

SENATE, No. 558

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Waives application and filing fees and makes expungement automatic for persons arrested or convicted of certain municipal ordinance violations.

CURRENT VERSION OF TEXT

As Introduced.



1 AN ACT concerning expungement of certain records and amending
2 N.J.S.2C:52-29 and N.J.S.22A:2-25 and supplementing chapter 52
3 of Title 2C of the New Jersey Statutes.

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

7
8 1. (New section) A court which rules that a municipal ordinance
9 is unconstitutional, when that ruling is determined to be final because
10 the time for an appeal has expired, shall enter an order to expunge
11 the records of any person who has been arrested or convicted of
12 violating that municipal ordinance without requiring the person
13 arrested or convicted to present the duly verified petition pursuant to
14 N.J.S.2C:52-6 on an individual basis. The court order shall direct the
15 municipality which enacted the ordinance and any judicial or law
16 enforcement agency or agency in the criminal justice system which
17 maintains a record or file which is the subject of the order, to expunge
18 the records of such arrest or conviction or both and all records and
19 information pertaining thereto. For these cases the application fee set
20 forth in N.J.S.2C:52-29 and the filing fees set forth in N.J.S.22A:2-25
21 shall be waived.

22
23 2. (New section) The Administrative Office of the Courts may
24 issue any directives which may be necessary concerning procedures for
25 municipal courts for implementing the expungements in judicial
26 records or files of municipal ordinance violations as required by
27 section 1 of P.L. c. (C.)(now pending before the
28 Legislature as this bill).

29
30 3. (New section) The Attorney General may issue any guidelines
31 which may be necessary concerning procedures for law enforcement
32 agencies or any agency in the criminal justice system for municipal
33 courts for implementing the expungements in their records or files of
34 municipal ordinance violations as required by section 1 of P.L. ,
35 c. (C.)(now pending before the Legislature as this bill).

36
37 4. N.J.S.2C:52-29 is amended to read as follows:

38 Any person who files an application pursuant to this chapter shall
39 pay to the State Treasurer a fee of \$30.00 to defer administrative costs
40 in processing an application hereunder except for persons for whom
41 the fee is waived pursuant to section 1 of P.L. , c. (C.)(now
42 pending before the Legislature as this bill).

43 (cf: P.L.1979, c.178, s.136)

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 5. N.J.S.22A:2-25 is amended to read as follows:

2 Upon the filing, entering or docketing with the deputy clerk of the
3 Superior Court in the various counties of the herein-mentioned papers
4 or documents by either party to any action or proceeding in the Law
5 Division of the Superior Court, other than a civil action in which a
6 summons or writ must be issued and except for persons for whom the
7 fee is waived pursuant to section 1 of P.L. , c. (C.)(now
8 pending before the Legislature as this bill)., he shall pay the deputy
9 clerk of the court the following fees:

10	Entering of complaint or first paper of any action or proceeding	
11	\$ 9.00
12	Filing complaint	\$ 3.00
13	Filing answer or appearance	\$ 6.00
14	Filing any other pleading, any amended pleading or any amendment	
15	to a pleading	\$ 3.00
16	Filing and entering each order or judgment of court, including order	
17	to show cause.....	\$ 6.00
18	Filing and entering a voluntary dismissal, either by stipulation or order	
19	of court	\$ 7.50
20	Filing notice of appeal	\$15.00
21	Filing proceedings or papers on appeal	\$ 6.00
22	Filing first paper on petition for expungement	\$22.50
23	Filing any other paper or document not herein stated	\$ 4.50
24	Signing and sealing habeas corpus	\$ 7.50
25	Signing and issuing subpoena	\$ 1.50 L.
26	(cf: P.L.1985, c.422, s.1)	

27

28 6. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill provides that a person who has been arrested or convicted
34 of a municipal ordinance violation which ordinance subsequently is
35 declared unconstitutional by a court, shall have expunged any records
36 of such arrest or conviction or both and all pertinent records and
37 information.

38 The bill makes these expungements automatic by providing that a
39 court which makes a final ruling that a municipal ordinance is
40 unconstitutional shall enter an order directing the municipality which
41 enacted the ordinance and any judicial or law enforcement agency or
42 agency in the criminal justice system which maintains a record or file
43 which is the subject of the order, to expunge the records of any
44 person who has been arrested or convicted of that municipal
45 ordinance violation.

