed pursuant to
20 this section which, in the opinion of the court, is consistent with the
21 person's ability to pay, taking into account the court's authority to
22 order payment or reimbursement to be made over time and in
23 installments.

24 i. The court shall impose, as a condition of the special
25 probation, any fine, penalty, fee or restitution applicable to the
26 offense for which the person was convicted or adjudicated
27 delinquent.

28 j. Where the court finds that a person has satisfied all of the
29 eligibility criteria for special probation and would otherwise be
30 required to be committed to the custody of a residential substance
31 use disorders treatment facility pursuant to the provisions of
32 subsection d. of this section, the court may temporarily suspend
33 imposition of all or any portion of the term of commitment to a
34 residential treatment facility and may instead order the person to
35 enter a nonresidential treatment program, provided that the court
36 finds on the record that:

37 (1) the person conducting the diagnostic assessment required
38 pursuant to paragraph (1) of subsection a. of this section has
39 recommended in writing that the proposed course of nonresidential
40 treatment services is clinically appropriate and adequate to address
41 the person's treatment needs; and

42 (2) no danger to the community would result from the person
43 participating in the proposed course of nonresidential treatment
44 services; and

45 (3) a suitable treatment provider is able and has agreed to
46 provide clinically appropriate nonresidential treatment services.

47 If the prosecutor objects to the court's decision to suspend the
48 commitment of the person to a residential treatment facility

1 pursuant to this subsection, the sentence of special probation
2 imposed pursuant to this section shall not become final for ten days
3 in order to permit the appeal by the prosecution of the court's
4 decision.

5 After a period of six months of nonresidential treatment, if the
6 court, considering all available information including but not
7 limited to the recommendation of the treatment provider, finds that
8 the person has made satisfactory progress in treatment and that
9 there is a substantial likelihood that the person will successfully
10 complete the nonresidential treatment program and period of special
11 probation, the court, on notice to the prosecutor, may permanently
12 suspend the commitment of the person to the custody of a
13 residential treatment program, in which event the special
14 monitoring provisions set forth in subsection k. of this section shall
15 no longer apply.

16 Nothing in this subsection shall be construed to limit the
17 authority of the court at any time during the term of special
18 probation to order the person to be committed to a residential or
19 nonresidential treatment facility if the court determines that such
20 treatment is clinically appropriate and necessary to address the
21 person's present treatment needs.

22 k. (1) When the court temporarily suspends the commitment of
23 the person to a residential treatment facility pursuant to subsection
24 j. of this section, the court shall, in addition to ordering
25 participation in a prescribed course of nonresidential treatment and
26 any other appropriate terms or conditions authorized or required by
27 law, order the person to undergo urine testing for drug or alcohol
28 use not less than once per week unless otherwise ordered by the
29 court. The court-ordered testing shall be conducted by the probation
30 department or the treatment provider. The results of all tests shall
31 be reported promptly to the court and to the prosecutor. If the
32 person is involved with a program that is providing the person
33 medication-assisted treatment as defined in paragraph (7) of
34 subsection f. of this section, only a positive urine test for drug or
35 alcohol use unrelated to the medication-assisted treatment shall
36 constitute a violation of the terms and conditions of special
37 probation. In addition, the court shall impose appropriate curfews
38 or other restrictions on the person's movements, and may order the
39 person to wear electronic monitoring devices to enforce such
40 curfews or other restrictions as a condition of special probation.

41 (2) The probation department or other appropriate agency shall
42 immediately notify the court and the prosecutor in the event that the
43 person fails or refuses to submit to a drug or alcohol test, knowingly
44 defrauds the administration of a drug test, terminates the person's
45 participation in the course of treatment, or commits any act that
46 would constitute absconding from parole. If the person at any time
47 while entered in a nonresidential treatment program pursuant to
48 subsection j. of this section knowingly defrauds the administration

1 of a drug test, goes into hiding, or leaves the State with a purpose of
2 avoiding supervision, the court shall permanently revoke the
3 person's special probation.

4 l. If the court finds that the person has made exemplary
5 progress in the course of treatment, the court may, upon
6 recommendation of the person's supervising probation officer or on
7 the court's own motion, and upon notice to the prosecutor, grant
8 early discharge from a term of special probation provided that the
9 person: (1) has satisfactorily completed the treatment program
10 ordered by the court; (2) has served at least two years of special
11 probation; (3) within the preceding 12 months, did not commit a
12 substantial violation of any term or condition of special probation,
13 including but not limited to a positive urine test, which shall only
14 constitute a violation for a person using medication-assisted
15 treatment as defined in paragraph (7) of subsection f. of this section
16 if the positive test is unrelated to the person's medication-assisted
17 treatment; and (4) is not likely to relapse or commit an offense if
18 probation supervision and related services are discontinued.

19 m. (1) The Superior Court may order the expungement of all
20 records and information relating to all prior arrests, detentions,
21 convictions, and proceedings for any offense enumerated in Title
22 2C of the New Jersey Statutes upon successful discharge from a
23 term of special probation as provided in this section, regardless of
24 whether the person was sentenced to special probation under this
25 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
26 1, if the person satisfactorily completed a substance abuse treatment
27 program as ordered by the court and was not convicted of any
28 crime, or adjudged a disorderly person or petty disorderly person,
29 during the term of special probation. The provisions of N.J.S.2C:52-
30 7 through N.J.S.2C:52-14 shall not apply to an expungement
31 pursuant to this paragraph and no fee shall be charged to a person
32 eligible for relief pursuant to this paragraph. The court shall grant
33 the relief requested unless it finds that the need for the availability
34 of the records outweighs the desirability of having the person freed
35 from any disabilities associated with their availability, or it finds
36 that the person is otherwise ineligible for expungement pursuant to
37 paragraph (2) of this subsection. An expungement under this
38 paragraph shall proceed in accordance with rules and procedures
39 developed by the Supreme Court.

40 (2) A person shall not be eligible for expungement under
41 paragraph (1) of this subsection if the records include a conviction
42 for any offense barred from expungement pursuant to subsection b.
43 or c. of N.J.S.2C:52-2 ¹ **], except for any offense set forth in**
44 **paragraph (2) of subsection a. of N.J.S.2C:24-4 if the person was a**
45 **drug or alcohol dependent person within the meaning of**
46 **N.J.S.2C:35-2 and was drug or alcohol dependent at the time of the**
47 **commission of the offense** ¹ **].** It shall be the obligation of the
48 prosecutor to notify the court of any disqualifying convictions or

1 any other factors related to public safety that should be considered
2 by the court when deciding to grant an expungement under
3 paragraph (1) of this subsection.

4 (3) The Superior Court shall provide a copy of the expungement
5 order granted pursuant to paragraph (1) of this subsection to the
6 prosecutor and to the person and, if the person was represented by
7 the Public Defender, to the Public Defender. The person or, if the
8 person was represented by the Public Defender, the Public Defender
9 on behalf of the person, shall promptly distribute copies of the
10 expungement order to appropriate agencies who have custody and
11 control of the records specified in the order so that the agencies may
12 comply with the requirements of N.J.S.2C:52-15.

13 (4) If the person whose records are expunged pursuant to
14 paragraph (1) of this subsection is convicted of any crime following
15 discharge from special probation, the full record of arrests and
16 convictions may be restored to public access and no future
17 expungement shall be granted to such person.

18 (5) A person who, prior to the effective date of P.L.2015, c.261,
19 was successfully discharged from a term of special probation as
20 provided in this section, regardless of whether the person was
21 sentenced to special probation under this section, section 2 of
22 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
23 expungement of all records and information relating to all arrests,
24 detentions, convictions, and proceedings for any offense
25 enumerated in Title 2C of the New Jersey Statutes that existed at
26 the time of discharge from special probation by presenting an
27 application to the Superior Court in the county in which the person
28 was sentenced to special probation, which contains a duly verified
29 petition as provided in N.J.S.2C:52-7 for each crime or offense
30 sought to be expunged. The petition for expungement shall proceed
31 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
32 related to the expiration of the time periods specified in
33 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
34 shall not apply. A person who was convicted of any offense barred
35 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2
36 1], except for any offense set forth in paragraph (2) of subsection a.
37 of N.J.S.2C:24-4 if the person was a drug or alcohol dependent
38 person within the meaning of N.J.S.2C:35-2 and was drug or
39 alcohol dependent at the time of the commission of the offenses]1, or
40 who has been convicted of any crime or offense since the date of
41 discharge from special probation shall not be eligible to apply for
42 an expungement under this paragraph. In addition, no application
43 for expungement shall be considered until any pending charges are
44 disposed. It shall be the obligation of the prosecutor to notify the
45 court of any disqualifying convictions or any other factors related to
46 public safety that should be considered by the court when deciding
47 to grant an expungement under this paragraph. The Superior Court
48 shall consider the person's verified petition and may order the

1 expungement of all records and information relating to all arrests,
2 detentions, convictions, and proceedings of the person that existed
3 at the time of discharge from special probation as appropriate. The
4 court shall grant the relief requested unless it finds that the need for
5 the availability of the records outweighs the desirability of having
6 the person freed from any disabilities associated with their
7 availability, or it finds that the person is otherwise ineligible for
8 expungement pursuant to this paragraph. No fee shall be charged to
9 a person eligible for relief pursuant to this paragraph.

10 ¹(6) (a) A person who is not eligible for expungement relief
11 pursuant to paragraph (1) or (5) of this subsection because of a
12 conviction occurring prior to, on, or after the effective date of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 for any offense set forth in paragraph (2) of subsection a. of
15 N.J.S.2C:24-4, involving endangering the welfare of a child, which
16 is barred from expungement pursuant to subsection b. of
17 N.J.S.2C:52-2 and therefore renders the person ineligible under
18 those paragraphs, may be eligible to seek expungement relief
19 pursuant to this paragraph. The person shall have been successfully
20 discharged from a term of special probation as provided in this
21 section, regardless of whether the person was sentenced to special
22 probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-
23 14.2), or N.J.S.2C:45-1, for a period of at least 10 years prior to
24 seeking an expungement of all records and information relating to
25 all arrests, detentions, convictions, and proceedings for any offense
26 enumerated in Title 2C of the New Jersey Statutes that existed at
27 the time of discharge from special probation. The person shall
28 present an application to the Superior Court in the county in which
29 the person was sentenced to special probation, which contains a
30 duly verified petition as provided in N.J.S.2C:52-7 for each crime
31 or offense sought to be expunged. The petition for expungement
32 shall proceed pursuant to N.J.S.2C:52-1 et seq. A person shall not
33 be eligible to apply for an expungement under this paragraph if that
34 person was convicted of any offense barred from expungement
35 pursuant to subsection b. or c. of N.J.S.2C:52-2, other than a
36 conviction for endangering the welfare of a child under paragraph
37 (2) of subsection a. of N.J.S.2C:24-4, which crime is also
38 determined by the court, based upon a review by the prosecutor in
39 accordance with subparagraph (b) of this paragraph, to have been
40 nonviolent with respect to the facts and elements of the criminal act,
41 or if that person has been convicted of any crime or offense since
42 the date of discharge from special probation. In addition, no
43 application for expungement shall be considered until any pending
44 charges are disposed. It shall be the obligation of the prosecutor to
45 notify the court of any disqualifying convictions, any conviction for
46 endangering the welfare of a child reviewed by the prosecutor and
47 found to be violent, or any other factors related to public safety that
48 should be considered by the court when deciding to grant an

1 expungement under this paragraph. The Superior Court shall
2 consider the person's verified petition and may order the
3 expungement of all records and information relating to all arrests,
4 detentions, convictions, and proceedings of the person that existed
5 at the time of discharge from special probation as appropriate. The
6 court shall grant the relief requested unless it finds that the need for
7 the availability of the records outweighs the desirability of having
8 the person freed from any disabilities associated with their
9 availability, or it finds that the person is otherwise ineligible for
10 expungement pursuant to this paragraph. No fee shall be charged to
11 a person eligible for relief pursuant to this paragraph.

