



**S2663**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 16 of introduced bill)	Yes	
<b>COMMITTEE STATEMENT:</b>		
	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes
		Judiciary Budget and Approp.
<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	
<b>VETO MESSAGE:</b>	Yes	
<b>GOVERNOR'S PRESS RELEASE ON VETO:</b>	Yes	
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	No	

**FOLLOWING WERE PRINTED:**

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<b>REPORTS:</b>	No
<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	No

LAW/RWH

P.L.2015, CHAPTER 261, *approved January 19, 2016*  
Assembly Committee Substitute (*Fourth Reprint*) for  
Assembly, Nos. 206, 471, 1663, 2879, 3060, and 3108

1 AN ACT concerning expungement of criminal <sup>2</sup>and other<sup>2</sup> records  
2 and <sup>2</sup>information, and<sup>2</sup> amending various sections of Title 2C of  
3 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. N.J.S.2C:35-14 is amended to read as follows:

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

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

**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:

<sup>1</sup>Assembly AAP committee amendments adopted December 15, 2014.

<sup>2</sup>Senate SJU committee amendments adopted May 7, 2015.

<sup>3</sup>Senate SBA committee amendments adopted June 8, 2015.

<sup>4</sup>Assembly amendments adopted in accordance with Governor's  
recommendations January 11, 2016.

1 upon notice to the prosecutor, may, on motion of the person, or on  
2 the court's own motion, place the person on special probation,  
3 which shall be for a term of five years, provided that the court finds  
4 on the record that:

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

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

11 (3) the present offense was committed while the person was  
12 under the influence of a controlled dangerous substance, controlled  
13 substance analog or alcohol or was committed to acquire property  
14 or monies in order to support the person's drug or alcohol  
15 dependency; and

16 (4) substance abuse treatment and monitoring will serve to  
17 benefit the person by addressing his drug or alcohol dependency  
18 and will thereby reduce the likelihood that the person will thereafter  
19 commit another offense; and

20 (5) the person did not possess a firearm at the time of the  
21 present offense and did not possess a firearm at the time of any  
22 pending criminal charge; and

23 (6) the person has not been previously convicted on two or more  
24 separate occasions of crimes of the first or second degree, other  
25 than those listed in paragraph (7); or the person has not been  
26 previously convicted on two or more separate occasions, where one  
27 of the offenses is a crime of the third degree, other than crimes  
28 defined in N.J.S.2C:35-10, and one of the offenses is a crime of the  
29 first or second degree; and

30 (7) the person has not been previously convicted or adjudicated  
31 delinquent for, and does not have a pending charge of murder,  
32 aggravated manslaughter, manslaughter, kidnapping, aggravated  
33 assault, aggravated sexual assault or sexual assault, or a similar  
34 crime under the laws of any other state or the United States; and

35 (8) a suitable treatment facility licensed and approved by the  
36 Division of Mental Health and Addiction Services in the  
37 Department of Human Services is able and has agreed to provide  
38 appropriate treatment services in accordance with the requirements  
39 of this section; and

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

42 In determining whether to sentence the person pursuant to this  
43 section, the court shall consider all relevant circumstances, and  
44 shall take judicial notice of any evidence, testimony or information  
45 adduced at the trial, plea hearing or other court proceedings, and  
46 shall also consider the presentence report and the results of the  
47 professional diagnostic assessment to determine whether and to  
48 what extent the person is drug or alcohol dependent and would

1 benefit from treatment. The court shall give priority to a person  
2 who has moved to be sentenced to special probation over a person  
3 who is being considered for a sentence to special probation on the  
4 court's own motion or in accordance with the provisions of section  
5 2 of P.L.2012, c.23 (C.2C:35-14.2).

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

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

26 (1) a crime of the first degree;

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

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

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

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

39 d. Except as otherwise provided in subsection j. of this section,  
40 a person convicted of or adjudicated delinquent for a crime of the  
41 second degree or of a violation of section 1 of P.L.1987, c.101  
42 (C.2C:35-7), or who previously has been convicted of or  
43 adjudicated delinquent for an offense under subsection a. of  
44 N.J.S.2C:35-5 or a similar offense under any other law of this State,  
45 any other state or the United States, who is placed on special  
46 probation under this section shall be committed to the custody of a  
47 residential treatment facility licensed and approved by the Division  
48 of Mental Health and Addiction Services in the Department of

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

30 e. The probation department or other appropriate agency  
31 designated by the court to monitor or supervise the person's special  
32 probation shall report periodically to the court as to the person's  
33 progress in treatment and compliance with court-imposed terms and  
34 conditions. The treatment provider shall promptly report to the  
35 probation department or other appropriate agency all significant  
36 failures by the person to comply with any court imposed term or  
37 condition of special probation or any requirements of the course of  
38 treatment, including but not limited to a positive drug or alcohol  
39 test or the unexcused failure to attend any session or activity, and  
40 shall immediately report any act that would constitute an escape.  
41 The probation department or other appropriate agency shall  
42 immediately notify the court and the prosecutor in the event that the  
43 person refuses to submit to a periodic drug or alcohol test or for any  
44 reason terminates his participation in the course of treatment, or  
45 commits any act that would constitute an escape.

46 f. (1) Upon a first violation of any term or condition of the  
47 special probation authorized by this section or of any requirements

1 of the course of treatment, the court in its discretion may  
2 permanently revoke the person's special probation.

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

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

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

46 (5) Following a violation, if the court permits the person to  
47 continue on special probation pursuant to this section, the court  
48 shall order the person to comply with such additional terms and

1 conditions, including but not limited to more frequent drug or  
2 alcohol testing, as are necessary to deter and promptly detect any  
3 further violation.

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

14 (7) An action for a violation under this section may be brought  
15 by a probation officer or prosecutor or on the court's own motion.  
16 Failure to complete successfully the required treatment program  
17 shall constitute a violation of the person's special probation. A  
18 person who fails to comply with the terms of his special probation  
19 pursuant to this section and is thereafter sentenced to imprisonment  
20 in accordance with this subsection shall thereafter be ineligible for  
21 entry into the Intensive Supervision Program, provided however  
22 that this provision shall not affect the person's eligibility for entry  
23 into the Intensive Supervision Program for a subsequent conviction.

24 g. When a person on special probation is subject to a  
25 presumption of revocation on a second or subsequent violation  
26 pursuant to paragraph (2) of subsection f. of this section, or when  
27 the person refuses to undergo drug or alcohol testing pursuant to  
28 paragraph (6) of subsection f. of this section, the court may, in lieu  
29 of permanently revoking the person's special probation, impose a  
30 term of incarceration for a period of not less than 30 days nor more  
31 than six months, after which the person's term of special probation  
32 pursuant to this section may be reinstated. In determining whether  
33 to order a period of incarceration in lieu of permanent revocation  
34 pursuant to this subsection, the court shall consider the  
35 recommendations of the treatment provider with respect to the  
36 likelihood that such confinement would serve to motivate the  
37 person to make satisfactory progress in treatment once special  
38 probation is reinstated. This disposition may occur only once with  
39 respect to any person unless the court is clearly convinced that there  
40 are compelling and extraordinary reasons to justify reimposing this  
41 disposition with respect to the person. Any such determination by  
42 the court to reimpose this disposition may be appealed by the  
43 prosecution. Nothing in this subsection shall be construed to limit  
44 the authority of the court at any time during the period of special  
45 probation to order a person on special probation who is not subject  
46 to a presumption of revocation pursuant to paragraph (2) of  
47 subsection f. of this section to be incarcerated over the course of a  
48 weekend, or for any other reasonable period of time, when the court



1 in its discretion determines that such incarceration would help to  
2 motivate the person to make satisfactory progress in treatment.