46 This provision will eliminate the need for persons affected by the

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1 ruling to present individually the duly verified petition required by
2 N.J.S.2C:52-6 to the Superior Court in the county in which the
3 disposition occurred praying that the records of such arrest and all
4 records and information pertaining thereto be expunged. The court
5 making the final determination on the municipal ordinance's
6 constitutionality shall enter the order for all affected persons.

7 The bill provides for the Administrative Office of the Courts to
8 issue any directives which may be necessary concerning procedures for
9 municipal courts for the management of records or files concerning
10 these expungements. The Attorney General may issue any guidelines
11 which may be necessary concerning procedures for law enforcement
12 agencies or any agency in the criminal justice system.

13 The bill also provides that for these cases the \$30.00 application fee
14 set forth in N.J.S.2C:52-29 and the filing fees set forth in N.J.S.
15 22A:2-25 shall be waived. The sponsor believes that it is unfair to
16 have a person arrested or convicted pursuant to a municipal ordinance
17 subsequently declared unconstitutional to bear the costs of
18 expungement and the need for filing an application.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 558

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MARCH 16, 2000

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides for automatic expungement of records of persons arrested or convicted of violating certain municipal ordinances.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Judiciary Committee.



1 **AN ACT** concerning the purging of certain records and supplementing
2 Title 2B of the New Jersey Statutes.

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

6
7 1. a. Upon ruling that a municipal ordinance is unconstitutional,
8 or approving a settlement of a civil action contesting the
9 constitutionality of a municipal ordinance, the court shall order that,
10 when the ruling is determined to be final because the time for appeal
11 has expired:

12 (1) the municipality that enacted the ordinance and any judicial or
13 law enforcement agency or agency in the criminal justice system that
14 maintains a written or automated record or file concerning the subject
15 of the order shall purge that record or file of all information
16 identifying any person arrested, charged or convicted of violating the
17 ordinance;

18 (2) the municipality shall notify any person arrested, charged or
19 convicted of violating the ordinance that such record or file has been
20 purged; and

21 (3) the municipality shall refund any fines, penalties or court costs
22 paid by any person arrested, charged or convicted of violating the
23 ordinance. The refund shall not be required in any case where, by
24 settlement of a civil action contesting the constitutionality of the
25 ordinance, the person has received or will receive monetary
26 compensation in an amount equal to or greater than any fines,
27 penalties or court costs the person paid.

28 b. Notwithstanding the provisions of any other law, purging of
29 identifying information pursuant to this act shall not require any action
30 by the defendant or the payment of any fee.

31 c. The Supreme Court of New Jersey may adopt rules and the
32 Administrative Director of the Courts may issue directives and
33 guidelines to be followed by municipal courts to implement the
34 purposes of this act.

35 d. The Attorney General may issue any guidelines which may be
36 necessary concerning procedures for law enforcement agencies or any
37 agency in the criminal justice system for purging records or files of
38 municipal ordinance violations as required by this act.

39
40 2. a. This act shall apply to all rulings of unconstitutionality and
41 all settlements dated on or after January 1, 1999.

42 b. In any case where a ruling of unconstitutionality or a settlement
43 occurred on or after January 1, 1999 and prior to the enactment of this
44 act, purging of identifying information pursuant to section 1 of this act
45 shall be ordered by the court upon the ex parte application of any
46 party.

- 1 3. This act shall take effect immediately.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 558**

STATE OF NEW JERSEY

DATED: MARCH 16, 2000

The Senate Judiciary Committee reports favorably a Senate committee substitute for Senate Bill No. 558.

The committee substitute provides that if a person has been arrested or convicted of a municipal ordinance violation which ordinance subsequently is declared unconstitutional by a court, any records of such arrest or conviction shall be expunged.

This bill makes these expungements automatic by providing that a court which makes a final ruling that a municipal ordinance is unconstitutional or approves settlement of a civil action contesting the constitutionality of the ordinance shall enter an order directing the municipality which enacted the ordinance and any judicial or law enforcement agency or agency in the criminal justice system which maintains a record or file which is the subject of the order, to expunge the records of identifying information concerning any person who has been arrested or convicted of that municipal ordinance violation. This provision will eliminate the need for persons affected by the ruling to individually petition for expungement.

The committee substitute would also require the municipality to notify all affected persons of the expungement and require the municipality to refund any monetary penalties imposed as result of the conviction.