12 (b) The prosecutor, when reviewing a conviction for
13 endangering the welfare of a child under paragraph (2) of
14 subsection a. of N.J.S.2C:24-4 as to whether the facts and elements
15 of the criminal act were nonviolent and therefore do not prevent, as
16 to this conviction, a person's eligibility for expungement relief
17 under this paragraph, shall consider any act which falls under the
18 following definitions to be violent acts, and render the person
19 ineligible for expungement relief:

20 any act of "abuse," as defined in R.S.9:6-1, that is specifically
21 listed in part (c) of the definition, employing or permitting a child to
22 be employed in any occupation, employment or vocation dangerous
23 to the morals of such child; part (e) of the definition, the performing
24 of any indecent, immoral or unlawful act or deed, in the presence of
25 a child, that may tend to debauch or endanger or degrade the morals
26 of the child; part (f) of the definition, permitting or allowing any
27 other person to perform any indecent, immoral or unlawful act in
28 the presence of the child that may tend to debauch or endanger the
29 morals of such child; or part (g) of the definition, using excessive
30 physical restraint on the child under circumstances which do not
31 indicate that the child's behavior is harmful to himself, others or
32 property;

33 any act of "cruelty," as defined in R.S.9:6-1; and

34 any act resulting in an "abused or neglected child," as defined by
35 subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), that is
36 specifically listed in paragraph (1) of the definition, inflicting or
37 allowing to be inflicted upon such child physical injury by other
38 than accidental means which causes or creates a substantial risk of
39 death, or serious or protracted disfigurement, or protracted
40 impairment of physical or emotional health or protracted loss or
41 impairment of the function of any bodily organ; paragraph (2) of the
42 definition, creating or allowing to be created a substantial or
43 ongoing risk of physical injury to such child by other than
44 accidental means which would be likely to cause death or serious or
45 protracted disfigurement, or protracted loss or impairment of the
46 function of any bodily organ; paragraph (3) of the definition,
47 committing or allowing to be committed an act of sexual abuse
48 against the child; subparagraph (b) of paragraph (4) of the

1 definition, solely as to a child whose physical, mental, or emotional
2 condition has been impaired or is in imminent danger of becoming
3 impaired as the result of the failure of the child's parent or guardian
4 to exercise a minimum degree of care in providing the child with
5 proper supervision or guardianship, by unreasonably inflicting or
6 allowing to be inflicted excessive corporal punishment, or the
7 substantial risk thereof; paragraph (6) of the definition, for a child
8 upon whom excessive physical restraint has been used under
9 circumstances which do not indicate that the child's behavior is
10 harmful to himself, others, or property; or paragraph (7) of the
11 definition, for a child who is in an institution and, pursuant to
12 subparagraph (a) of that paragraph, has been placed there
13 inappropriately for a continued period of time with the knowledge
14 that the placement has resulted or may continue to result in harm to
15 the child's mental or physical well-being or, pursuant to
16 subparagraph (b) of that paragraph, who has been willfully isolated
17 from ordinary social contact under circumstances which indicate
18 emotional or social deprivation.¹

19 (cf: P.L.2015, c.261, s.1)

20

21 2. This act shall take effect immediately.

22

23

24

25

26 Expands offenses eligible for expungement upon successful
27 discharge from drug court.

ASSEMBLY, No. 4771

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

**Assemblyman Scharfenberger, Assemblywomen DiMaso, Sumter,
Assemblymen Wimberly, Mazzeo, Assemblywoman Vainieri Huttle,
Assemblymen Houghtaling and Moen**

SYNOPSIS

Expands offenses eligible for expungement upon successful discharge from drug court.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning special probation and amending N.J.S.2C:35-
2 14.

3

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

6

7 1. N.J.S.2C:35-14 is amended to read as follows:

8 2C:35-14. Rehabilitation Program for Drug and Alcohol
9 Dependent Persons Subject to a Presumption of Incarceration or a
10 Mandatory Minimum Period of Parole Ineligibility; Criteria for
11 Imposing Special Probation; Ineligible Offenders; Commitment to
12 Residential Treatment Facilities or Participation in a Nonresidential
13 Treatment Program; Presumption of Revocation; Brief Incarceration
14 in Lieu of Permanent Revocation.

15 a. Any person who is ineligible for probation due to a
16 conviction for a crime which is subject to a presumption of
17 incarceration or a mandatory minimum period of parole ineligibility
18 may be sentenced to a term of special probation in accordance with
19 this section, and may not apply for drug and alcohol treatment
20 pursuant to N.J.S.2C:45-1. Nothing in this section shall be
21 construed to prohibit a person who is eligible for probation in
22 accordance with N.J.S.2C:45-1 due to a conviction for an offense
23 which is not subject to a presumption of incarceration or a
24 mandatory minimum period of parole ineligibility from applying for
25 drug or alcohol treatment as a condition of probation pursuant to
26 N.J.S.2C:45-1; provided, however, that a person in need of
27 treatment as defined in subsection f. of section 2 of P.L.2012, c.23
28 (C.2C:35-14.2) shall be sentenced in accordance with that section.
29 Notwithstanding the presumption of incarceration pursuant to the
30 provisions of subsection d. of N.J.S.2C:44-1, whenever a drug or
31 alcohol dependent person who is subject to sentencing under this
32 section is convicted of or adjudicated delinquent for an offense,
33 other than one described in subsection b. of this section, the court,
34 upon notice to the prosecutor, may, on motion of the person, or on
35 the court's own motion, place the person on special probation,
36 which shall be for a term of five years, provided that the court finds
37 on the record that:

38 (1) the person has undergone a professional diagnostic
39 assessment to determine whether and to what extent the person is
40 drug or alcohol dependent and would benefit from treatment; and

41 (2) the person is a drug or alcohol dependent person within the
42 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
43 time of the commission of the present offense; and

44 (3) the present offense was committed while the person was
45 under the influence of a controlled dangerous substance, controlled

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 substance analog or alcohol or was committed to acquire property
2 or monies in order to support the person's drug or alcohol
3 dependency; and

4 (4) substance use disorders treatment and monitoring will serve
5 to benefit the person by addressing the person's drug or alcohol
6 dependency and will thereby reduce the likelihood that the person
7 will thereafter commit another offense; and

8 (5) the person did not possess a firearm at the time of the
9 present offense and did not possess a firearm at the time of any
10 pending criminal charge; and

11 (6) the person has not been previously convicted on two or more
12 separate occasions of crimes of the first or second degree, other
13 than those listed in paragraph (7); or the person has not been
14 previously convicted on two or more separate occasions, where one
15 of the offenses is a crime of the third degree, other than crimes
16 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
17 first or second degree; and

18 (7) the person has not been previously convicted or adjudicated
19 delinquent for, and does not have a pending charge of murder,
20 aggravated manslaughter, manslaughter, kidnapping, aggravated
21 assault, aggravated sexual assault or sexual assault, or a similar
22 crime under the laws of any other state or the United States; and

23 (8) a suitable treatment facility licensed and approved by the
24 Division of Mental Health and Addiction Services in the
25 Department of Human Services is able and has agreed to provide
26 appropriate treatment services in accordance with the requirements
27 of this section; and

28 (9) no danger to the community will result from the person
29 being placed on special probation pursuant to this section.

30 In determining whether to sentence the person pursuant to this
31 section, the court shall consider all relevant circumstances, and
32 shall take judicial notice of any evidence, testimony or information
33 adduced at the trial, plea hearing or other court proceedings, and
34 shall also consider the presentence report and the results of the
35 professional diagnostic assessment to determine whether and to
36 what extent the person is drug or alcohol dependent and would
37 benefit from treatment. The court shall give priority to a person
38 who has moved to be sentenced to special probation over a person
39 who is being considered for a sentence to special probation on the
40 court's own motion or in accordance with the provisions of section
41 2 of P.L.2012, c.23 (C.2C:35-14.2).

42 As a condition of special probation, the court shall order the
43 person to enter a residential treatment program at a facility licensed
44 and approved by the Division of Mental Health and Addiction
45 Services in the Department of Human Services or a program of
46 nonresidential treatment by a licensed and approved treatment
47 provider, which program may include the use of medication-
48 assisted treatment as defined in paragraph (7) of subsection f. of

1 this section, to comply with program rules and the requirements of
2 the course of treatment, to cooperate fully with the treatment
3 provider, and to comply with such other reasonable terms and
4 conditions as may be required by the court or by law, pursuant to
5 N.J.S.2C:45-1, and which shall include periodic urine testing for
6 drug or alcohol usage throughout the period of special probation. In
7 determining whether to order the person to participate in a
8 nonresidential rather than a residential treatment program, the court
9 shall follow the procedure set forth in subsection j. of this section.
10 Subject to the requirements of subsection d. of this section, the
11 conditions of special probation may include different methods and
12 levels of community-based or residential supervision.

13 b. A person shall not be eligible for special probation pursuant
14 to this section if the person is convicted of or adjudicated
15 delinquent for:

16 (1) a crime of the first degree;

17 (2) a crime of the first or second degree enumerated in
18 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
19 than a crime of the second degree involving N.J.S.2C:15-1
20 (robbery) or N.J.S.2C:18-2 (burglary);

21 (3) a crime, other than that defined in section 1 of P.L.1987,
22 c.101 (C.2C:35-7), for which a mandatory minimum period of
23 incarceration is prescribed under chapter 35 of this Title or any
24 other law; or

25 (4) an offense that involved the distribution or the conspiracy or
26 attempt to distribute a controlled dangerous substance or controlled
27 substance analog to a juvenile near or on school property.

28 c. (Deleted by amendment, P.L.2012, c.23)

29 d. Except as otherwise provided in subsection j. of this section,
30 a person convicted of or adjudicated delinquent for a crime of the
31 second degree or of a violation of section 1 of P.L.1987, c.101
32 (C.2C:35-7), or who previously has been convicted of or
33 adjudicated delinquent for an offense under subsection a. of
34 N.J.S.2C:35-5 or a similar offense under any other law of this State,
35 any other state or the United States, who is placed on special
36 probation under this section shall be committed to the custody of a
37 residential substance use disorders treatment facility licensed and
38 approved by the Division of Mental Health and Addiction Services
39 in the Department of Human Services. Subject to the authority of
40 the court to temporarily suspend imposition of all or any portion of
41 the term of commitment to a residential treatment facility pursuant
42 to subsection j. of this section, the person shall be committed to the
43 residential treatment facility immediately, unless the facility cannot
44 accommodate the person, in which case the person shall be
45 incarcerated to await commitment to the residential treatment
46 facility. The term of such commitment shall be for a minimum of
47 six months, or until the court, upon recommendation of the
48 treatment provider, determines that the person has successfully

1 completed the residential treatment program, whichever is later,
2 except that no person shall remain in the custody of a residential
3 treatment facility pursuant to this section for a period in excess of
4 five years. Upon successful completion of the required residential
5 treatment program, the person shall complete the period of special
6 probation, as authorized by subsection a. of this section, with credit
7 for time served for any imprisonment served as a condition of
8 probation and credit for each day during which the person
9 satisfactorily complied with the terms and conditions of special
10 probation while committed pursuant to this section to a residential
11 treatment facility. Except as otherwise provided in subsection l. of
12 this section, the person shall not be eligible for early discharge of
13 special probation pursuant to N.J.S.2C:45-2, or any other provision
14 of the law. The court, in determining the number of credits for time
15 spent in residential treatment, shall consider the recommendations
16 of the treatment provider. A person placed into a residential
17 treatment facility pursuant to this section shall be deemed to be
18 subject to official detention for the purposes of N.J.S.2C:29-5
19 (escape).

20 e. The probation department or other appropriate agency
21 designated by the court to monitor or supervise the person's special
22 probation shall report periodically to the court as to the person's
23 progress in treatment and compliance with court-imposed terms and
24 conditions. The treatment provider shall promptly report to the
25 probation department or other appropriate agency all significant
26 failures by the person to comply with any court imposed term or
27 condition of special probation or any requirements of the course of
28 treatment, including but not limited to a positive drug or alcohol
29 test, which shall only constitute a violation for a person using
30 medication-assisted treatment as defined in paragraph (7) of
31 subsection f. of this section if the positive test is unrelated to the
32 person's medication-assisted treatment, or the unexcused failure to
33 attend any session or activity, and shall immediately report any act
34 that would constitute an escape. The probation department or other
35 appropriate agency shall immediately notify the court and the
36 prosecutor in the event that the person refuses to submit to a
37 periodic drug or alcohol test or for any reason terminates the
38 person's participation in the course of treatment, or commits any act
39 that would constitute an escape.

40 f. (1) Upon a first violation of any term or condition of the
41 special probation authorized by this section or of any requirements
42 of the course of treatment, the court in its discretion may
43 permanently revoke the person's special probation.

44 (2) Upon a second or subsequent violation of any term or
45 condition of the special probation authorized by this section or of
46 any requirements of the course of treatment, the court shall, subject
47 only to the provisions of subsection g. of this section, permanently
48 revoke the person's special probation unless the court finds on the

1 record that there is a substantial likelihood that the person will
2 successfully complete the treatment program if permitted to
3 continue on special probation, and the court is clearly convinced,
4 considering the nature and seriousness of the violations, that no
5 danger to the community will result from permitting the person to
6 continue on special probation pursuant to this section. The court's
7 determination to permit the person to continue on special probation
8 following a second or subsequent violation pursuant to this
9 paragraph may be appealed by the prosecution.