3 h. The court, as a condition of its order, and after considering  
4 the person's financial resources, shall require the person to pay that  
5 portion of the costs associated with his participation in any  
6 rehabilitation program, nonresidential treatment program or period  
7 of residential treatment imposed pursuant to this section which, in  
8 the opinion of the court, is consistent with the person's ability to  
9 pay, taking into account the court's authority to order payment or  
10 reimbursement to be made over time and in installments.

11 i. The court shall impose, as a condition of the special  
12 probation, any fine, penalty, fee or restitution applicable to the  
13 offense for which the person was convicted or adjudicated  
14 delinquent.

15 j. Where the court finds that a person has satisfied all of the  
16 eligibility criteria for special probation and would otherwise be  
17 required to be committed to the custody of a residential treatment  
18 facility pursuant to the provisions of subsection d. of this section,  
19 the court may temporarily suspend imposition of all or any portion  
20 of the term of commitment to a residential treatment facility and  
21 may instead order the person to enter a nonresidential treatment  
22 program, provided that the court finds on the record that:

23 (1) the person conducting the diagnostic assessment required  
24 pursuant to paragraph (1) of subsection a. of this section has  
25 recommended in writing that the proposed course of nonresidential  
26 treatment services is clinically appropriate and adequate to address  
27 the person's treatment needs; and

28 (2) no danger to the community would result from the person  
29 participating in the proposed course of nonresidential treatment  
30 services; and

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

33 If the prosecutor objects to the court's decision to suspend the  
34 commitment of the person to a residential treatment facility  
35 pursuant to this subsection, the sentence of special probation  
36 imposed pursuant to this section shall not become final for ten days  
37 in order to permit the appeal by the prosecution of the court's  
38 decision.

39 After a period of six months of nonresidential treatment, if the  
40 court, considering all available information including but not  
41 limited to the recommendation of the treatment provider, finds that  
42 the person has made satisfactory progress in treatment and that  
43 there is a substantial likelihood that the person will successfully  
44 complete the nonresidential treatment program and period of special  
45 probation, the court, on notice to the prosecutor, may permanently  
46 suspend the commitment of the person to the custody of a  
47 residential treatment program, in which event the special

1 monitoring provisions set forth in subsection k. of this section shall  
2 no longer apply.

3 Nothing in this subsection shall be construed to limit the  
4 authority of the court at any time during the term of special  
5 probation to order the person to be committed to a residential or  
6 nonresidential treatment facility if the court determines that such  
7 treatment is clinically appropriate and necessary to address the  
8 person's present treatment needs.

9 k. (1) When the court temporarily suspends the commitment of  
10 the person to a residential treatment facility pursuant to subsection  
11 j. of this section, the court shall, in addition to ordering  
12 participation in a prescribed course of nonresidential treatment and  
13 any other appropriate terms or conditions authorized or required by  
14 law, order the person to undergo urine testing for drug or alcohol  
15 use not less than once per week unless otherwise ordered by the  
16 court. The court-ordered testing shall be conducted by the  
17 probation department or the treatment provider. The results of all  
18 tests shall be reported promptly to the court and to the prosecutor.  
19 In addition, the court shall impose appropriate curfews or other  
20 restrictions on the person's movements, and may order the person to  
21 wear electronic monitoring devices to enforce such curfews or other  
22 restrictions as a condition of special probation.

23 (2) The probation department or other appropriate agency shall  
24 immediately notify the court and the prosecutor in the event that the  
25 person fails or refuses to submit to a drug or alcohol test, knowingly  
26 defrauds the administration of a drug test, terminates his  
27 participation in the course of treatment, or commits any act that  
28 would constitute absconding from parole. If the person at any time  
29 while entered in a nonresidential treatment program pursuant to  
30 subsection j. of this section knowingly defrauds the administration  
31 of a drug test, goes into hiding or leaves the State with a purpose of  
32 avoiding supervision, the court shall permanently revoke the  
33 person's special probation.

34 l. If the court finds that the person has made exemplary  
35 progress in the course of treatment, the court may, upon  
36 recommendation of the person's supervising probation officer or on  
37 the court's own motion, and upon notice to the prosecutor, grant  
38 early discharge from a term of special probation provided that the  
39 person: (1) has satisfactorily completed the treatment program  
40 ordered by the court; (2) has served at least two years of special  
41 probation; (3) did not commit a substantial violation of any term or  
42 condition of special probation, including but not limited to a  
43 positive urine test, within the preceding 12 months; and (4) is not  
44 likely to relapse or commit an offense if probation supervision and  
45 related services are discontinued.

46 m. (1) <sup>2</sup>[Notwithstanding any law to the contrary, the] The<sup>2</sup>  
47 Superior Court may order the expungement of all records and  
48 information relating to all prior <sup>2</sup>[criminal]<sup>2</sup> arrests, <sup>2</sup>[detention]

1 detentions<sup>2</sup> , convictions, and proceedings<sup>2</sup> for any offense  
2 enumerated in Title 2C of the New Jersey Statutes<sup>2</sup> upon successful  
3 discharge from a term of special probation as provided in this  
4 section, regardless of whether the person was sentenced to special  
5 probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-  
6 14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a  
7 substance abuse treatment program as ordered by the court and was  
8 not convicted of any crime, or adjudged a disorderly person or petty  
9 disorderly person, during the term of special probation. The  
10 provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply  
11 to an expungement pursuant to this paragraph and no fee shall be  
12 charged to a person eligible for relief pursuant to this paragraph.  
13 <sup>2</sup>The court shall grant the relief requested unless it finds that the  
14 need for the availability of the records outweighs the desirability of  
15 having the person freed from any disabilities associated with their  
16 availability, or it finds that the person is otherwise ineligible for  
17 expungement pursuant to paragraph (2) of this subsection. An  
18 expungement under this paragraph shall proceed in accordance with  
19 rules and procedures developed by the Supreme Court.<sup>2</sup>

20 (2) A person shall not be eligible for expungement under  
21 <sup>2</sup>paragraph (1) of<sup>2</sup> this subsection if the records include a conviction  
22 for any offense barred from expungement pursuant to subsection b.  
23 or c. of N.J.S.2C:52-2. It shall be the obligation of the prosecutor to  
24 notify the court of any disqualifying convictions or any other  
25 factors related to public safety that should be considered by the  
26 court when deciding to grant an expungement under <sup>2</sup>paragraph (1)  
27 of<sup>2</sup> this subsection.

28 (3) The Superior Court shall provide a copy of the expungement  
29 order <sup>2</sup>granted pursuant to paragraph (1) of this subsection<sup>2</sup> to the  
30 prosecutor and to the person and, if the person was represented by  
31 the Public Defender, to the Public Defender. The person or, if the  
32 person was represented by the Public Defender, the Public Defender  
33 on behalf of the person, shall promptly distribute copies of the  
34 expungement order to appropriate agencies who have custody and  
35 control of the records specified in the order so that the agencies may  
36 comply with the requirements of N.J.S.2C:52-15.