In addition, the committee substitute provides that the Administrative Office of the Courts may issue any directives which may be necessary concerning procedures for municipal courts for the management of records or files concerning these expungements. The Attorney General may issue any guidelines which may be necessary concerning procedures for law enforcement agencies or any agency in the criminal justice system.

The committee substitute applies to rulings of unconstitutionality and settlements dated on or after January 1, 1999.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 558

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 8, 2000

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 558 (SCS).

The Senate committee substitute provides that if a person has been arrested or convicted of a municipal ordinance violation which ordinance subsequently is declared unconstitutional by a court, any records of such arrest or conviction shall be purged.

The Senate committee substitute provides that the municipality which enacted the ordinance and any judicial or law enforcement agency or agency in the criminal justice system which maintains a record or file which is the subject of the order, shall purge the records of identifying information concerning any person who has been arrested or convicted of that municipal ordinance violation. This provision will eliminate the need for persons affected by the ruling to individually petition. The Senate committee substitute originally provided that a court shall enter an order upon a final ruling that a municipal ordinance is unconstitutional or approval of a settlement of a civil action contesting the constitutionality of the ordinance. At the request of the Administrative Office of the Courts this language was changed by committee amendment to eliminate the necessity of a court order.

The Senate committee substitute would also require the municipality to notify all affected persons and require the municipality to refund any monetary penalties imposed as result of the conviction.

In addition, the Senate committee substitute provides that the Administrative Office of the Courts may issue any directives which may be necessary concerning procedures for municipal courts for the management of records or files concerning these provisions. The Attorney General may issue any guidelines which may be necessary concerning procedures for law enforcement agencies or any agency in the criminal justice system.

The Senate committee substitute applies to rulings of unconstitutionality and settlements dated on or after January 1, 1999.

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 558

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MARCH 16, 2000

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides for automatic purging of records of persons arrested or convicted of violating certain municipal ordinances.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on June 8, 2000, with amendments.



1 AN ACT concerning the purging of certain records and supplementing
2 Title 2B of the New Jersey Statutes.

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

6
7 1. a. Upon ¹a court¹ ruling that a municipal ordinance is
8 unconstitutional, or approving a settlement of a civil action contesting
9 the constitutionality of a municipal ordinance ¹[, the court shall order
10 that,]and¹ when the ruling is ¹[determined to be]considered¹ final
11 because the time for appeal has expired:

12 (1) the municipality that enacted the ordinance and any judicial or
13 law enforcement agency or agency in the criminal justice system that
14 maintains a written or automated record or file concerning the subject
15 of the order shall purge that record or file of all information
16 identifying any person arrested, charged or convicted of violating the
17 ordinance;

18 (2) the municipality shall notify any person arrested, charged or
19 convicted of violating the ordinance that such record or file has been
20 purged; and

21 (3) the municipality shall refund any fines, penalties or court costs
22 paid by any person arrested, charged or convicted of violating the
23 ordinance. The refund shall not be required in any case where, by
24 settlement of a civil action contesting the constitutionality of the
25 ordinance, the person has received or will receive monetary
26 compensation in an amount equal to or greater than any fines,
27 penalties or court costs the person paid.

28 b. Notwithstanding the provisions of any other law, purging of
29 identifying information pursuant to this act shall not require any action
30 by the defendant or the payment of any fee.

31 c. The Supreme Court of New Jersey may adopt rules and the
32 Administrative Director of the Courts may issue directives and
33 guidelines to be followed by municipal courts to implement the
34 purposes of this act.

35 d. The Attorney General may issue any guidelines which may be
36 necessary concerning procedures for law enforcement agencies or any
37 agency in the criminal justice system for purging records or files of
38 municipal ordinance violations as required by this act.

39
40 2. a. This act shall apply to all rulings of unconstitutionality and
41 all settlements dated on or after January 1, 1999.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted June 8, 2000.

1 b. In any case where a ruling of unconstitutionality or a settlement
2 occurred on or after January 1, 1999 and prior to the enactment of this
3 act, purging of identifying information pursuant to section 1 of this act
4 shall be ordered by the court upon the ex parte application of any
5 party.

6

7 3. This act shall take effect immediately.