10 (3) In making its determination whether to revoke special
11 probation, and whether to overcome the presumption of revocation
12 established in paragraph (2) of this subsection, the court shall
13 consider the nature and seriousness of the present infraction and any
14 past infractions in relation to the person's overall progress in the
15 course of treatment, and shall also consider the recommendations of
16 the treatment provider. The court shall give added weight to the
17 treatment provider's recommendation that the person's special
18 probation be permanently revoked, or to the treatment provider's
19 opinion that the person is not amenable to treatment or is not likely
20 to complete the treatment program successfully.

21 (4) If the court permanently revokes the person's special
22 probation pursuant to this subsection, the court shall impose any
23 sentence that might have been imposed, or that would have been
24 required to be imposed, originally for the offense for which the
25 person was convicted or adjudicated delinquent. The court shall
26 conduct a de novo review of any aggravating and mitigating factors
27 present at the time of both original sentencing and resentencing. If
28 the court determines or is required pursuant to any other provision
29 of this chapter or any other law to impose a term of imprisonment,
30 the person shall receive credit for any time served in custody
31 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
32 treatment facility pursuant to this section, and for each day during
33 which the person satisfactorily complied with the terms and
34 conditions of special probation while committed pursuant to this
35 section to a residential treatment facility. The court, in determining
36 the number of credits for time spent in a residential treatment
37 facility, shall consider the recommendations of the treatment
38 provider.

39 (5) Following a violation, if the court permits the person to
40 continue on special probation pursuant to this section, the court
41 shall order the person to comply with such additional terms and
42 conditions, including but not limited to more frequent drug or
43 alcohol testing, as are necessary to deter and promptly detect any
44 further violation.

45 (6) Notwithstanding any other provision of this subsection, if
46 the person at any time refuses to undergo urine testing for drug or
47 alcohol usage as provided in subsection a. of this section, the court
48 shall, subject only to the provisions of subsection g. of this section,

1 permanently revoke the person's special probation.
2 Notwithstanding any other provision of this section, if the person at
3 any time while committed to the custody of a residential treatment
4 facility pursuant to this section commits an act that would constitute
5 an escape, the court shall forthwith permanently revoke the person's
6 special probation.

7 (7) An action for a violation under this section may be brought
8 by a probation officer or prosecutor or on the court's own motion.
9 Failure to complete successfully the required treatment program
10 shall constitute a violation of the person's special probation. In the
11 case of the temporary or continued management of a person's drug
12 or alcohol dependency by means of medication-assisted treatment
13 as defined herein, whenever supported by a report from the
14 treatment provider of existing satisfactory progress and reasonably
15 predictable long-term success with or without further medication-
16 assisted treatment, the person's use of the medication-assisted
17 treatment, even if continuing, shall not be the basis to constitute a
18 failure to complete successfully the treatment program. A person
19 who fails to comply with the terms of the person's special probation
20 pursuant to this section and is thereafter sentenced to imprisonment
21 in accordance with this subsection shall thereafter be ineligible for
22 entry into the Intensive Supervision Program, provided however
23 that this provision shall not affect the person's eligibility for entry
24 into the Intensive Supervision Program for a subsequent conviction.

25 As used in this section, the term "medication-assisted treatment"
26 means the use of any medications approved by the federal Food and
27 Drug Administration to treat substance use disorders, including
28 extended-release naltrexone, methadone, and buprenorphine, in
29 combination with counseling and behavioral therapies, to provide a
30 whole-patient approach to the treatment of substance use disorders.

31 g. When a person on special probation is subject to a
32 presumption of revocation on a second or subsequent violation
33 pursuant to paragraph (2) of subsection f. of this section, or when
34 the person refuses to undergo drug or alcohol testing pursuant to
35 paragraph (6) of subsection f. of this section, the court may, in lieu
36 of permanently revoking the person's special probation, impose a
37 term of incarceration for a period of not less than 30 days nor more
38 than six months, after which the person's term of special probation
39 pursuant to this section may be reinstated. In determining whether
40 to order a period of incarceration in lieu of permanent revocation
41 pursuant to this subsection, the court shall consider the
42 recommendations of the treatment provider with respect to the
43 likelihood that such confinement would serve to motivate the
44 person to make satisfactory progress in treatment once special
45 probation is reinstated. This disposition may occur only once with
46 respect to any person unless the court is clearly convinced that there
47 are compelling and extraordinary reasons to justify reimposing this
48 disposition with respect to the person. Any such determination by

1 the court to reimpose this disposition may be appealed by the
2 prosecution. Nothing in this subsection shall be construed to limit
3 the authority of the court at any time during the period of special
4 probation to order a person on special probation who is not subject
5 to a presumption of revocation pursuant to paragraph (2) of
6 subsection f. of this section to be incarcerated over the course of a
7 weekend, or for any other reasonable period of time, when the court
8 in its discretion determines that such incarceration would help to
9 motivate the person to make satisfactory progress in treatment.

10 h. The court, as a condition of its order, and after considering
11 the person's financial resources, shall require the person to pay that
12 portion of the costs associated with the person's participation in any
13 residential or nonresidential treatment program imposed pursuant to
14 this section which, in the opinion of the court, is consistent with the
15 person's ability to pay, taking into account the court's authority to
16 order payment or reimbursement to be made over time and in
17 installments.

18 i. The court shall impose, as a condition of the special
19 probation, any fine, penalty, fee or restitution applicable to the
20 offense for which the person was convicted or adjudicated
21 delinquent.

22 j. Where the court finds that a person has satisfied all of the
23 eligibility criteria for special probation and would otherwise be
24 required to be committed to the custody of a residential substance
25 use disorders treatment facility pursuant to the provisions of
26 subsection d. of this section, the court may temporarily suspend
27 imposition of all or any portion of the term of commitment to a
28 residential treatment facility and may instead order the person to
29 enter a nonresidential treatment program, provided that the court
30 finds on the record that:

31 (1) the person conducting the diagnostic assessment required
32 pursuant to paragraph (1) of subsection a. of this section has
33 recommended in writing that the proposed course of nonresidential
34 treatment services is clinically appropriate and adequate to address
35 the person's treatment needs; and

36 (2) no danger to the community would result from the person
37 participating in the proposed course of nonresidential treatment
38 services; and

39 (3) a suitable treatment provider is able and has agreed to
40 provide clinically appropriate nonresidential treatment services.

41 If the prosecutor objects to the court's decision to suspend the
42 commitment of the person to a residential treatment facility
43 pursuant to this subsection, the sentence of special probation
44 imposed pursuant to this section shall not become final for ten days
45 in order to permit the appeal by the prosecution of the court's
46 decision.

47 After a period of six months of nonresidential treatment, if the
48 court, considering all available information including but not

1 limited to the recommendation of the treatment provider, finds that
2 the person has made satisfactory progress in treatment and that
3 there is a substantial likelihood that the person will successfully
4 complete the nonresidential treatment program and period of special
5 probation, the court, on notice to the prosecutor, may permanently
6 suspend the commitment of the person to the custody of a
7 residential treatment program, in which event the special
8 monitoring provisions set forth in subsection k. of this section shall
9 no longer apply.

10 Nothing in this subsection shall be construed to limit the
11 authority of the court at any time during the term of special
12 probation to order the person to be committed to a residential or
13 nonresidential treatment facility if the court determines that such
14 treatment is clinically appropriate and necessary to address the
15 person's present treatment needs.

16 k. (1) When the court temporarily suspends the commitment of
17 the person to a residential treatment facility pursuant to subsection
18 j. of this section, the court shall, in addition to ordering
19 participation in a prescribed course of nonresidential treatment and
20 any other appropriate terms or conditions authorized or required by
21 law, order the person to undergo urine testing for drug or alcohol
22 use not less than once per week unless otherwise ordered by the
23 court. The court-ordered testing shall be conducted by the
24 probation department or the treatment provider. The results of all
25 tests shall be reported promptly to the court and to the prosecutor.
26 If the person is involved with a program that is providing the person
27 medication-assisted treatment as defined in paragraph (7) of
28 subsection f. of this section, only a positive urine test for drug or
29 alcohol use unrelated to the medication-assisted treatment shall
30 constitute a violation of the terms and conditions of special
31 probation. In addition, the court shall impose appropriate curfews
32 or other restrictions on the person's movements, and may order the
33 person to wear electronic monitoring devices to enforce such
34 curfews or other restrictions as a condition of special probation.

35 (2) The probation department or other appropriate agency shall
36 immediately notify the court and the prosecutor in the event that the
37 person fails or refuses to submit to a drug or alcohol test, knowingly
38 defrauds the administration of a drug test, terminates the person's
39 participation in the course of treatment, or commits any act that
40 would constitute absconding from parole. If the person at any time
41 while entered in a nonresidential treatment program pursuant to
42 subsection j. of this section knowingly defrauds the administration
43 of a drug test, goes into hiding, or leaves the State with a purpose of
44 avoiding supervision, the court shall permanently revoke the
45 person's special probation.

46 l. If the court finds that the person has made exemplary
47 progress in the course of treatment, the court may, upon
48 recommendation of the person's supervising probation officer or on

1 the court's own motion, and upon notice to the prosecutor, grant
2 early discharge from a term of special probation provided that the
3 person: (1) has satisfactorily completed the treatment program
4 ordered by the court; (2) has served at least two years of special
5 probation; (3) within the preceding 12 months, did not commit a
6 substantial violation of any term or condition of special probation,
7 including but not limited to a positive urine test, which shall only
8 constitute a violation for a person using medication-assisted
9 treatment as defined in paragraph (7) of subsection f. of this section
10 if the positive test is unrelated to the person's medication-assisted
11 treatment; and (4) is not likely to relapse or commit an offense if
12 probation supervision and related services are discontinued.

13 m. (1) The Superior Court may order the expungement of all
14 records and information relating to all prior arrests, detentions,
15 convictions, and proceedings for any offense enumerated in Title
16 2C of the New Jersey Statutes upon successful discharge from a
17 term of special probation as provided in this section, regardless of
18 whether the person was sentenced to special probation under this
19 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
20 1, if the person satisfactorily completed a substance abuse treatment
21 program as ordered by the court and was not convicted of any
22 crime, or adjudged a disorderly person or petty disorderly person,
23 during the term of special probation. The provisions of N.J.S.2C:52-
24 7 through N.J.S.2C:52-14 shall not apply to an expungement
25 pursuant to this paragraph and no fee shall be charged to a person
26 eligible for relief pursuant to this paragraph. The court shall grant
27 the relief requested unless it finds that the need for the availability
28 of the records outweighs the desirability of having the person freed
29 from any disabilities associated with their availability, or it finds
30 that the person is otherwise ineligible for expungement pursuant to
31 paragraph (2) of this subsection. An expungement under this
32 paragraph shall proceed in accordance with rules and procedures
33 developed by the Supreme Court.

34 (2) A person shall not be eligible for expungement under
35 paragraph (1) of this subsection if the records include a conviction
36 for any offense barred from expungement pursuant to subsection b.
37 or c. of N.J.S.2C:52-2, except for any offense set forth in paragraph
38 (2) of subsection a. of N.J.S.2C:24-4 if the person was a drug or
39 alcohol dependent person within the meaning of N.J.S.2C:35-2 and
40 was drug or alcohol dependent at the time of the commission of the
41 offense. It shall be the obligation of the prosecutor to notify the
42 court of any disqualifying convictions or any other factors related to
43 public safety that should be considered by the court when deciding
44 to grant an expungement under paragraph (1) of this subsection.

45 (3) The Superior Court shall provide a copy of the expungement
46 order granted pursuant to paragraph (1) of this subsection to the
47 prosecutor and to the person and, if the person was represented by
48 the Public Defender, to the Public Defender. The person or, if the

1 person was represented by the Public Defender, the Public Defender
2 on behalf of the person, shall promptly distribute copies of the
3 expungement order to appropriate agencies who have custody and
4 control of the records specified in the order so that the agencies may
5 comply with the requirements of N.J.S.2C:52-15.

6 (4) If the person whose records are expunged pursuant to
7 paragraph (1) of this subsection is convicted of any crime following
8 discharge from special probation, the full record of arrests and
9 convictions may be restored to public access and no future
10 expungement shall be granted to such person.