37 (4) If the person <sup>2</sup>whose records are expunged pursuant to  
38 paragraph (1) of this subsection<sup>2</sup> is convicted of any crime  
39 following discharge from special probation, the full record of  
40 arrests and convictions may be restored to public access and no  
41 future expungement shall be granted to such person.

42 (5) A person who, prior to the effective date of P.L. \_\_\_\_\_,  
43 c. <sup>2</sup>[(C. \_\_\_\_\_)]<sup>2</sup> (pending before the Legislature as this bill), was  
44 successfully discharged from a term of special probation as  
45 provided in this section, regardless of whether the person was  
46 sentenced to special probation under this section, section 2 of  
47 P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, may seek an

1 expungement of all records and information relating to all <sup>2</sup>[prior  
 2 criminal]<sup>2</sup> arrests, <sup>2</sup>[detention] detentions<sup>2</sup>, convictions <sup>2</sup>,<sup>2</sup> and  
 3 proceedings <sup>2</sup>for any offense enumerated in Title 2C of the New  
 4 Jersey Statutes that existed at the time of discharge from special  
 5 probation by presenting an application to the Superior Court in the  
 6 county in which the person was sentenced to special probation,  
 7 which contains a duly verified petition as provided in N.J.S.2C:52-7  
 8 for each crime or offense sought to be expunged. The petition for  
 9 expungement shall proceed<sup>2</sup> pursuant to N.J.S.2C:52-1 et seq.  
 10 except that the requirements related to the expiration of the time  
 11 periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980,  
 12 c.163 (C.2C:52-4.1) shall not apply. <sup>2</sup>A person who was convicted  
 13 of any offense barred from expungement pursuant to subsection b.  
 14 or c. of N.J.S.2C:52-2, or who has been convicted of any crime or  
 15 offense since the date of discharge from special probation shall not  
 16 be eligible to apply for an expungement under this paragraph. In  
 17 addition, no application for expungement shall be considered until  
 18 any pending charges are disposed. It shall be the obligation of the  
 19 prosecutor to notify the court of any disqualifying convictions or  
 20 any other factors related to public safety that should be considered  
 21 by the court when deciding to grant an expungement under this  
 22 paragraph.<sup>2</sup> The Superior Court shall consider the person's verified  
 23 petition and may order the expungement of all records and  
 24 information relating to all <sup>2</sup>[prior criminal]<sup>2</sup> arrests, <sup>2</sup>[detention]  
 25 detentions<sup>2</sup>, convictions <sup>2</sup>,<sup>2</sup> and proceedings of the person <sup>2</sup>that  
 26 existed at the time of discharge from special probation<sup>2</sup> as  
 27 appropriate. <sup>2</sup>The court shall grant the relief requested unless it  
 28 finds that the need for the availability of the records outweighs the  
 29 desirability of having the person freed from any disabilities  
 30 associated with their availability, or it finds that the person is  
 31 otherwise ineligible for expungement pursuant this paragraph.<sup>2</sup> No  
 32 fee shall be charged to a person eligible for relief pursuant to this  
 33 paragraph.

34 (cf: P.L.2012, c.23, s.5)

35  
 36 2. N.J.S.2C:52-2 is amended to read as follows:

37 2C:52-2. Indictable Offenses.

38 a. In all cases, except as herein provided, wherein a person has  
 39 been convicted of a crime under the laws of this State and who has  
 40 not been convicted of any prior or subsequent crime, whether within  
 41 this State or any other jurisdiction, and has not been <sup>2</sup>[adjudged]  
 42 convicted of<sup>2</sup> a disorderly <sup>2</sup>[person] persons<sup>2</sup> or petty disorderly  
 43 <sup>2</sup>[person] persons offense<sup>2</sup> on more than <sup>1</sup>[two] <sup>2</sup>[three<sup>1</sup>] two<sup>2</sup>  
 44 occasions may, after the expiration of a period of [10] <sup>4</sup>[five] 10<sup>4</sup>  
 45 years from the date of his <sup>2</sup>[<sup>1</sup>last<sup>1</sup>] most recent<sup>2</sup> conviction,  
 46 payment of fine, satisfactory completion of probation or parole, or  
 47 release from incarceration <sup>2</sup>for that crime or for any disorderly

1 persons or petty disorderly persons offense<sup>2</sup> , whichever is later,  
 2 present <sup>2</sup>an expungement application to the Superior Court in the  
 3 county in which the conviction for the crime was adjudged, which  
 4 contains<sup>2</sup> a duly verified petition as provided in N.J.S.2C:52-7 <sup>2</sup>[to  
 5 the Superior Court in the county in which the conviction was  
 6 entered] for the criminal conviction sought to be expunged, and  
 7 may also contain additional duly verified petitions for no more than  
 8 two convictions for any disorderly persons or petty disorderly  
 9 persons offenses,<sup>2</sup> praying that <sup>2</sup>[such] the<sup>2</sup> conviction <sup>2</sup>, or  
 10 convictions if applicable,<sup>2</sup> and all records <sup>2</sup>[<sup>1</sup>, including the crime  
 11 which is the subject of the petition and up to three disorderly  
 12 persons offense or petty disorderly persons offenses,<sup>1</sup>]<sup>2</sup> and  
 13 information pertaining thereto be expunged. <sup>2</sup>The petition for each  
 14 conviction appended to an application shall comply with the  
 15 requirements set forth in N.J.S.2C:52-1 et seq.<sup>2</sup>

16 Notwithstanding the provisions of the preceding paragraph, a  
 17 petition may be filed and presented, and the court may grant an  
 18 expungement pursuant to this section, [although less than 10 years  
 19 has expired in accordance with the requirements of the preceding  
 20 paragraph where] <sup>4</sup>[when] although less than 10 years has expired  
 21 in accordance with the requirements of the preceding paragraph  
 22 where<sup>4</sup> the court finds <sup>4,4</sup> [:

23 (1) <sup>4</sup>(1)<sup>4</sup> less than [10] <sup>4</sup>[five] 10<sup>4</sup> years expired from the  
 24 satisfaction of a fine, but the [10-year] <sup>4</sup>[five-year] ten-year<sup>4</sup> time  
 25 requirement is otherwise satisfied, and the court finds that the  
 26 person substantially complied with any payment plan ordered  
 27 pursuant to N.J.S.2C:46-1 et seq., or could not do so due to  
 28 compelling circumstances affecting his ability to satisfy the fine <sup>4</sup>;  
 29 or

30 (2) at least five years has expired from the date of his  
 31 conviction, payment of fine, satisfactory completion of probation or  
 32 parole, or release from incarceration, whichever is later; the person  
 33 has not been convicted of a crime, disorderly persons offense, or  
 34 petty disorderly persons offense since the time of the conviction;  
 35 and the court finds in its discretion that expungement is in the  
 36 public interest, giving due consideration to the nature of the  
 37 offense, and the applicant's character and conduct since conviction<sup>4</sup>

38 ]; or

39 (2) at least five years has expired from the date of his  
 40 conviction, payment of fine, satisfactory completion of probation or  
 41 parole, or release from incarceration, whichever is later; the person  
 42 has not been convicted of a crime, disorderly persons offense, or  
 43 petty disorderly persons offense since the time of the conviction;  
 44 and the court finds in its discretion that expungement is in the  
 45 public interest, giving due consideration to the nature of the

1 offense, and the applicant's character and conduct since  
2 conviction].