P.L. 2000, CHAPTER 108, *approved September 8, 2000*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 558

1 AN ACT concerning the purging of certain records and supplementing
2 Title 2B of the New Jersey Statutes.

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

6
7 1. a. Upon ¹a court¹ ruling that a municipal ordinance is
8 unconstitutional, or approving a settlement of a civil action contesting
9 the constitutionality of a municipal ordinance ¹[, the court shall order
10 that,]and¹ when the ruling is ¹[determined to be]considered¹ final
11 because the time for appeal has expired:

12 (1) the municipality that enacted the ordinance and any judicial or
13 law enforcement agency or agency in the criminal justice system that
14 maintains a written or automated record or file concerning the subject
15 of the order shall purge that record or file of all information
16 identifying any person arrested, charged or convicted of violating the
17 ordinance;

18 (2) the municipality shall notify any person arrested, charged or
19 convicted of violating the ordinance that such record or file has been
20 purged; and

21 (3) the municipality shall refund any fines, penalties or court costs
22 paid by any person arrested, charged or convicted of violating the
23 ordinance. The refund shall not be required in any case where, by
24 settlement of a civil action contesting the constitutionality of the
25 ordinance, the person has received or will receive monetary
26 compensation in an amount equal to or greater than any fines,
27 penalties or court costs the person paid.

28 b. Notwithstanding the provisions of any other law, purging of
29 identifying information pursuant to this act shall not require any action
30 by the defendant or the payment of any fee.

31 c. The Supreme Court of New Jersey may adopt rules and the
32 Administrative Director of the Courts may issue directives and
33 guidelines to be followed by municipal courts to implement the
34 purposes of this act.

35 d. The Attorney General may issue any guidelines which may be
36 necessary concerning procedures for law enforcement agencies or any
37 agency in the criminal justice system for purging records or files of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted June 8, 2000.

1 municipal ordinance violations as required by this act.

2

3 2. a. This act shall apply to all rulings of unconstitutionality and
4 all settlements dated on or after January 1, 1999.

5 b. In any case where a ruling of unconstitutionality or a settlement
6 occurred on or after January 1, 1999 and prior to the enactment of this
7 act, purging of identifying information pursuant to section 1 of this act
8 shall be ordered by the court upon the ex parte application of any
9 party.

10

11 3. This act shall take effect immediately.

12

13

14

15

16 Provides for automatic purging of records of persons arrested or
17 convicted of violating certain municipal ordinances.

CHAPTER 108

AN ACT concerning the purging of certain records and supplementing Title 2B of the New Jersey Statutes.

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

C.2B:12-32 Purging of records for violators of certain municipal ordinances.

1. a. Upon a court ruling that a municipal ordinance is unconstitutional, or approving a settlement of a civil action contesting the constitutionality of a municipal ordinance and when the ruling is considered final because the time for appeal has expired:

(1) the municipality that enacted the ordinance and any judicial or law enforcement agency or agency in the criminal justice system that maintains a written or automated record or file concerning the subject of the order shall purge that record or file of all information identifying any person arrested, charged or convicted of violating the ordinance;

(2) the municipality shall notify any person arrested, charged or convicted of violating the ordinance that such record or file has been purged; and

(3) the municipality shall refund any fines, penalties or court costs paid by any person arrested, charged or convicted of violating the ordinance. The refund shall not be required in any case where, by settlement of a civil action contesting the constitutionality of the ordinance, the person has received or will receive monetary compensation in an amount equal to or greater than any fines, penalties or court costs the person paid.

b. Notwithstanding the provisions of any other law, purging of identifying information pursuant to this act shall not require any action by the defendant or the payment of any fee.

c. The Supreme Court of New Jersey may adopt rules and the Administrative Director of the Courts may issue directives and guidelines to be followed by municipal courts to implement the purposes of this act.

d. The Attorney General may issue any guidelines which may be necessary concerning procedures for law enforcement agencies or any agency in the criminal justice system for purging records or files of municipal ordinance violations as required by this act.

C.2B:12-33 Application of act.

2. a. This act shall apply to all rulings of unconstitutionality and all settlements dated on or after January 1, 1999.

b. In any case where a ruling of unconstitutionality or a settlement occurred on or after January 1, 1999 and prior to the enactment of this act, purging of identifying information pursuant to section 1 of this act shall be ordered by the court upon the ex parte application of any party.

3. This act shall take effect immediately.

Approved September 8, 2000.