11 (5) A person who, prior to the effective date of P.L.2015, c.261,
12 was successfully discharged from a term of special probation as
13 provided in this section, regardless of whether the person was
14 sentenced to special probation under this section, section 2 of
15 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
16 expungement of all records and information relating to all arrests,
17 detentions, convictions, and proceedings for any offense
18 enumerated in Title 2C of the New Jersey Statutes that existed at
19 the time of discharge from special probation by presenting an
20 application to the Superior Court in the county in which the person
21 was sentenced to special probation, which contains a duly verified
22 petition as provided in N.J.S.2C:52-7 for each crime or offense
23 sought to be expunged. The petition for expungement shall proceed
24 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
25 related to the expiration of the time periods specified in
26 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
27 shall not apply. A person who was convicted of any offense barred
28 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
29 except for any offense set forth in paragraph (2) of subsection a. of
30 N.J.S.2C:24-4 if the person was a drug or alcohol dependent person
31 within the meaning of N.J.S.2C:35-2 and was drug or alcohol
32 dependent at the time of the commission of the offense, or who has
33 been convicted of any crime or offense since the date of discharge
34 from special probation shall not be eligible to apply for an
35 expungement under this paragraph. In addition, no application for
36 expungement shall be considered until any pending charges are
37 disposed. It shall be the obligation of the prosecutor to notify the
38 court of any disqualifying convictions or any other factors related to
39 public safety that should be considered by the court when deciding
40 to grant an expungement under this paragraph. The Superior Court
41 shall consider the person's verified petition and may order the
42 expungement of all records and information relating to all arrests,
43 detentions, convictions, and proceedings of the person that existed
44 at the time of discharge from special probation as appropriate. The
45 court shall grant the relief requested unless it finds that the need for
46 the availability of the records outweighs the desirability of having
47 the person freed from any disabilities associated with their
48 availability, or it finds that the person is otherwise ineligible for

1 expungement pursuant to this paragraph. No fee shall be charged to
2 a person eligible for relief pursuant to this paragraph.
3 (cf: P.L.2015, c.261, s.1)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would expand the offenses that are eligible for
11 expungement upon a defendant's successful discharge from special
12 probation (drug court). Under current law, upon successful
13 discharge from a term of special probation the Superior Court may
14 order the expungement of the defendant's records and information
15 relating to all prior arrests, detentions, convictions, and proceedings
16 for any offense set forth in Title 2C of the New Jersey Statutes.
17 However, the offenses set forth in subsection b. and c. of
18 N.J.S.2C:52-2 are barred from expungement. This bill would add
19 an exception to this provision and permit the expungement of
20 records that include a conviction for any offense set forth in
21 paragraph (2) of subsection a. of N.J.S.2C:24-4 (endangering the
22 welfare of a child by causing the child harm that would make the
23 child an abused or neglected child) if the person was a drug or
24 alcohol dependent person within the meaning of N.J.S.2C:35-2 and
25 was drug or alcohol dependent at the time of the commission of the
26 offense.

27 In addition, pursuant to paragraph (5) of subsection m. of
28 N.J.S.2C:35-14, an individual who, prior to the effective date of
29 P.L.2015, c.261, was successfully discharged from special
30 probation may seek an expungement of all records and information
31 relating to all arrests, detentions, convictions, and proceedings for
32 any offense provided in Title 2C of the New Jersey Statutes that
33 existed at the time of discharge. Any offenses set forth in
34 subsection b. and c. of N.J.S.2C:52-2 are barred from expungement.
35 This bill would also provide an exception if the individual was
36 convicted of any offense set forth in paragraph (2) of subsection a.
37 of N.J.S.2C:24-4 (endangering the welfare of a child by causing the
38 child harm that would make the child an abused or neglected child)
39 if the person was a drug or alcohol dependent person within the
40 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
41 time of the commission of the offense, in which case that individual
42 is eligible to apply for an expungement under N.J.S.2C:35-14.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4771

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4771.

This bill would expand the offenses that are eligible for expungement upon a defendant's successful discharge from special probation (drug court). Under current law, upon successful discharge from a term of special probation the Superior Court may order the expungement of the defendant's records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense set forth in Title 2C of the New Jersey Statutes. However, the offenses set forth in subsection b. and c. of N.J.S.2C:52-2 are barred from expungement. This bill would add an exception to this provision and permit the expungement of records that include a conviction for any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4 (endangering the welfare of a child by causing the child harm that would make the child an abused or neglected child) if the person was a drug or alcohol dependent person within the meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the time of the commission of the offense.

In addition, pursuant to paragraph (5) of subsection m. of N.J.S.2C:35-14, an individual who, prior to the effective date of P.L.2015, c.261, was successfully discharged from special probation may seek an expungement of all records and information relating to all arrests, detentions, convictions, and proceedings for any offense provided in Title 2C of the New Jersey Statutes that existed at the time of discharge. Any offenses set forth in subsection b. and c. of N.J.S.2C:52-2 are barred from expungement. This bill would also provide an exception if the individual was convicted of any offense set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4 (endangering the welfare of a child by causing the child harm that would make the child an abused or neglected child) if the person was a drug or alcohol dependent person within the meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the time of the commission of the offense, in which case that individual is eligible to apply for an expungement under N.J.S.2C:35-14.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4771

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4771.

This bill, as amended, would expand the offenses that are eligible for expungement after a defendant's successful discharge from special probation (drug court) to include certain, nonviolent offenses set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4, involving endangering the welfare of a child. It would create a separate process for expungement relief for a person with such a conviction, which is not expungable under any other available expungement process, and permit the person to make an application to generally expunge the person's entire criminal record following at least a 10-year period from when the person was successfully discharged from special probation.

Under current law, a successfully discharged person may obtain an order for the expungement of the person's records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense set forth in Title 2C of the New Jersey Statutes. However, if the person was convicted of any offense that is not expungable, as set forth in the general expungement law under subsection b. or c. of N.J.S.2C:52-2, which includes endangering the welfare of a child, that person is not eligible for this comprehensive expungement.

This bill would create a new process for the comprehensive special probation expungement, even if a person had a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4. Eligibility for expungement under the new process would require that: the person did not have any other conviction for an offense set forth under subsection b. or c. of N.J.S.2C:52-2; at least 10 years have passed since successful discharge from special probation; the person has not been convicted of any crime or offense since discharge; the person does not have any pending charges yet to be disposed of at the time of application; and the child endangerment conviction was determined by the Superior Court that receives the expungement petition to have been nonviolent based upon a review conducted by the county prosecutor reviewing the petition; the bill provides a list of acts of "abuse" or "cruelty," specifically defined in R.S.9:6-1, and "abused or neglected child," specifically defined in

subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), cross referenced by the crime of child endangerment, that would be considered violent due to the sexual nature of the act, or having a component of physical or mental harm specifically directed at a child, and which would thus render the person ineligible for the expungement relief established by the bill.

The person would present the application for relief to the Superior Court in the county in which the person was sentenced to special probation, containing a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition would then largely proceed in accordance with the general expungement law, N.J.S.2C:52-1 et seq., but include the particular review of the child endangerment crime in order to determine whether that crime was nonviolent, thus permitting the person to continue to proceed with the comprehensive expungement. It would be the obligation of the prosecutor to notify the court of any disqualifying convictions, any conviction for endangering the welfare of a child reviewed by the prosecutor and found to be violent, or any other factors related to public safety that should be considered by the court when deciding to grant an expungement.

The Superior Court would consider the person's verified petition and could order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court would grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement under the newly established process.

This bill, as amended and reported, is identical to Senate Bill No. 2951, also amended and reported by the committee today.

The committee amendments to the bill:

- create the alternative comprehensive expungement process for persons successfully discharged from special probation who have a conviction for a nonviolent criminal act of child endangerment, as described in the statement above; and
- eliminate any eligibility for a comprehensive expungement pursuant to the existing processes for persons discharged from special probation, if a person has a child endangerment conviction.

SENATE, No. 2951

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

**Senators Diegnan, Cryan, O'Scanlon, Testa, Rice, Stack, Vitale,
Cunningham, Ruiz and Pennacchio**

SYNOPSIS

Expands offenses eligible for expungement upon successful discharge from drug court.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/6/2022)

1 AN ACT concerning special probation and amending N.J.S.2C:35-
2 14.

3

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

6

7 1. N.J.S.2C:35-14 is amended to read as follows:

8 2C:35-14. Rehabilitation Program for Drug and Alcohol
9 Dependent Persons Subject to a Presumption of Incarceration or a
10 Mandatory Minimum Period of Parole Ineligibility; Criteria for
11 Imposing Special Probation; Ineligible Offenders; Commitment to
12 Residential Treatment Facilities or Participation in a Nonresidential
13 Treatment Program; Presumption of Revocation; Brief Incarceration
14 in Lieu of Permanent Revocation.

15 a. Any person who is ineligible for probation due to a
16 conviction for a crime which is subject to a presumption of
17 incarceration or a mandatory minimum period of parole ineligibility
18 may be sentenced to a term of special probation in accordance with
19 this section, and may not apply for drug and alcohol treatment
20 pursuant to N.J.S.2C:45-1. Nothing in this section shall be
21 construed to prohibit a person who is eligible for probation in
22 accordance with N.J.S.2C:45-1 due to a conviction for an offense
23 which is not subject to a presumption of incarceration or a
24 mandatory minimum period of parole ineligibility from applying for
25 drug or alcohol treatment as a condition of probation pursuant to
26 N.J.S.2C:45-1; provided, however, that a person in need of
27 treatment as defined in subsection f. of section 2 of P.L.2012, c.23
28 (C.2C:35-14.2) shall be sentenced in accordance with that section.
29 Notwithstanding the presumption of incarceration pursuant to the
30 provisions of subsection d. of N.J.S.2C:44-1, whenever a drug or
31 alcohol dependent person who is subject to sentencing under this
32 section is convicted of or adjudicated delinquent for an offense,
33 other than one described in subsection b. of this section, the court,
34 upon notice to the prosecutor, may, on motion of the person, or on
35 the court's own motion, place the person on special probation,
36 which shall be for a term of five years, provided that the court finds
37 on the record that:

38 (1) the person has undergone a professional diagnostic
39 assessment to determine whether and to what extent the person is
40 drug or alcohol dependent and would benefit from treatment; and

41 (2) the person is a drug or alcohol dependent person within the
42 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
43 time of the commission of the present offense; and

44 (3) the present offense was committed while the person was
45 under the influence of a controlled dangerous substance, controlled

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 substance analog or alcohol or was committed to acquire property
2 or monies in order to support the person's drug or alcohol
3 dependency; and

4 (4) substance use disorders treatment and monitoring will serve
5 to benefit the person by addressing the person's drug or alcohol
6 dependency and will thereby reduce the likelihood that the person
7 will thereafter commit another offense; and

8 (5) the person did not possess a firearm at the time of the
9 present offense and did not possess a firearm at the time of any
10 pending criminal charge; and

11 (6) the person has not been previously convicted on two or more
12 separate occasions of crimes of the first or second degree, other
13 than those listed in paragraph (7); or the person has not been
14 previously convicted on two or more separate occasions, where one
15 of the offenses is a crime of the third degree, other than crimes
16 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the
17 first or second degree; and

18 (7) the person has not been previously convicted or adjudicated
19 delinquent for, and does not have a pending charge of murder,
20 aggravated manslaughter, manslaughter, kidnapping, aggravated
21 assault, aggravated sexual assault or sexual assault, or a similar
22 crime under the laws of any other state or the United States; and

23 (8) a suitable treatment facility licensed and approved by the
24 Division of Mental Health and Addiction Services in the
25 Department of Human Services is able and has agreed to provide
26 appropriate treatment services in accordance with the requirements
27 of this section; and

28 (9) no danger to the community will result from the person
29 being placed on special probation pursuant to this section.

30 In determining whether to sentence the person pursuant to this
31 section, the court shall consider all relevant circumstances, and
32 shall take judicial notice of any evidence, testimony or information
33 adduced at the trial, plea hearing or other court proceedings, and
34 shall also consider the presentence report and the results of the
35 professional diagnostic assessment to determine whether and to
36 what extent the person is drug or alcohol dependent and would
37 benefit from treatment. The court shall give priority to a person
38 who has moved to be sentenced to special probation over a person
39 who is being considered for a sentence to special probation on the
40 court's own motion or in accordance with the provisions of section
41 2 of P.L.2012, c.23 (C.2C:35-14.2).

42 As a condition of special probation, the court shall order the
43 person to enter a residential treatment program at a facility licensed
44 and approved by the Division of Mental Health and Addiction
45 Services in the Department of Human Services or a program of
46 nonresidential treatment by a licensed and approved treatment
47 provider, which program may include the use of medication-
48 assisted treatment as defined in paragraph (7) of subsection f. of

1 this section, to comply with program rules and the requirements of
2 the course of treatment, to cooperate fully with the treatment
3 provider, and to comply with such other reasonable terms and
4 conditions as may be required by the court or by law, pursuant to
5 N.J.S.2C:45-1, and which shall include periodic urine testing for
6 drug or alcohol usage throughout the period of special probation. In
7 determining whether to order the person to participate in a
8 nonresidential rather than a residential treatment program, the court
9 shall follow the procedure set forth in subsection j. of this section.
10 Subject to the requirements of subsection d. of this section, the
11 conditions of special probation may include different methods and
12 levels of community-based or residential supervision.