3 In determining whether compelling circumstances exist for the  
4 purposes of <sup>4</sup>paragraph (1) of<sup>4</sup> [paragraph (1) of] this subsection, a  
5 court may consider the amount of the fine or fines imposed, the  
6 person's age at the time of the offense, the person's financial  
7 condition and other relevant circumstances regarding the person's  
8 ability to pay.

9 Although subsequent convictions for no more than two  
10 disorderly or petty disorderly <sup>2</sup>persons<sup>2</sup> offenses shall not be an  
11 absolute bar to relief, the nature of those conviction or convictions  
12 and the circumstances surrounding them shall be considered by the  
13 court and may be a basis for denial of relief if they or either of them  
14 constitute a continuation of the type of unlawful activity embodied  
15 in the criminal conviction for which expungement is sought.

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

22 Records of conviction for the following crimes specified in the  
23 New Jersey Code of Criminal Justice shall not be subject to  
24 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
25 death by auto as specified in N.J.S.2C:11-5; N.J.S.2C:13-1  
26 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or  
27 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human  
28 Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual  
29 Assault); <sup>2</sup>[N.J.S.2C:14-3a.] subsection a. of N.J.S.2C:14-3<sup>2</sup>  
30 (Aggravated Criminal Sexual Contact); if the victim is a minor,  
31 <sup>2</sup>[N.J.S.2C:14-3b.] subsection b. of N.J.S.2C:14-3<sup>2</sup> (Criminal  
32 Sexual Contact); if the victim is a minor and the offender is not the  
33 parent of the victim, N.J.S.2C:13-2 (Criminal Restraint) or  
34 N.J.S.2C:13-3 (False Imprisonment); N.J.S.2C:15-1 (Robbery);  
35 N.J.S.2C:17-1 (Arson and Related Offenses); <sup>2</sup>[N.J.S.2C:24-4a.]  
36 subsection a. of N.J.S.2C:24-4<sup>2</sup> (Endangering the welfare of a child  
37 by engaging in sexual conduct which would impair or debauch the  
38 morals of the child <sup>2</sup>, or causing the child other harm<sup>2</sup>);  
39 <sup>2</sup>[N.J.S.2C:24-4b<sub>2</sub>(4)] paragraph (4) of subsection b. of  
40 N.J.S.2C:24-4<sup>2</sup> (<sup>2</sup>[Endangering the welfare of] Photographing or  
41 filming<sup>2</sup> a child <sup>2</sup>in a prohibited sexual act<sup>2</sup>); <sup>2</sup>[N.J.S.2C:24-4b.(3)]  
42 paragraph (3) of subsection b. of N.J.S.2C:24-4<sup>2</sup> (Causing or  
43 permitting a child to engage in a prohibited sexual act);  
44 <sup>2</sup>[N.J.S.2C:24-4b.(5)(a)] subparagraph (a) of paragraph (5) of  
45 subsection b. of N.J.S.2C:24-4<sup>2</sup> (Distributing, possessing with  
46 intent to distribute or using a file-sharing program to store items  
47 depicting the sexual exploitation or abuse of a child);

1 <sup>2</sup>**[N.J.S.2C:24-4b.(5)(b)]** subparagraph (b) of paragraph (5) of  
 2 subsection b. of N.J.S.2C:24-4<sup>2</sup> (Possessing <sup>2</sup>or viewing<sup>2</sup> items  
 3 depicting the sexual exploitation or abuse of a child); N.J.S.2C:28-1  
 4 (Perjury); N.J.S.2C:28-2 (False Swearing); <sup>2</sup>**[N.J.S.2C:34-1b.(4)]**  
 5 paragraph (4) of subsection b. of N.J.S.2C:34-1<sup>2</sup> (Knowingly  
 6 promoting the prostitution of the actor's child); section 2 of  
 7 P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3  
 8 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical  
 9 Weapons, Biological Agents or Nuclear or Radiological Devices);  
 10 and conspiracies or attempts to commit such crimes.

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

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

20 (1) Marijuana, where the total quantity sold, distributed or  
 21 possessed with intent to sell was 25 grams or less;

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

24 (3) Any controlled dangerous substance provided that the  
 25 conviction is of the third or fourth degree, where the court finds that  
 26 expungement is consistent with the public interest, giving due  
 27 consideration to the nature of the offense and the petitioner's  
 28 character and conduct since conviction.

29 d. In the case of a State licensed physician or podiatrist  
 30 convicted of an offense involving drugs or alcohol or pursuant to  
 31 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
 32 court shall notify the State Board of Medical Examiners upon  
 33 receipt of a petition for expungement of the conviction and records  
 34 and information pertaining thereto.

35 (cf: P.L.2013, c.136, s.3)

36

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

38 2C:52-3. Disorderly persons offenses and petty disorderly  
 39 persons offenses.

40 <sup>2</sup>a. Any person convicted of a disorderly persons offense or  
 41 petty disorderly persons offense under the laws of this State who  
 42 has not been convicted of any prior or subsequent crime, whether  
 43 within this State or any other jurisdiction, may present an  
 44 expungement application to the Superior Court pursuant to this  
 45 section. Any person convicted of a disorderly persons offense or  
 46 petty disorderly persons offense under the laws of this State who  
 47 has also been convicted of a prior or subsequent crime shall not be  
 48 eligible to apply for an expungement pursuant to this section, but

1 may present an expungement application to the Superior Court  
2 pursuant to N.J.S.2C:52-2.

3 b.<sup>2</sup> Any person convicted of a disorderly persons offense or petty  
4 disorderly persons offense under the laws of this State who has not  
5 been convicted of any prior or subsequent crime, whether within  
6 this State or any other jurisdiction, or <sup>2</sup>who has not been convicted<sup>2</sup>  
7 of <sup>2</sup>[another three] a<sup>2</sup> disorderly persons or petty disorderly  
8 persons <sup>2</sup>[offenses] offense on more than two other occasions<sup>2</sup> ,  
9 may, after the expiration of a period of [5] <sup>4</sup>[three] five<sup>4</sup> years  
10 from the date of his <sup>2</sup>most recent<sup>2</sup> conviction, payment of fine,  
11 satisfactory completion of probation or release from incarceration  
12 <sup>2</sup>for any disorderly persons or petty disorderly persons offense<sup>2</sup> ,  
13 whichever is later, present <sup>2</sup>an expungement application to the  
14 Superior Court in the county in which the conviction for the most  
15 recent disorderly persons or petty disorderly persons offense was  
16 adjudged, which contains<sup>2</sup> a duly verified petition as provided in  
17 [section 2C:52-7 hereof] N.J.S.2C:52-7 <sup>2</sup>[to the Superior Court in  
18 the county in which the conviction was entered] for the disorderly  
19 persons or petty disorderly persons conviction sought to be  
20 expunged, and which may also contain additional duly verified  
21 petitions for no more than two other convictions for disorderly  
22 persons or petty disorderly persons offenses,<sup>2</sup> praying that <sup>2</sup>[such]  
23 the<sup>2</sup> conviction <sup>2</sup>, or convictions if applicable,<sup>2</sup> and all records and  
24 information pertaining thereto be expunged. <sup>2</sup>The petition for each  
25 conviction appended to an application shall comply with the  
26 requirements of N.J.S.2C:52-1 et seq.<sup>2</sup>

27 Notwithstanding the provisions of the preceding paragraph, a  
28 petition may be filed and presented, and the court may grant an  
29 expungement pursuant to this section, when the court finds <sup>4</sup>:

30 (1)<sup>4</sup> less than <sup>4</sup>[three years] five years<sup>4</sup> has expired from the  
31 satisfaction of a fine, but the <sup>4</sup>[three-] five-<sup>4</sup> year time requirement  
32 is otherwise satisfied, and the court finds that the person  
33 substantially complied with any payment plan ordered pursuant to  
34 N.J.S.2C:46-1 et seq., or could not do so due to compelling  
35 circumstances affecting his ability to satisfy the fine <sup>4</sup>; or

36 (2) at least three years have expired from the date of his  
37 conviction, payment of fine, satisfactory completion of probation or  
38 parole, or release from incarceration, whichever is later; the person  
39 has not been convicted of a crime, disorderly persons offense, or  
40 petty disorderly persons offense since the time of the conviction;  
41 and the court finds in its discretion that expungement is in the  
42 public interest, giving due consideration to the nature of the  
43 offense, and the applicant's character and conduct since conviction <sup>4</sup>.

44 In determining whether compelling circumstances exist for the  
45 purposes of <sup>4</sup>paragraph (1) of<sup>4</sup> this <sup>2</sup>[section] subsection<sup>2</sup> , a court  
46 may consider the amount of the fine or fines imposed, the person's



1 age at the time of the offense, the person's financial condition and  
2 other relevant circumstances regarding the person's ability to pay.  
3 (cf: P.L.1981, c.290, s.43)  
4

5 4. N.J.S.2C:52-6 is amended to read as follows:  
6 2C:52-6. Arrests not resulting in conviction.

7 a. **【In all cases, except as herein provided, wherein】** When a  
8 person has been arrested or held to answer for a crime, disorderly  
9 persons offense, petty disorderly persons offense<sub>2</sub>, or municipal  
10 ordinance violation under the laws of this State or of any  
11 governmental entity thereof and 【against whom】 proceedings  
12 against the person were dismissed, 【or who】 the person was  
13 acquitted, or 【who】 the person was discharged without a conviction  
14 or finding of guilt, the Superior Court shall, at the time of dismissal,  
15 acquittal, or discharge, or, in any case set forth in paragraph (1) of  
16 this subsection, upon receipt of an application from the person,  
17 order the expungement of all records and information relating to the  
18 arrest or charge.

19 (1) If proceedings took place in municipal court, the municipal  
20 court shall provide the person, upon request, with appropriate  
21 documentation to transmit to the Superior Court to request  
22 expungement pursuant to procedures developed by the  
23 Administrative Office of the Courts. Upon receipt of the  
24 documentation, the Superior Court shall enter an ex parte order  
25 expunging all records and information relating to the person's arrest  
26 or charge.

27 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14  
28 shall not apply to an expungement pursuant to this subsection and  
29 no fee shall be charged to the person making such application.

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

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

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

44 b. When <sup>3</sup>【the】 a person did not apply for an<sup>3</sup> expungement of  
45 an arrest or charge not resulting in a conviction <sup>3</sup>【was not ordered  
46 by the court】<sup>3</sup> pursuant to subsection a. of this section, <sup>3</sup>【a】 the<sup>3</sup>  
47 person may at any time following the disposition of proceedings,

1 present a duly verified petition as provided in N.J.S.2C:52-7 to the  
2 Superior Court in the county in which the disposition occurred  
3 praying that records of such arrest and all records and information  
4 pertaining thereto be expunged. No fee shall be charged to the  
5 person for applying for an expungement of an arrest or charge not  
6 resulting in a conviction pursuant to this subsection.

7 **【b.】** c. Any person who has had charges dismissed against him  
8 pursuant to **【P.L.1970, c.226, s.27 (C.24:21-27) or pursuant to】** a  
9 program of supervisory treatment pursuant to N.J.S.2C:43-12, or  
10 conditional discharge pursuant to N.J.S.2C:36A-1, or conditional  
11 dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), shall be  
12 barred from the relief provided in this section until six months after  
13 the entry of the order of dismissal.

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

19 (cf: P.L.2013, c.158, s.13)

20  
21 5. N.J.S.2C:52-20 is amended to read as follows:

22 2C:52-20. Use of Expunged Records In Conjunction with  
23 Supervisory Treatment or Diversion Programs.

24 Expunged records may be used by **【any judge】** the court in  
25 determining whether to grant or deny the person's application for  
26 acceptance into a supervisory treatment or diversion program for  
27 subsequent charges. Any expunged records which are possessed by  
28 any law enforcement agency may be supplied to the Attorney  
29 General, any county prosecutor, or **【judge】** court of this State when  
30 same are requested and are to be used for the purpose of  
31 determining whether or not to accept a person into a supervisory  
32 treatment or diversion program for subsequent charges.

33 (cf: P.L.1979, c.178, s.127)

34  
35 6. N.J.S.2C:52-21 is amended to read as follows:

36 2C:52-21. Use of Expunged Records in Conjunction with  
37 Setting Bail or Authorizing Pretrial Release, Presentence Report, or  
38 Sentencing.

39 Expunged records, or sealed records under prior law, of prior  
40 arrests or convictions shall be provided to any **【judge】** court,  
41 county prosecutor, **【probation department】** the Probation Division  
42 of the Superior Court, the pretrial services agency, or the Attorney  
43 General when same are requested for use in conjunction with a bail  
44 hearing, pretrial release determination pursuant to sections 1  
45 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.), **【or】** for the  
46 preparation of a presentence report, or for purpose of sentencing.

47 (cf: P.L.1979, c.178, s.128)

1       7. N.J.S.2C:52-24 is amended to read as follows:  
2       2C:52-24. County prosecutor's obligation to ascertain propriety  
3 of petition.

4       Notwithstanding the notice requirements provided herein, it shall  
5 be the obligation of the county prosecutor of the county wherein  
6 any petition for expungement is filed to verify the accuracy of the  
7 allegations contained in the petition for expungement and to bring  
8 to the court's attention any facts which may be a bar to, or which  
9 may make inappropriate the granting of, such relief. If no disabling,  
10 adverse or relevant information is ascertained other than that as  
11 included in the petitioner's affidavit, such facts shall be  
12 communicated by the prosecutor to the **[hearing judge]** court.  
13 (cf: P.L.1979, c. 178, s. 131)  
14

15       8. N.J.S.2C:52-27 is amended to read as follows:  
16       2C:52-27. Effect of expungement.

17       Unless otherwise provided by law, if an order of expungement is  
18 granted, the arrest, conviction and any proceedings related thereto  
19 shall be deemed not to have occurred, and the petitioner may  
20 answer any questions relating to their occurrence accordingly,  
21 except as follows:

22       a. The fact of an expungement, sealing or similar relief shall be  
23 disclosed as provided in section 2C:52-8b.