13 b. A person shall not be eligible for special probation pursuant
14 to this section if the person is convicted of or adjudicated
15 delinquent for:

16 (1) a crime of the first degree;

17 (2) a crime of the first or second degree enumerated in
18 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), other
19 than a crime of the second degree involving N.J.S.2C:15-1
20 (robbery) or N.J.S.2C:18-2 (burglary);

21 (3) a crime, other than that defined in section 1 of P.L.1987,
22 c.101 (C.2C:35-7), for which a mandatory minimum period of
23 incarceration is prescribed under chapter 35 of this Title or any
24 other law; or

25 (4) an offense that involved the distribution or the conspiracy or
26 attempt to distribute a controlled dangerous substance or controlled
27 substance analog to a juvenile near or on school property.

28 c. (Deleted by amendment, P.L.2012, c.23)

29 d. Except as otherwise provided in subsection j. of this section,
30 a person convicted of or adjudicated delinquent for a crime of the
31 second degree or of a violation of section 1 of P.L.1987, c.101
32 (C.2C:35-7), or who previously has been convicted of or
33 adjudicated delinquent for an offense under subsection a. of
34 N.J.S.2C:35-5 or a similar offense under any other law of this State,
35 any other state or the United States, who is placed on special
36 probation under this section shall be committed to the custody of a
37 residential substance use disorders treatment facility licensed and
38 approved by the Division of Mental Health and Addiction Services
39 in the Department of Human Services. Subject to the authority of
40 the court to temporarily suspend imposition of all or any portion of
41 the term of commitment to a residential treatment facility pursuant
42 to subsection j. of this section, the person shall be committed to the
43 residential treatment facility immediately, unless the facility cannot
44 accommodate the person, in which case the person shall be
45 incarcerated to await commitment to the residential treatment
46 facility. The term of such commitment shall be for a minimum of
47 six months, or until the court, upon recommendation of the
48 treatment provider, determines that the person has successfully

1 completed the residential treatment program, whichever is later,
2 except that no person shall remain in the custody of a residential
3 treatment facility pursuant to this section for a period in excess of
4 five years. Upon successful completion of the required residential
5 treatment program, the person shall complete the period of special
6 probation, as authorized by subsection a. of this section, with credit
7 for time served for any imprisonment served as a condition of
8 probation and credit for each day during which the person
9 satisfactorily complied with the terms and conditions of special
10 probation while committed pursuant to this section to a residential
11 treatment facility. Except as otherwise provided in subsection l. of
12 this section, the person shall not be eligible for early discharge of
13 special probation pursuant to N.J.S.2C:45-2, or any other provision
14 of the law. The court, in determining the number of credits for time
15 spent in residential treatment, shall consider the recommendations
16 of the treatment provider. A person placed into a residential
17 treatment facility pursuant to this section shall be deemed to be
18 subject to official detention for the purposes of N.J.S.2C:29-5
19 (escape).

20 e. The probation department or other appropriate agency
21 designated by the court to monitor or supervise the person's special
22 probation shall report periodically to the court as to the person's
23 progress in treatment and compliance with court-imposed terms and
24 conditions. The treatment provider shall promptly report to the
25 probation department or other appropriate agency all significant
26 failures by the person to comply with any court imposed term or
27 condition of special probation or any requirements of the course of
28 treatment, including but not limited to a positive drug or alcohol
29 test, which shall only constitute a violation for a person using
30 medication-assisted treatment as defined in paragraph (7) of
31 subsection f. of this section if the positive test is unrelated to the
32 person's medication-assisted treatment, or the unexcused failure to
33 attend any session or activity, and shall immediately report any act
34 that would constitute an escape. The probation department or other
35 appropriate agency shall immediately notify the court and the
36 prosecutor in the event that the person refuses to submit to a
37 periodic drug or alcohol test or for any reason terminates the
38 person's participation in the course of treatment, or commits any act
39 that would constitute an escape.

40 f. (1) Upon a first violation of any term or condition of the
41 special probation authorized by this section or of any requirements
42 of the course of treatment, the court in its discretion may
43 permanently revoke the person's special probation.

44 (2) Upon a second or subsequent violation of any term or
45 condition of the special probation authorized by this section or of
46 any requirements of the course of treatment, the court shall, subject
47 only to the provisions of subsection g. of this section, permanently
48 revoke the person's special probation unless the court finds on the

1 record that there is a substantial likelihood that the person will
2 successfully complete the treatment program if permitted to
3 continue on special probation, and the court is clearly convinced,
4 considering the nature and seriousness of the violations, that no
5 danger to the community will result from permitting the person to
6 continue on special probation pursuant to this section. The court's
7 determination to permit the person to continue on special probation
8 following a second or subsequent violation pursuant to this
9 paragraph may be appealed by the prosecution.

10 (3) In making its determination whether to revoke special
11 probation, and whether to overcome the presumption of revocation
12 established in paragraph (2) of this subsection, the court shall
13 consider the nature and seriousness of the present infraction and any
14 past infractions in relation to the person's overall progress in the
15 course of treatment, and shall also consider the recommendations of
16 the treatment provider. The court shall give added weight to the
17 treatment provider's recommendation that the person's special
18 probation be permanently revoked, or to the treatment provider's
19 opinion that the person is not amenable to treatment or is not likely
20 to complete the treatment program successfully.

21 (4) If the court permanently revokes the person's special
22 probation pursuant to this subsection, the court shall impose any
23 sentence that might have been imposed, or that would have been
24 required to be imposed, originally for the offense for which the
25 person was convicted or adjudicated delinquent. The court shall
26 conduct a de novo review of any aggravating and mitigating factors
27 present at the time of both original sentencing and resentencing. If
28 the court determines or is required pursuant to any other provision
29 of this chapter or any other law to impose a term of imprisonment,
30 the person shall receive credit for any time served in custody
31 pursuant to N.J.S.2C:45-1 or while awaiting placement in a
32 treatment facility pursuant to this section, and for each day during
33 which the person satisfactorily complied with the terms and
34 conditions of special probation while committed pursuant to this
35 section to a residential treatment facility. The court, in determining
36 the number of credits for time spent in a residential treatment
37 facility, shall consider the recommendations of the treatment
38 provider.

39 (5) Following a violation, if the court permits the person to
40 continue on special probation pursuant to this section, the court
41 shall order the person to comply with such additional terms and
42 conditions, including but not limited to more frequent drug or
43 alcohol testing, as are necessary to deter and promptly detect any
44 further violation.

45 (6) Notwithstanding any other provision of this subsection, if
46 the person at any time refuses to undergo urine testing for drug or
47 alcohol usage as provided in subsection a. of this section, the court
48 shall, subject only to the provisions of subsection g. of this section,

1 permanently revoke the person's special probation.
2 Notwithstanding any other provision of this section, if the person at
3 any time while committed to the custody of a residential treatment
4 facility pursuant to this section commits an act that would constitute
5 an escape, the court shall forthwith permanently revoke the person's
6 special probation.

7 (7) An action for a violation under this section may be brought
8 by a probation officer or prosecutor or on the court's own motion.
9 Failure to complete successfully the required treatment program
10 shall constitute a violation of the person's special probation. In the
11 case of the temporary or continued management of a person's drug
12 or alcohol dependency by means of medication-assisted treatment
13 as defined herein, whenever supported by a report from the
14 treatment provider of existing satisfactory progress and reasonably
15 predictable long-term success with or without further medication-
16 assisted treatment, the person's use of the medication-assisted
17 treatment, even if continuing, shall not be the basis to constitute a
18 failure to complete successfully the treatment program. A person
19 who fails to comply with the terms of the person's special probation
20 pursuant to this section and is thereafter sentenced to imprisonment
21 in accordance with this subsection shall thereafter be ineligible for
22 entry into the Intensive Supervision Program, provided however
23 that this provision shall not affect the person's eligibility for entry
24 into the Intensive Supervision Program for a subsequent conviction.

25 As used in this section, the term "medication-assisted treatment"
26 means the use of any medications approved by the federal Food and
27 Drug Administration to treat substance use disorders, including
28 extended-release naltrexone, methadone, and buprenorphine, in
29 combination with counseling and behavioral therapies, to provide a
30 whole-patient approach to the treatment of substance use disorders.

31 g. When a person on special probation is subject to a
32 presumption of revocation on a second or subsequent violation
33 pursuant to paragraph (2) of subsection f. of this section, or when
34 the person refuses to undergo drug or alcohol testing pursuant to
35 paragraph (6) of subsection f. of this section, the court may, in lieu
36 of permanently revoking the person's special probation, impose a
37 term of incarceration for a period of not less than 30 days nor more
38 than six months, after which the person's term of special probation
39 pursuant to this section may be reinstated. In determining whether
40 to order a period of incarceration in lieu of permanent revocation
41 pursuant to this subsection, the court shall consider the
42 recommendations of the treatment provider with respect to the
43 likelihood that such confinement would serve to motivate the
44 person to make satisfactory progress in treatment once special
45 probation is reinstated. This disposition may occur only once with
46 respect to any person unless the court is clearly convinced that there
47 are compelling and extraordinary reasons to justify reimposing this
48 disposition with respect to the person. Any such determination by

1 the court to reimpose this disposition may be appealed by the
2 prosecution. Nothing in this subsection shall be construed to limit
3 the authority of the court at any time during the period of special
4 probation to order a person on special probation who is not subject
5 to a presumption of revocation pursuant to paragraph (2) of
6 subsection f. of this section to be incarcerated over the course of a
7 weekend, or for any other reasonable period of time, when the court
8 in its discretion determines that such incarceration would help to
9 motivate the person to make satisfactory progress in treatment.

10 h. The court, as a condition of its order, and after considering
11 the person's financial resources, shall require the person to pay that
12 portion of the costs associated with the person's participation in any
13 residential or nonresidential treatment program imposed pursuant to
14 this section which, in the opinion of the court, is consistent with the
15 person's ability to pay, taking into account the court's authority to
16 order payment or reimbursement to be made over time and in
17 installments.

18 i. The court shall impose, as a condition of the special
19 probation, any fine, penalty, fee or restitution applicable to the
20 offense for which the person was convicted or adjudicated
21 delinquent.

22 j. Where the court finds that a person has satisfied all of the
23 eligibility criteria for special probation and would otherwise be
24 required to be committed to the custody of a residential substance
25 use disorders treatment facility pursuant to the provisions of
26 subsection d. of this section, the court may temporarily suspend
27 imposition of all or any portion of the term of commitment to a
28 residential treatment facility and may instead order the person to
29 enter a nonresidential treatment program, provided that the court
30 finds on the record that:

31 (1) the person conducting the diagnostic assessment required
32 pursuant to paragraph (1) of subsection a. of this section has
33 recommended in writing that the proposed course of nonresidential
34 treatment services is clinically appropriate and adequate to address
35 the person's treatment needs; and

36 (2) no danger to the community would result from the person
37 participating in the proposed course of nonresidential treatment
38 services; and

39 (3) a suitable treatment provider is able and has agreed to
40 provide clinically appropriate nonresidential treatment services.

41 If the prosecutor objects to the court's decision to suspend the
42 commitment of the person to a residential treatment facility
43 pursuant to this subsection, the sentence of special probation
44 imposed pursuant to this section shall not become final for ten days
45 in order to permit the appeal by the prosecution of the court's
46 decision.

47 After a period of six months of nonresidential treatment, if the
48 court, considering all available information including but not

1 limited to the recommendation of the treatment provider, finds that
2 the person has made satisfactory progress in treatment and that
3 there is a substantial likelihood that the person will successfully
4 complete the nonresidential treatment program and period of special
5 probation, the court, on notice to the prosecutor, may permanently
6 suspend the commitment of the person to the custody of a
7 residential treatment program, in which event the special
8 monitoring provisions set forth in subsection k. of this section shall
9 no longer apply.

10 Nothing in this subsection shall be construed to limit the
11 authority of the court at any time during the term of special
12 probation to order the person to be committed to a residential or
13 nonresidential treatment facility if the court determines that such
14 treatment is clinically appropriate and necessary to address the
15 person's present treatment needs.