24       b. The fact of an expungement of prior charges which were  
25 dismissed because of the person's acceptance into and successful  
26 completion of a supervisory treatment or other diversion program  
27 shall be disclosed by said person to any **[judge who]** court that is  
28 determining the propriety of accepting said person into a  
29 supervisory treatment or other diversion program for subsequent  
30 criminal charges; and

31       c. Information divulged on expunged records shall be revealed  
32 by a petitioner seeking employment within the judicial branch or  
33 with a law enforcement or corrections agency and such information  
34 shall continue to provide a disability as otherwise provided by law.  
35 (cf: P.L.1981, c.290, s.45)  
36

37       <sup>2</sup>9. N.J.S.2C:52-32 is amended to read as follows:

38       This chapter shall be construed with the primary objective of  
39 providing relief to the **[one-time]** reformed offender who has led a  
40 life of rectitude and disassociated himself with unlawful activity,  
41 but not to create a system whereby **[periodic]** persistent violators of  
42 the law or those who associate themselves with continuing criminal  
43 activity have a regular means of expunging their police and criminal  
44 records.<sup>2</sup>

45 (cf: N.J.S.2C:52-32)  
46

47       <sup>2</sup>**[9.] 10.**<sup>2</sup> This act shall take effect on the 90<sup>th</sup> day following  
48 enactment.

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Shortens waiting periods for expungement of criminal and other records and information; makes various changes to other expungement procedures and requirements.

# ASSEMBLY, No. 206

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Permits automatic expungement of criminal records under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 2/25/2014)**

1 AN ACT concerning automatic expungement of criminal records and  
2 revising various sections of the statutory law.

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:52-2 is amended to read as follows:

8 2C:52-2. Indictable Offenses.

9 a. In all cases, except as herein provided, wherein a person has  
10 been convicted of a crime under the laws of this State and who has  
11 not been convicted of any prior or subsequent crime, whether within  
12 this State or any other jurisdiction, and has not been adjudged a  
13 disorderly person or petty disorderly person on more than two  
14 occasions may, after the expiration of a period of **[10]** seven years  
15 from the date of his conviction, payment of fine, satisfactory  
16 completion of probation or parole, or release from incarceration,  
17 whichever is later, present a duly verified petition as provided in  
18 **[section]** N.J.S.2C:52-7 to the Superior Court in the county in  
19 which the conviction was entered praying that such conviction and  
20 all records and information pertaining thereto be expunged.

21 Notwithstanding the provisions of the preceding paragraph, a  
22 petition may be filed and presented, and the court may grant an  
23 expungement pursuant to this section, although less than **[10]** seven  
24 years has expired in accordance with the requirements of the  
25 preceding paragraph where the court finds:

26 (1) less than **[10]** seven years has expired from the satisfaction  
27 of a fine, but the **[10]** seven-year time requirement is otherwise  
28 satisfied, and the court finds that the person substantially complied  
29 with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or  
30 could not do so due to compelling circumstances affecting his  
31 ability to satisfy the fine; or

32 (2) at least five years has expired from the date of his  
33 conviction, payment of fine, satisfactory completion of probation or  
34 parole, or release from incarceration, whichever is later; the person  
35 has not been convicted of a crime, disorderly persons offense, or  
36 petty disorderly persons offense since the time of the conviction;  
37 and the court finds in its discretion that expungement is in the  
38 public interest, giving due consideration to the nature of the  
39 offense, and the applicant's character and conduct since conviction.

40 In determining whether compelling circumstances exist for the  
41 purposes of paragraph (1) of this subsection, a court may consider  
42 the amount of the fine or fines imposed, the person's age at the time  
43 of the offense, the person's financial condition and other relevant  
44 circumstances regarding the person's ability to pay.

**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 Although subsequent convictions for no more than two  
2 disorderly or petty disorderly offenses shall not be an absolute bar  
3 to relief, the nature of those conviction or convictions and the  
4 circumstances surrounding them shall be considered by the court  
5 and may be a basis for denial of relief if they or either of them  
6 constitute a continuation of the type of unlawful activity embodied  
7 in the criminal conviction for which expungement is sought.

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

14 Records of conviction for the following crimes specified in the  
15 New Jersey Code of Criminal Justice shall not be subject to  
16 expungement: **[Section]** N.J.S.2C:11-1 et seq. (Criminal  
17 Homicide), except death by auto as specified in **[section]**  
18 N.J.S.2C:11-5; **[section]** N.J.S.2C:13-1 (Kidnapping); **[section]**  
19 2C:13-6 section 1 of P.L.1993, c.291, (C.2C:13-6) (Luring or  
20 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human  
21 Trafficking); **[section]** N.J.S.2C:14-2 (Sexual Assault or  
22 Aggravated Sexual Assault); **[section]** N.J.S.2C:14-3a (Aggravated  
23 Criminal Sexual Contact); if the victim is a minor, **[section]**  
24 N.J.S.2C:14-3b (Criminal Sexual Contact); if the victim is a minor  
25 and the offender is not the parent of the victim, **[section]**  
26 N.J.S.2C:13-2 (Criminal Restraint) or **[section]** N.J.S.2C:13-3  
27 (False Imprisonment); **[section]** N.J.S.2C:15-1 (Robbery);  
28 **[section]** N.J.S.2C:17-1 (Arson and Related Offenses); **[section]**  
29 N.J.S.2C:24-4a. (Endangering the welfare of a child by engaging in  
30 sexual conduct which would impair or debauch the morals of the  
31 child); **[section]** N.J.S.2C:24-4b(4) (Endangering the welfare of a  
32 child); **[section]** N.J.S.2C:24-4b. (3) (Causing or permitting a child  
33 to engage in a prohibited sexual act); **[section]** N.J.S.2C:24-  
34 4b.(5)(a) (Selling or manufacturing child pornography); **[section]**  
35 N.J.S.2C:28-1 (Perjury); **[section]** N.J.S.2C:28-2 (False Swearing);  
36 **[section]** N.J.S.2C:34-1b.(4) (Knowingly promoting the  
37 prostitution of the actor's child); section 2 of P.L.2002, c.26  
38 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002,  
39 c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons,  
40 Biological Agents or Nuclear or Radiological Devices); and  
41 conspiracies or attempts to commit such crimes.

42 Records of conviction for any crime committed by a person  
43 holding any public office, position or employment, elective or  
44 appointive, under the government of this State or any agency or  
45 political subdivision thereof and any conspiracy or attempt to

1 commit such a crime shall not be subject to expungement if the  
2 crime involved or touched such office, position or employment.

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

6 (1) Marijuana, where the total quantity sold, distributed or  
7 possessed with intent to sell was 25 grams or less;

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

10 (3) Any controlled dangerous substance provided that the  
11 conviction is of the third or fourth degree, where the court finds that  
12 expungement is consistent with the public interest, giving due  
13 consideration to the nature of the offense and the petitioner's  
14 character and conduct since conviction.

15 d. In the case of a State licensed physician or podiatrist  
16 convicted of an offense involving drugs or alcohol or pursuant to  
17 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
18 court shall notify the State Board of Medical Examiners upon  
19 receipt of a petition for expungement of the conviction and records  
20 and information pertaining thereto or, in the case of automatic  
21 expungement, once the records have been expunged.

22 e. In any case wherein a person has been convicted of a crime  
23 under the laws of this State, and the conviction qualifies for  
24 expungement pursuant to subsections a. and c. and appears in a  
25 criminal history record maintained by the State Police, the  
26 conviction and all records and information pertaining thereto shall  
27 be automatically expunged.

28 (cf: P.L.2009, c.188, s.1)

29

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

31 2C:52-3. Disorderly Persons Offenses and Petty Disorderly  
32 Persons Offenses. **【Any】** a. Except as provided in subsection b.,  
33 any person convicted of a disorderly persons offense or petty  
34 disorderly persons offense under the laws of this State who has not  
35 been convicted of any prior or subsequent crime, whether within  
36 this State or any other jurisdiction, or of another three disorderly  
37 persons or petty disorderly persons offenses, may, after the  
38 expiration of a period of **【5】** three years from the date of his  
39 conviction, payment of fine, or satisfactory completion of probation  
40 or release from incarceration, whichever is later, present a duly  
41 verified petition as provided in **【section】** N.J.S.2C:52-7 hereof to  
42 the Superior Court in the county in which the conviction was  
43 entered praying that such conviction and all records and information  
44 pertaining thereto be expunged.

45 b. Notwithstanding subsection a., any person convicted of a  
46 disorderly persons offense or petty disorderly persons offense for a  
47 violation of N.J.S.2C:17-3, N.J.S.2C:20-11, or Chapter 35 or 36 in



1 Title 2C of the New Jersey Statutes that appears in a criminal  
2 history record maintained by the State Police, who has not been  
3 convicted of any prior or subsequent crime, whether within this  
4 State or any other jurisdiction, or of another three disorderly  
5 persons or petty disorderly persons offenses, shall, after the  
6 expiration of a period of three years from the date of his conviction,  
7 payment of fine, or satisfactory completion of probation or release  
8 from incarceration, whichever is later, have the conviction and all  
9 records and information pertaining thereto automatically expunged  
10 by the Superior Court in the county in which the conviction was  
11 entered.

12 (cf: P.L.1981, c. 290, s. 43)

13

14 3. Section 1 of P.L.1980, c.163 (C.2C:52-4.1) is amended to  
15 read as follows:

16 1. a. Any person adjudged a juvenile delinquent may have  
17 such adjudication expunged as follows:

18 (1) Pursuant to N.J.S.2C:52-2, if the act committed by the  
19 juvenile would have constituted a crime if committed by an adult;

20 (2) Pursuant to N.J.S.2C:52-3, if the act committed by the  
21 juvenile would have constituted a disorderly or petty disorderly  
22 persons offense if committed by an adult; **or**

23 (3) Pursuant to N.J.S.2C:52-4, if the act committed by the  
24 juvenile would have constituted an ordinance violation if committed  
25 by an adult ; or

26 (4) If the act committed by the juvenile would, if committed by  
27 an adult, be subject to automatic expungement pursuant to  
28 subsection e. of N.J.S.2C:52-2, subsection b. of 2C:52-3, or  
29 paragraph (2) of subsection a. of N.J.S.2C:52-5, the adjudication  
30 shall be automatically expunged.

31 For purposes of expungement, any act which resulted in a  
32 juvenile being adjudged a delinquent shall be classified as if that act  
33 had been committed by an adult.

34 b. Additionally, any person who has been adjudged a juvenile  
35 delinquent may have his entire record of delinquency adjudications  
36 expunged if:

37 (1) **Five** Four years have elapsed since the final discharge of  
38 the person from legal custody or supervision or **5** four years have  
39 elapsed after the entry of any other court order not involving  
40 custody or supervision, except that periods of post-incarceration  
41 supervision pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44),  
42 shall not be considered in calculating the **five** four-year period for  
43 purposes of this paragraph;

44 (2) He has not been convicted of a crime, or a disorderly or  
45 petty disorderly persons offense, or adjudged a delinquent, or in  
46 need of supervision, during the **5** four years prior to the filing of  
47 the petition or, in the case of automatic expungement, the four years

1 after he has satisfied his detention, and no proceeding or complaint  
2 is pending seeking such a conviction or adjudication, except that  
3 periods of post-incarceration supervision pursuant to section 25 of  
4 P.L.1982, c.77 (C.2A:4A-44), shall not be considered in calculating  
5 the **【five】** ~~four~~-year period for purposes of this paragraph;

6 (3) He was never adjudged a juvenile delinquent on the basis of  
7 an act which if committed by an adult would constitute a crime not  
8 subject to expungement under N.J.S.2C:52-2;

9 (4) He has never had an adult conviction expunged; and

10 (5) He has never had adult criminal charges dismissed following  
11 completion of a supervisory treatment or other diversion program.

12 c. Any person who has been charged with an act of  
13 delinquency and against whom proceedings were dismissed may  
14 have the filing of those charges expunged pursuant to the provisions  
15 of N.J.S.2C:52-6.

16 (cf: P.L.2009, c.188, s.2)

17

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

19 Expungement of Records of Young Drug Offenders. a.  
20 Notwithstanding the provisions of **【sections】** N.J.S.2C:52-2 and  
21 N.J.S.2C:52-3, **【after a period of not less than one year following**  
22 **conviction, termination of probation or parole or discharge from**  
23 **custody, whichever is later,】** any person convicted of an offense  
24 under chapters 35 or 36 of this title for the possession or use of a  
25 controlled dangerous substance **【, convicted of violating P.L. 1955,**  
26 **c.277, s. 3 (C. 2A:170-77.5), or convicted of violating P.L. 1962,**  
27 **c.113, s. 1 (C. 2A:170-77.8),】** and who at the time of the offense  
28 was 21 years of age or younger **【,】** may have the conviction  
29 expunged as follows:

30 (1) Except as provided in paragraph (2) of this subsection, after  
31 a period of not less than one year following conviction, termination  
32 of probation or parole or discharge from custody, whichever is later,  
33 the person may apply to the Superior Court in the county wherein  
34 the matter was disposed of for the expungement of such person's  
35 conviction and all records pertaining thereto.

36 (2) If the person was convicted of a disorderly persons offense  
37 or a petty disorderly persons offense that record appears in a  
38 criminal history record maintained by the State Police, after a  
39 period of one year following conviction, termination of probation or  
40 parole or discharge from custody, whichever is later, the conviction  
41 and all records pertaining thereto shall be automatically expunged  
42 by the Superior Court in the county wherein the violation occurred.

43 b. The relief of expungement under this section shall be  
44 granted only if said person has not, prior to the time of hearing or  
45 eligibility for automatic expungement, violated any of the  
46 conditions of his probation or parole, albeit subsequent to discharge  
47 from probation or parole, has not been convicted of any previous or

1 subsequent criminal act or any subsequent or previous violation of  
2 chapters 35 or 36 of this title **【**or of P.L.1955, c.277, s.3 (C.2A:170-  
3 77.5) or of P.L. 1962, c.113, s.1 (C.2A:170-77.8)**】**, or who has not  
4 had a prior or subsequent criminal matter dismissed because of  
5 acceptance into a supervisory treatment or other diversion program.

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

10 (1) Marihuana, where the total sold, distributed or possessed  
11 with intent to sell was 25 grams or less, or

12 (2) Hashish, where the total amount sold, distributed or  
13 possessed with intent to sell was 5 grams or less.

14 (cf: P.L.1987, c.106, s.16)

15

16 5. N.J.S.2C:52-14 is amended to read as follows:

17 2C:52-14. **【**A petition for expungement filed pursuant to this  
18 chapter**】** Expungement shall be denied when:

19 a. Any statutory prerequisite, including any provision of this  
20 chapter, is not fulfilled or there is any other statutory basis for  
21 denying relief.