16 k. (1) When the court temporarily suspends the commitment of
17 the person to a residential treatment facility pursuant to subsection
18 j. of this section, the court shall, in addition to ordering
19 participation in a prescribed course of nonresidential treatment and
20 any other appropriate terms or conditions authorized or required by
21 law, order the person to undergo urine testing for drug or alcohol
22 use not less than once per week unless otherwise ordered by the
23 court. The court-ordered testing shall be conducted by the
24 probation department or the treatment provider. The results of all
25 tests shall be reported promptly to the court and to the prosecutor.
26 If the person is involved with a program that is providing the person
27 medication-assisted treatment as defined in paragraph (7) of
28 subsection f. of this section, only a positive urine test for drug or
29 alcohol use unrelated to the medication-assisted treatment shall
30 constitute a violation of the terms and conditions of special
31 probation. In addition, the court shall impose appropriate curfews
32 or other restrictions on the person's movements, and may order the
33 person to wear electronic monitoring devices to enforce such
34 curfews or other restrictions as a condition of special probation.

35 (2) The probation department or other appropriate agency shall
36 immediately notify the court and the prosecutor in the event that the
37 person fails or refuses to submit to a drug or alcohol test, knowingly
38 defrauds the administration of a drug test, terminates the person's
39 participation in the course of treatment, or commits any act that
40 would constitute absconding from parole. If the person at any time
41 while entered in a nonresidential treatment program pursuant to
42 subsection j. of this section knowingly defrauds the administration
43 of a drug test, goes into hiding, or leaves the State with a purpose of
44 avoiding supervision, the court shall permanently revoke the
45 person's special probation.

46 l. If the court finds that the person has made exemplary
47 progress in the course of treatment, the court may, upon
48 recommendation of the person's supervising probation officer or on

1 the court's own motion, and upon notice to the prosecutor, grant
2 early discharge from a term of special probation provided that the
3 person: (1) has satisfactorily completed the treatment program
4 ordered by the court; (2) has served at least two years of special
5 probation; (3) within the preceding 12 months, did not commit a
6 substantial violation of any term or condition of special probation,
7 including but not limited to a positive urine test, which shall only
8 constitute a violation for a person using medication-assisted
9 treatment as defined in paragraph (7) of subsection f. of this section
10 if the positive test is unrelated to the person's medication-assisted
11 treatment; and (4) is not likely to relapse or commit an offense if
12 probation supervision and related services are discontinued.

13 m. (1) The Superior Court may order the expungement of all
14 records and information relating to all prior arrests, detentions,
15 convictions, and proceedings for any offense enumerated in Title
16 2C of the New Jersey Statutes upon successful discharge from a
17 term of special probation as provided in this section, regardless of
18 whether the person was sentenced to special probation under this
19 section, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-
20 1, if the person satisfactorily completed a substance abuse treatment
21 program as ordered by the court and was not convicted of any
22 crime, or adjudged a disorderly person or petty disorderly person,
23 during the term of special probation. The provisions of N.J.S.2C:52-
24 7 through N.J.S.2C:52-14 shall not apply to an expungement
25 pursuant to this paragraph and no fee shall be charged to a person
26 eligible for relief pursuant to this paragraph. The court shall grant
27 the relief requested unless it finds that the need for the availability
28 of the records outweighs the desirability of having the person freed
29 from any disabilities associated with their availability, or it finds
30 that the person is otherwise ineligible for expungement pursuant to
31 paragraph (2) of this subsection. An expungement under this
32 paragraph shall proceed in accordance with rules and procedures
33 developed by the Supreme Court.

34 (2) A person shall not be eligible for expungement under
35 paragraph (1) of this subsection if the records include a conviction
36 for any offense barred from expungement pursuant to subsection b.
37 or c. of N.J.S.2C:52-2, except for any offense set forth in paragraph
38 (2) of subsection a. of N.J.S.2C:24-4 if the person was a drug or
39 alcohol dependent person within the meaning of N.J.S.2C:35-2 and
40 was drug or alcohol dependent at the time of the commission of the
41 offense. It shall be the obligation of the prosecutor to notify the
42 court of any disqualifying convictions or any other factors related to
43 public safety that should be considered by the court when deciding
44 to grant an expungement under paragraph (1) of this subsection.

45 (3) The Superior Court shall provide a copy of the expungement
46 order granted pursuant to paragraph (1) of this subsection to the
47 prosecutor and to the person and, if the person was represented by
48 the Public Defender, to the Public Defender. The person or, if the

1 person was represented by the Public Defender, the Public Defender
2 on behalf of the person, shall promptly distribute copies of the
3 expungement order to appropriate agencies who have custody and
4 control of the records specified in the order so that the agencies may
5 comply with the requirements of N.J.S.2C:52-15.

6 (4) If the person whose records are expunged pursuant to
7 paragraph (1) of this subsection is convicted of any crime following
8 discharge from special probation, the full record of arrests and
9 convictions may be restored to public access and no future
10 expungement shall be granted to such person.

11 (5) A person who, prior to the effective date of P.L.2015, c.261,
12 was successfully discharged from a term of special probation as
13 provided in this section, regardless of whether the person was
14 sentenced to special probation under this section, section 2 of
15 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an
16 expungement of all records and information relating to all arrests,
17 detentions, convictions, and proceedings for any offense
18 enumerated in Title 2C of the New Jersey Statutes that existed at
19 the time of discharge from special probation by presenting an
20 application to the Superior Court in the county in which the person
21 was sentenced to special probation, which contains a duly verified
22 petition as provided in N.J.S.2C:52-7 for each crime or offense
23 sought to be expunged. The petition for expungement shall proceed
24 pursuant to N.J.S.2C:52-1 et seq. except that the requirements
25 related to the expiration of the time periods specified in
26 N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1)
27 shall not apply. A person who was convicted of any offense barred
28 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2,
29 except for any offense set forth in paragraph (2) of subsection a. of
30 N.J.S.2C:24-4 if the person was a drug or alcohol dependent person
31 within the meaning of N.J.S.2C:35-2 and was drug or alcohol
32 dependent at the time of the commission of the offense, or who has
33 been convicted of any crime or offense since the date of discharge
34 from special probation shall not be eligible to apply for an
35 expungement under this paragraph. In addition, no application for
36 expungement shall be considered until any pending charges are
37 disposed. It shall be the obligation of the prosecutor to notify the
38 court of any disqualifying convictions or any other factors related to
39 public safety that should be considered by the court when deciding
40 to grant an expungement under this paragraph. The Superior Court
41 shall consider the person's verified petition and may order the
42 expungement of all records and information relating to all arrests,
43 detentions, convictions, and proceedings of the person that existed
44 at the time of discharge from special probation as appropriate. The
45 court shall grant the relief requested unless it finds that the need for
46 the availability of the records outweighs the desirability of having
47 the person freed from any disabilities associated with their
48 availability, or it finds that the person is otherwise ineligible for

1 expungement pursuant to this paragraph. No fee shall be charged to
2 a person eligible for relief pursuant to this paragraph.

3 (cf: P.L.2015, c.261, s.1)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would expand the offenses that are eligible for
11 expungement upon a defendant's successful discharge from special
12 probation (drug court). Under current law, upon successful
13 discharge from a term of special probation the Superior Court may
14 order the expungement of the defendant's records and information
15 relating to all prior arrests, detentions, convictions, and proceedings
16 for any offense set forth in Title 2C of the New Jersey Statutes.
17 However, the offenses set forth in subsection b. and c. of
18 N.J.S.2C:52-2 are barred from expungement. This bill would add
19 an exception to this provision and permit the expungement of
20 records that include a conviction for any offense set forth in
21 paragraph (2) of subsection a. of N.J.S.2C:24-4 (endangering the
22 welfare of a child by causing the child harm that would make the
23 child an abused or neglected child) if the person was a drug or
24 alcohol dependent person within the meaning of N.J.S.2C:35-2 and
25 was drug or alcohol dependent at the time of the commission of the
26 offense.

27 In addition, pursuant to paragraph (5) of subsection m. of
28 N.J.S.2C:35-14, an individual who, prior to the effective date of
29 P.L.2015, c.261, was successfully discharged from special
30 probation may seek an expungement of all records and information
31 relating to all arrests, detentions, convictions, and proceedings for
32 any offense provided in Title 2C of the New Jersey Statutes that
33 existed at the time of discharge. Any offenses set forth in
34 subsection b. and c. of N.J.S.2C:52-2 are barred from expungement.
35 This bill would also provide an exception if the individual was
36 convicted of any offense set forth in paragraph (2) of subsection a.
37 of N.J.S.2C:24-4 (endangering the welfare of a child by causing the
38 child harm that would make the child an abused or neglected child)
39 if the person was a drug or alcohol dependent person within the
40 meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the
41 time of the commission of the offense, in which case that individual
42 is eligible to apply for an expungement under N.J.S.2C:35-14.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2951

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2951.

This bill, as amended, would expand the offenses that are eligible for expungement after a defendant's successful discharge from special probation (drug court) to include certain, nonviolent offenses set forth in paragraph (2) of subsection a. of N.J.S.2C:24-4, involving endangering the welfare of a child. It would create a separate process for expungement relief for a person with such a conviction, which is not expungable under any other available expungement process, and permit the person to make an application to generally expunge the person's entire criminal record following at least a 10-year period from when the person was successfully discharged from special probation.

Under current law, a successfully discharged person may obtain an order for the expungement of the person's records and information relating to all prior arrests, detentions, convictions, and proceedings for any offense set forth in Title 2C of the New Jersey Statutes. However, if the person was convicted of any offense that is not expungable, as set forth in the general expungement law under subsection b. or c. of N.J.S.2C:52-2, which includes endangering the welfare of a child, that person is not eligible for this comprehensive expungement.

This bill would create a new process for the comprehensive special probation expungement, even if a person had a conviction for endangering the welfare of a child under paragraph (2) of subsection a. of N.J.S.2C:24-4. Eligibility for expungement under the new process would require that: the person did not have any other conviction for an offense set forth under subsection b. or c. of N.J.S.2C:52-2; at least 10 years have passed since successful discharge from special probation; the person has not been convicted of any crime or offense since discharge; the person does not have any pending charges yet to be disposed of at the time of application; and the child endangerment conviction was determined by the Superior Court that receives the expungement petition to have been nonviolent based upon a review conducted by the county prosecutor reviewing the petition; the bill provides a list of acts of "abuse" or "cruelty," specifically defined in R.S.9:6-1, and "abused or neglected child," specifically defined in

subsection c. of section 1 of P.L.1974, c.119 (C.9:6-8.21), cross referenced by the crime of child endangerment, that would be considered violent due to the sexual nature of the act, or having a component of physical or mental harm specifically directed at a child, and which would thus render the person ineligible for the expungement relief established by the bill.

The person would present the application for relief to the Superior Court in the county in which the person was sentenced to special probation, containing a duly verified petition as provided in N.J.S.2C:52-7 for each crime or offense sought to be expunged. The petition would then largely proceed in accordance with the general expungement law, N.J.S.2C:52-1 et seq., but include the particular review of the child endangerment crime in order to determine whether that crime was nonviolent, thus permitting the person to continue to proceed with the comprehensive expungement. It would be the obligation of the prosecutor to notify the court of any disqualifying convictions, any conviction for endangering the welfare of a child reviewed by the prosecutor and found to be violent, or any other factors related to public safety that should be considered by the court when deciding to grant an expungement.

The Superior Court would consider the person's verified petition and could order the expungement of all records and information relating to all arrests, detentions, convictions, and proceedings of the person that existed at the time of discharge from special probation as appropriate. The court would grant the relief requested unless it finds that the need for the availability of the records outweighs the desirability of having the person freed from any disabilities associated with their availability, or it finds that the person is otherwise ineligible for expungement under the newly established process.

This bill, as amended and reported, is identical to Assembly Bill No. 4771, also amended and reported by the committee today.

The committee amendments to the bill:

- create the alternative comprehensive expungement process for persons successfully discharged from special probation who have a conviction for a nonviolent criminal act of child endangerment, as described in the statement above; and
- eliminate any eligibility for a comprehensive expungement pursuant to the existing processes for persons discharged from special probation, if a person has a child endangerment conviction.

Governor Murphy Takes Action on Legislation

01/18/2022

TRENTON – Governor Murphy today signed the following bills:

S-384/A-1964 (Weinberg, Singleton/Stanley, Munoz, McKeon, Sumter, Lampitt, Vainieri Huttle, Wimberly, Mosquera, Downey, Chiaravalloti) – Expands training for judges, law enforcement officers and assistant county prosecutors concerning handling of domestic violence cases

S-386/A-1763 (Weinberg, Singleton/Munoz, Vainieri Huttle, Downey, Mosquera, Lampitt, Benson) - Establishes mandatory domestic violence training for municipal prosecutors

S-396/A-4903 (Weinberg, Addiego/Johnson, Mukherji) – Adjusts statute of limitations on damage claim for construction defect in common interest communities

S-705/A-1077 (Ruiz, Cunningham/Speight, Vainieri Huttle, Downey) – Requires DOH to develop and implement plan to improve access to perinatal mood and anxiety disorder screening

SCS for S-844 and 2533/ACS for A-4635 (Pou, Greenstein/Zwicker, Lopez) – Revises reporting requirements for charitable organizations and non-profit corporations

S-867/A-2316 (Pou/Jimenez, Giblin, Johnson) – Permits physical therapists to perform dry needling under certain circumstances

S-896/A-2396 (Pou, Turner/Wimberly, Timberlake, Murphy) – Expands Office of Public Defender representation of juveniles; repeals section 4 of P.L.1968, c.371

S-969WGR/ACS for A-2687 (Ruiz, Turner/Mazzeo, Lampitt, Moen) – Establishes loan redemption program for certain teachers to redeem loan amounts received under New Jersey College Loans to Assist State Students Loan Program through employment in certain schools; makes annual appropriation of \$1 million

S-994/A-6248 (Sweeney, Singleton/Lopez) – Requires State agencies and political subdivisions to make good faith effort to purchase five percent of goods and services from Central Nonprofit Agency

SCS for S-1016/ACS for A-2070 (Smith, Bateman/Calabrese, Mukherji, Benson) – Restricts use of neonicotinoid pesticides

S-1020/AS for ACS for A-1184 and 4414 (Ruiz, Gopal/Zwicker, Conaway, Verrelli, Caputo) – Requires School Report Card to include demographic breakdown of students who receive disciplinary actions; requires Commissioner of Education to establish Statewide database concerning certain disciplinary actions

S-1559/A-1659 (Scutari, Diegnan/Quijano, Bramnick, Mukherji, Sumter, Downey, Dancer) – “New Jersey Insurance Fair Conduct Act”

S-1771/A-1489 (Madden, Turner/Moriarty, Mosquera, Vainieri Huttle) – Expressly prohibits invasive examination of unconscious patient by health care practitioner without patient’s prior informed written consent

S-2160wGR/A-5701 (Sweeney, Oroho, Singer/Carter, Lampitt, Jasey) – Creates special education unit within the Office of Administrative Law; requires annual report

SCS for S-2515/ACS for A-4676 (Smith, Greenstein/Quijano, Jasey, McKeon) – Establishes postconsumer recycled content requirements for rigid plastic containers, glass containers, paper and plastic carryout bags, and plastic trash bags; prohibits sale of polystyrene loose fill packaging

S-2723/A-2614 (Sweeney, Turner/Murphy, Benson, Timberlake) – “21st Century Integrated Digital Experience Act”

S-2830/A-5291 (Ruiz, Singleton/Quijano) – Requires educator preparation program to report passing rates of students who complete certain tests and to disseminate information on test fee waiver programs, and permits collection of student fee for certain testing costs

S-2835/A-5292 (Ruiz, Cunningham/Quijano, Lampitt, Jasey) – Requires compilation of data and issuance of annual reports on New Jersey teacher workforce

S-2921/A-5554 (Gopal, Greenstein/Houghtaling, Downey, Mukherji) – Allows municipalities to designate outdoor areas upon which people may consume alcoholic beverages

S-3009/A-4847 (Vitale, Gopal, Gill/Vainieri Huttle, Quijano, Verrelli) – Authorizes expanded provision of harm reduction services to distribute sterile syringes and provide certain support services to persons who use drugs intravenously

S-3081/A-5219 (Singleton/McKeon, Dunn) – Repeals law concerning excess rates and charges for title insurance; makes agreement to use services of title or settlement service company subject to attorney review

S-3164/A-4987 (Gopal, Singleton/Houghtaling, Vainieri Huttle, Giblin) – Creates NJ Legislative Youth Council

S-3265/A-5074 (Diegnan, Greenstein/DeAngelo, Dancer, Mukherji) – Permits members of SPRS to purchase service credit for prior public employment with federal government or another state

S-3342/A-5463 (Codey, Singleton/Jasey, Giblin, Timberlake) – Directs NJT to erect statue in honor of A. Philip Randolph; appropriates \$90,000

S-3465/A-4336 (Oroho, Sweeney/Houghtaling, Space) – Directs Department of Agriculture to pay annual premiums to enrolled dairy farmers for certain coverage under the federal Dairy Margin Coverage Program; appropriates \$125,000

S-3488wGR/A-5537 (Sweeney, Gopal, O'Scanlon/Burzichelli, Dancer, Spearman) – Modifies certain procedures pertaining to school district regionalization; establishes grant program for cost reimbursement of conducting regionalization feasibility studies; and provides financial incentives for regionalization

S-3493/A-5458 (Vitale, Gill/Vainieri Huttle, Mukherji, McKnight) – Permits expungement of possession or distribution of hypodermic syringe or needle offense in cases of previous expungement; repeals criminal offense of possession of syringe

S-3539/A5409 (T. Kean, Gopal/Houghtaling) – Directs DEP to establish grant program for local governments to support development of community gardens

S-3594/A-5509 (Singleton, Scutari/Zwicker, Reynolds-Jackson, Verrelli) – Provides that in personal

injury or wrongful death lawsuits, calculations of lost or impaired earnings capacity not be reduced because of race, ethnicity, gender identity or expression, or affectional or sexual orientation

S-3672/A-6009 (Singleton, Turner, Moen, Johnson, McKnight) – Permits exemption from civil service examination requirement for entry-level law enforcement officers, sheriff's officers, and State and county correctional police officers; permits hiring or appointment of such officers under certain conditions, and makes appropriation

S-3673/A-6219 (Gopal, Greenstein/Burzichelli) – Authorizes limited breweries and craft distilleries to sell at retail and offer for sampling purposes product bottled and stored off-site under certain circumstances

S-3685/A-5576 (Ruiz, Codey/Jasey, Lampitt, Mukherji) – Permits teacher and professional staff member who provides special services retired from TPAF to return to employment for up to two years without reenrollment in TPAF if employment commences during 2021-2022 and 2022-2023 school years

S-3707/A-5673 (Vitale, Ruiz/Vainieri Huttle, Downey, Zwicker) – Repeals statute criminalizing sexual penetration while infected with venereal disease or HIV under certain circumstances; requires that in prosecutions for endangering another by creating substantial risk of transmitting infectious disease, name of defendant and other person be kept confidential

S-3764/A-3369 (Gopal, Weinberg/Johnson, Stanley, Karabinchak) – Establishes Commission on Asian American Heritage in DOE

S-3810/ACS for A-5862 (Sweeney, Addiego, Greenstein/Benson, Quijano) – "Responsible Collective Negotiations Act"

S-3968/A-5930 (Singleton, Beach/Sumter, Karabinchak) – Increases purchasing threshold permitting Director of Division of Purchase and Property to delegate authority to agencies; increases bid advertising threshold on certain contracts by same scale

S-3975/A-5963 (Greenstein, Oroho/Benson, Vainieri Huttle, DeAngelo) – Establishes requirements to commence screening newborn infants for congenital cytomegalovirus infection; establishes public awareness campaign

S-4004wGR/A-5950 (Weinberg, Greenstein/Sumter, Benson, Reynolds-Jackson) – Establishes database of certain appointed positions and elected offices

S-4020/A-5867 (Gopal, Cunningham/Chiaravalloti, Jasey, Carter) – Expands bonding authority of New Jersey Educational Facilities Authority to permit financing for general funding needs at New Jersey's institutions of higher education

S-4021/A-6100 (Gopal, Ruiz/Mukherji, Jasey, Timberlake, Stanley) – Requires school districts to provide instruction on history and contributions of Asian Americans and Pacific Islanders as part of implementation of New Jersey Student Learning Standards in Social Studies

S-4043/A-6005 (Cunningham/Jasey, Greenwald) – Raises statutory threshold for certain public bidding, permits bidder disqualification due to prior negative experience, adds exemptions to public bidding requirement under "State College Contracts Law," and establishes process for cooperative pricing system

S-4063/A-6220 (Sweeney/Giblin, Egan) – Removes New Jersey Maritime Pilot and Docking Pilot Commission from appropriations act provision that limits compensation and health benefits; clarifies PERS and SHBP eligibility for members of commission

S-4068/ACS for A-6110 and 6185 (Sarlo, Oroho/Benson, Mukherji, Bramnick) – Revises elective pass-through entity business alternative income tax

S-4074wGR/A-6000 (Ruiz, Beach/Verrelli, Lampitt, Carter) – Allows alternative evaluation in place of basic skills testing requirements for certain teacher certification

SCS for S-4102/A-6230 (Sweeney, Ruiz/Benson, Mejia, Zwicker) – Establishes Direct Support Professional Career Development Program; appropriates \$1,000,000

S-4128/A-6231 (Sweeney, Pou/Houghtaling, Conaway, Dancer) – Requires that only fruits and vegetables grown and packaged in NJ may be labeled by food retailers as local to State

S-4207/A-6119 (Sweeney, Beach/Mukherji, Egan, Pintor Marin) – Concerns apprenticeship programs of public works contractors

S-4210/A-6062 (Sweeney, Greenstein/Greenwald, McKnight, Mukherji) – Requires EDA to establish loan program to assist certain businesses with funding to provide reasonable accommodations for employees with disabilities

S-4211/A-6228 (Sweeney, Corrado/Benson, Speight, Zwicker) – Establishes county college-based adult centers for transition for individuals with developmental disabilities; makes annual appropriation of \$4.5 million

S-4218/A-6256 (Scutari/Reynolds-Jackson, Wimberly, Mukherji) – Appropriates \$2 million to CRDA to support costs associated with hosting NAACP National Convention in Atlantic City

S-4233/A-6229 (Scutari, Gopal/Mukherji, Jimenez) – Limits fees charged to patients and authorized third parties for copies of medical and billing records

S-4252/A-6182 (Madden/Murphy, Chaparro) – Limits extension of mandatory retirement to 90 days from State Police Retirement System during emergencies

A-259/S-2224 (DeAngelo, Mukherji, Benson/Gopal, Pennacchio) – Provides civil service preference to military service members who did not serve in theater of operation but received campaign or expedition medal

A-798/S-52 (Verrelli, Vainieri Huttie, Armato/Singer, Greenstein) – Establishes local drug overdose fatality review teams

A-802/S-1352 (Verrelli, Reynolds-Jackson, Murphy/Turner, Pou) – Requires certain retailers to train employees on gift card fraud

A-862wGR/S-962 (Chiaravalloti, Karabinchak/Pennacchio, Pou) – Permits municipalities to refund excess property taxes paid by a taxpayer who wins an assessment appeal as a property tax credit

A-953/S-4031 (Karabinchak, Houghtaling/Pou) – Requires architects disclose insurance coverage

ACS for A-998 and 2349/S-4312 (Moen, Downey, Houghtaling, Benson, Vainieri Huttie/Ruiz, Beach, Singleton) – The “New Jersey Social Innovation Act”; establishes social innovation loan pilot program and study commission within EDA

A-1121/S-1871 (Murphy, Dancer, Stanley/Lagana, Pennacchio) – Upgrades certain crimes of misrepresenting oneself as member or veteran of US Armed Forces or organized militia

A-1219wGR/S-1054 (Chaparro, McKnight/Stack) – Requires owner notification of rabies testing protocol prior to testing of owner’s animal for rabies

A-1229wGR/S-2161 (Schaer, Mosquera, Tucker, Lampitt, Vainieri Huttle, Quijano, Wimberly, Pintor Marin, Jasey/Turner, Singleton) – Requires DCA to make information on homeless prevention programs and services available on its Internet website

A-1293/S-3977 (Greenwald, Burzichelli, Mukherji/Greenstein, Gopal) – Establishes advisory council for the brewery, cidery, meadery, and distillery industries in NJ and provides for funding through certain alcoholic beverage tax receipts

A-1663/S-1842 (Quijano, Vainieri Huttle, Karabinchak/Cryan, Scutari) – Establishes “New Jersey Nonprofit Security Grant Program”

A-2186/S-1599 (Mukherji, Chaparro, McKnight/Codey, Pou) – Establishes Statewide database of beds in shelters for the homeless

A-2360/S-3285 (Chaparro, Karabinchak, Johnson/Greenstein, Stack) – Requires electric public utility to charge residential rate for service used by residential customer for electric vehicle charging at charging stations within certain designated parking spaces

A-2685wGR/S-4209 (Armato, Mazzeo, Mukherji/Stack) – Concerns information on property condition disclosure statement

A-2772/S-1040 (Downey, Houghtaling, Benson/Gopal) – Authorizes certain Medicaid recipients residing on post-secondary school campus to participate remotely in meetings of non-medical nature regarding Medicaid benefits

A-2877/S-1149 (Dancer, Vainieri Huttle, Reynolds-Jackson/Ruiz) – Requires registration of certain vacant and abandoned properties with municipalities and provides enforcement tools related to maintenance of these properties

A-3007/S-3127 (Lampitt, Dunn, Benson/Lagana, Gopal) – Requires institutions of higher education to provide students with access to mental health care programs and services and to establish a hotline to provide information concerning the availability of those services

A-3392/S-1219 (Reynolds-Jackson, Timberlake, Jasey/Turner, Beach) – Requires student representative be appointed to each board of education of school district and board of trustees of charter school that includes grades nine through 12

A-3804/S-1590 (Armato, Murphy, S. Kean/Beach, A.M. Bucco) – Designates 9-1-1 operators or dispatchers as 9-1-1 first responder dispatchers

A-3870/S-2807 (Karabinchak, Johnson, Mukherji/Greenstein, Pou) – “Defense Against Porch Pirates Act”; amends theft statute

A-3950wGR/S-3180 (Verrelli, Benson, Zwicker/Greenstein, Turner) – Prohibits employer use of tracking device in vehicle operated by employee under certain circumstances

A-4002wGR/S-2257 (Caputo, Dancer, Murphy/Gopal, Sarlo) – Allows deduction of promotional gaming credit from gross revenue on sports wagering

A-4232/S-4231 (Houghtaling, Dancer, Wirths/Oroho, Smith) – Creates program in Department of Agriculture for deer fencing on certain farmland

A-4238/S-2561 (Chiaravalloti, Schaer, Benson/Gopal, Singer) – Establishes minimum Medicaid reimbursement rate for adult medical day care services

A-4241/S-2894 (Downey, Vainieri Huttle, Murphy/Pou) – Requires DHS to conduct biennial survey of SNAP experience

ACS for A-4253/S-3233 (Conaway, Pinkin, Jimenez/Cryan) – Requires certain electronic medical programs to include demographic data entry feature; requires laboratories to record certain patients' demographic information; requires certain hospitals and laboratories to implement cultural competency training program

A-4366/S-2801 (Taliaferro, Sumter, Mukherji/Pou, Greenstein) – Requires Police Training Commission to contract with crisis intervention training center to provide mental health training to police officers and establish curriculum specific to persons experiencing economic crisis or substance use disorder

A-4434wGR/S-2716 (Greenwald, Lampitt, Mukherji/Beach, Ruiz) – Establishes Student Wellness Grant Program in DOE

A-4478/S2759 (Vainieri Huttle, Speight, Schepisi, DeCroce/Vitale, Madden) – Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes

A-4569/S-3535 (Reynolds-Jackson, Benson, Karabinchak/Turner) – Requires BPU, electric power suppliers, and gas suppliers to publish certain information related to filing of customer complaints

ACS for A-4655/S-3595 (Reynolds-Jackson, Wimberly, Carter/Turner) – Limits police presence at polling places and ballot drop boxes; prohibits electioneering within 100 feet of ballot drop box

A-4771/S-2951 (Downey, Armato, Mukherji/Gopal, Singleton) – Expands offenses eligible for expungement upon successful discharge from drug court

A-4856/S-3094 (Lampitt, Benson, Caputo/Ruiz, Beach) – Requires Internet websites and web services of school districts, charter schools, renaissance schools, and the Marie H. Katzenbach School for the Deaf to be accessible to persons with disabilities

A-5033wGR/S-3279 (Benson, Dancer, Verrelli/Gopal) – Authorizes motor vehicle dealers to sell motor vehicles online and obtain electronic signatures for motor vehicle transactions

ACS for A-5075wGR/S-4001 (Burzichelli, Dancer, Johnson/Sweeney, A.M. Bucco) – Removes Fire Museum and Fallen Firefighters Memorial from auspices of DEP and establishes museum as independent organization; makes \$200,000 supplemental appropriation

A-5160/S-3324 (DeAngelo, Conaway, Zwicker/Smith, Bateman) – Establishes minimum energy and water efficiency standards for certain products sold, offered for sale, or leased in the State

A-5294/S-3418 (Speight, Vainieri Huttle, Verrelli/Gopal, Madden) – Provides fast track hiring and advancement employment opportunities by State for persons with significant disabilities

A-5296/S-3426 (Speight, Vainieri Huttle, McKnight/T. Kean, Schepisi) – Provides for employment by State of certain persons with disabilities

A-5322/S-3433 (Mosquera, Vainieri Huttle, DePhillips/Cruz-Perez, T. Kean) – Provides for process to vacate and expunge certain arrests, charges, complaints, convictions, other dispositions, and DNA

records, associated with violations by certain human trafficking victims

A-5336wGR/S-3441 (Benson, Freiman, Vainieri Huttie/Diegnan, Madden) – Requires DHS to establish payment programs for purchase of transportation services from private sector and government transportation service providers

A-5439/S-3760 (Caputo, Dancer, Murphy/Gopal, Beach) – Changes deadline for New Jersey Racing Commission's annual report from end of calendar year to end of State fiscal year

A-5694/S-3783 (Houghtaling, Downey, Dancer/Gopal, Madden) – Permits dependents of military member to enroll in school district in advance of military member's relocation to district

A-5814/S-3851 (Swain, Tully, Benson/Lagana, Diegnan) – Creates Office of School Bus Safety in Department of Education; appropriates \$200,000

A-5864wGR/S-3939 (Speight, Pintor Marin, Chaparro, McKnight, DeAngelo, Bergen/Gopal, Cryan) – Allows law enforcement officers to review body worn camera recordings prior to creating initial report

A-5997/S-4084 (Coughlin, Lopez/Sweeney, O'Scanlon) – Removes requirement for Legislature, DOE, free public libraries, and historical societies to purchase "Manual of the Legislature of New Jersey"

A-6012/S-4076 (Moen, Murphy, Freiman/Sarlo, Gopal) – Appropriates \$500,000 for USS New Jersey Commissioning Committee to support commissioning of boat and assigned personnel

A-6020/S-4114 (Conaway, Jimenez, Vainieri Huttie/Codey) – Establishes requirements for certain tobacco product retailers to stock and sell nicotine replacement therapy products

A-6060/S-4272 (Tucker, Caputo, Mukherji/Cunningham) – Makes supplemental appropriation of \$8 million to DHS to increase reimbursement for funeral, burial, and crematory services provided to certain beneficiaries of Work First New Jersey and Supplemental Security Income programs

A-6073/S-4140 (Verrelli/Vitale) – Temporarily waives certain basic life support services crewmember requirements

A-6093/S-4201 (Stanley, Benson, Timberlake/Greenstein, Gopal) – Mandates periodic cancer screening examinations for firefighters enrolled in SHBP

A-6108wGR/S-4247 (DeAngelo, Egan, Houghtaling/Madden) – Updates licenses offered by and certain licensure requirements from Board of Examiners of Electrical Contractors

A-6132/S-4235 (Schaer, Greenwald, Conaway/Singer, Gopal) – Permits volunteer paramedics to operate within mobile intensive care units

A-6133/S-4251 (Bramnick, Mukherji, Downey/Scutari) – Allows certain persons not yet appointed as administrator of estate to pursue lawsuit for damages for wrongful death on behalf of deceased's survivors

A-6150/S-4119 (DeAngelo, Karabinchak, Wirths/Oroho, Pou) – Revises penalties for transfer of certain professional and occupational licenses

A-6159/S-4236 (Coughlin, McKnight/Vitale, Ruiz) – Revises and renames Office of Food Insecurity Advocate

A-6162/S-4246 (Benson, Stanley/Gopal) – Requires certain motor vehicle dealers to maintain certain

requirements for business premises

A-6205/S-4270 (Coughlin, McKeon/Pou) – Amends certain requirements concerning insurance holding companies

A-6206wGR/S-4260 (Wimberly/Diegnan, Oroho) – Codifies right of real estate broker-salespersons and salespersons to define relationship with broker as one between broker and independent contractor or employee and enforces current and previous written agreements addressing relationship

A-6207/S-4222 (Greenwald, Lampitt, Benson/Sweeney) – Eliminates requirement for DOE to set certain tuition rates for approved private schools for students with disabilities in certain cases

A-6208/S-4151 (Mosquera, DeAngelo, Armato/Greenstein, Cruz-Perez) – Appropriates \$60,940,361 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for farmland preservation purposes

A-6209/S-4154 (Freiman, Spearman, Egan/Turner, Oroho) – Appropriates \$18 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for county planning incentive grants for farmland preservation purposes

A-6210/S-4150 (Taliaferro, Moriarty, Burzichelli/Cruz-Perez, Greenstein) – Appropriates \$4.5 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

A-6211/S-4149 (Houghtaling, Reynolds-Jackson, Downey/Cruz-Perez, Greenstein) – Appropriates \$440,240 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

A-6212/S-4148 (Jimenez, Swain, Timberlake/Codey, Corrado) – Appropriates \$54.5 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

A-6213/S-4155 (Kennedy, Carter, Tully/Bateman, Smith) – Appropriates \$49.932 million from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects, and Green Acres Program administrative costs

A-6214/S-4153 (Danielsen, Zwicker, Conaway/Greenstein, Smith) – Appropriates \$80,539,578 from constitutionally dedicated CBT revenues and various Green Acres funds to DEP for local government open space acquisition and park development projects

A-6215/S-4152 (Stanley, Murphy, Jasey/Smith, Greenstein) – Appropriates \$14,687,510 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes

A-6246/S-4295 (Karabinchak/Sweeney) – Concerns changes in control of hotels and disruptions of hotel services

A-6257/S-4311 (McKnight/Sweeney, Singleton) – Imposes surcharge on casino hotel occupancies to fund public safety services

A-6262/S-4314 (Burzichelli, Reynolds-Jackson, Mukherji/Sweeney, Oroho, T. Kean) – Permits PERS retiree to return to employment in NJ Legislature after retirement under certain circumstances

A-6263/S-4315 (Burzichelli, Reynolds-Jackson, Mukherji/Sweeney, Oroho, T. Kean) – Appropriates \$2 million to Legislative Services Commission

Governor Murphy pocket vetoed the following bills:

S-73/A-4580 (Bateman, Sarlo/Zwicker, Thomson, McKnight) – Establishes requirements for sale of cottage food products

S-995/A-6172 (Sweeney, A.M. Bucco/Downey, McKnight) – Requires DOLWD and DHS to conduct assessment of community rehabilitation programs and community businesses

S-1934/A-1158 (Sweeney, Pou, Cryan/Freiman, Lopez, Murphy) – Authorizes use of disability benefits for transportation provided by transportation network companies

S-2679/A-1979 (Beach, Smith/Stanley, Lopez, Kennedy) – Requires paint producers to implement or participate in paint stewardship program

S-2768/A-4664 (Singleton, Ruiz/Reynolds-Jackson, Stanley, Sumter) – Authorizes State Chief Diversity Officer to conduct disparity study concerning utilization of minority-owned and women-owned businesses in State procurement process

S-3458/A-6245 (Lagana, Gopal/Coughlin, Jimenez, Mukherji) – Revises out-of-network arbitration process

S-3529/A-5442 (Addiego, Diegnan/DeAngelo, Dancer, Dunn) – Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances

S-3715/A-5804 (Cryan/Quijano, Mukherji) – Modifies certain definitions related to transient accommodation taxes and fees

S-4189/A-6112 (Vitale, Cruz-Perez/Lopez) – Permits PERS retiree to return to elective public office after retirement under certain circumstances

A-1073/S-3432 (Speight, Pintor Marin, McKnight, Timberlake/Ruiz, O'Scanlon) – Establishes requirements to screen certain people who are pregnant and who have given birth for preeclampsia

A-1269/S-3490 (Greenwald, Giblin, Calabrese/Cruz-Perez, Beach) – Eliminates one percent tax on purchasers of Class 4A commercial property transferred for consideration in excess of \$1 million

A-4958/S-3740 (Tully, Armato, Zwicker/Lagana, Oroho) – Provides temporary exemption under sales and use tax for winterizing certain small business operations

A-5334/S-3442 (Lopez, Mazzeo, Stanley/Diegnan, T. Kean) – Requires DOT, NJT, and DHS to study and implement transportation mobility and accessibility improvements for persons with autism and developmental disabilities

A-5484/S-3817 (Dancer, Caputo, Houghtaling/Lagana) – Requires New Jersey Racing Commission to adopt procedures to enforce internal controls; requires annual audit

A-6033/S-4194 (Bramnick/Sweeney, T. Kean) – Classifies golf caddies as independent contractors for purposes of State employment laws

A-6157/S-4202 (Speight, Moen/Ruiz, Beach) – Prohibits circumventing intergovernmental transfer process for law enforcement officers in certain circumstances