22 b. The need for the availability of the records outweighs the  
23 desirability of having a person freed from any disabilities as  
24 otherwise provided in this chapter. An application may be denied  
25 under this subsection only following objection of a party given  
26 notice pursuant to 2C:52-10 and the burden of asserting such  
27 grounds shall be on the objector, except that in regard to  
28 expungement sought for third or fourth degree drug offenses  
29 pursuant to paragraph (3) of subsection c. of N.J.S.2C:52-2, the  
30 court shall consider whether this factor applies regardless of  
31 whether any party objects on this basis.

32 c. In connection with a petition under section 2C:52-6, the  
33 acquittal, discharge or dismissal of charges resulted from a plea  
34 bargaining agreement involving the conviction of other charges.  
35 This bar, however, shall not apply once the conviction is itself  
36 expunged.

37 d. The arrest or conviction sought to be expunged is, at the  
38 time of hearing, the subject matter of civil litigation between the  
39 petitioner or his legal representative and the State, any  
40 governmental entity thereof or any State agency and the  
41 representatives or employees of any such body.

42 e. A person has had a previous criminal conviction expunged  
43 regardless of the lapse of time between the prior expungement, or  
44 sealing under prior law, and the present petition. This provision  
45 shall not apply:

46 (1) When the person is seeking the expungement of a municipal  
47 ordinance violation or,

1 (2) When the person is seeking the expungement of records  
2 pursuant to section 2C:52-6.

3 f. The person seeking the relief of expungement of a  
4 conviction for a disorderly persons, petty disorderly persons, or  
5 criminal offense has prior to or subsequent to said conviction been  
6 granted the dismissal of criminal charges following completion of a  
7 supervisory treatment or other diversion program.

8 (cf: P.L.2009, c.188, s.3)

9

10 6. N.J.S.2C:52-15 is amended to read as follows:

11 2C:52-15. Records to be Removed; Control. If an **[order of]**  
12 expungement of records of arrest or conviction under this chapter is  
13 granted **[by the court]**, all the records **[specified in said order]**  
14 subject to expungement shall be removed from the files of the  
15 agencies **[which have been noticed of the pendency of petitioner's**  
16 **motion and]** which are, by the provisions of this chapter, entitled to  
17 notice, and shall be placed in the control of a person who has been  
18 designated by the head of each such agency which, at the time of  
19 the **[hearing]** expungement, possesses said records. That  
20 designated person shall, except as otherwise provided in this  
21 chapter, insure that such records or the information contained  
22 therein are not released for any reason and are not utilized or  
23 referred to for any purpose. In response to requests for information  
24 or records of the person who was arrested or convicted, all noticed  
25 officers, departments and agencies shall reply, with respect to the  
26 arrest, conviction or related proceedings which are the subject of  
27 the order, that there is no record information.

28 (cf: N.J.S.2C:52-15)

29

30 7. N.J.S.2C:52-16 is amended to read as follows:

31 2C:52-16. Expunged Record Including Names of Persons Other  
32 than **[Petitioner]** Person Seeking Expungement. Any record or file  
33 which is maintained by a judicial or law enforcement agency, or  
34 agency in the criminal justice system, which is the subject of an  
35 order of expungement or an automatic expungement which includes  
36 the name or names of persons other than that of the **[petitioner]**  
37 person seeking expungement need not be isolated from the general  
38 files of the agency retaining same if the other persons named in said  
39 record or file have not been granted an order of expungement or an  
40 automatic expungement of said record, provided that a copy of the  
41 record shall be given to the person designated in 2C:52-15 and the  
42 original shall remain in the agency's general files with the  
43 petitioner's name and other personal identifiers obliterated and  
44 deleted.

45 (cf: N.J.S.2C:52-16)

46

47 8. N.J.S.2C:52-19 is amended to read as follows:

1 2C:52-19. Order of Superior Court Permitting Inspection of  
2 Records or Release of Information; Limitations. Inspection of the  
3 files and records, or release of the information contained therein,  
4 which are the subject of an **【order of】** expungement, or sealing  
5 under prior law, may be permitted by the Superior Court upon  
6 motion for good cause shown and compelling need based on  
7 specific facts. The motion or any order granted pursuant thereto  
8 shall specify the person or persons to whom the records and  
9 information are to be shown and the purpose for which they are to  
10 be utilized. Leave to inspect shall be granted by the court only in  
11 those instances where the subject matter of the records of arrest or  
12 conviction is the object of litigation or judicial proceedings. Such  
13 records may not be inspected or utilized in any subsequent civil or  
14 criminal proceeding for the purposes of impeachment or otherwise  
15 but may be used for purposes of sentencing on a subsequent offense  
16 after guilt has been established.

17 (cf: N.J.S.2C:52-19)

18

19 9. N.J.S.2C:52-24 is amended to read as follows:

20 2C:52-24. County Prosecutor's Obligation to Ascertain  
21 Propriety of **【Petition】** Expungement. Notwithstanding the notice  
22 requirements provided herein, it shall be the obligation of the  
23 county prosecutor of the county wherein any petition for  
24 expungement is filed or any automatic expungement is pending to  
25 verify the accuracy of the **【allegations contained in the petition for】**  
26 information pertinent to the granting of expungement and to bring  
27 to the court's attention any facts which may be a bar to, or which  
28 may make inappropriate the granting of, such relief. If no  
29 disabling, adverse or relevant information is ascertained **【other than**  
30 **that as included in the petitioner's affidavit, such facts shall be**  
31 **communicated by】** the prosecutor **【to the hearing judge】** shall  
32 provide documentation in that regard.

33 (cf: N.J.S.2C:52-24)

34

35 10. N.J.S.2C:52-26 is amended to read as follows:

36 2C:52-26. Vacating Orders of Sealing; Time; Basis. **【If】** a.  
37 Except in the case of an automatic expungement, if, within 5 years  
38 of the entry of an expungement order, any party to whom notice is  
39 required to be given pursuant to **【section】** N.J.S.2C:52-10 notifies  
40 the court which issued the order that at the time of the petition or  
41 hearing there were criminal, disorderly persons or petty disorderly  
42 persons charges pending against the person to whom the court  
43 granted such order, which charges were not revealed to the court at  
44 the time of hearing of the original motion or that there was some  
45 other statutory disqualification, said court shall vacate the  
46 expungement order in question and reconsider the original motion  
47 in conjunction with the previously undisclosed information.

1        b. In the case of an automatic expungement, if, within five  
2 years of the grant of an expungement, the court receives any  
3 information demonstrating that there were criminal, disorderly  
4 persons or petty disorderly persons charges pending against the  
5 person granted the expungement and that those charges were not  
6 available through a criminal history record maintained by the State  
7 Police at the time automatic expungement was granted or that there  
8 was some other statutory disqualification, the grant of expungement  
9 shall be reconsidered in conjunction with the previously unavailable  
10 information.

11 (cf: N.J.S.2C:52-26)

12  
13        11. N.J.S.2C:52-27 is amended to read as follows:

14        2C:52-27. Effect of Expungement. Unless otherwise provided  
15 by law, if an **【order of】** expungement is granted, the arrest,  
16 conviction and any proceedings related thereto shall be deemed not  
17 to have occurred, and the **【petitioner】** person granted the  
18 expungement may answer any questions relating to their occurrence  
19 accordingly, except as follows:

20        a. The fact of an expungement, sealing or similar relief shall be  
21 disclosed as provided in **【section 2C:52-8b】** subsection b. of  
22 N.J.S.2C:52-8.

23        b. The fact of an expungement of prior charges which were  
24 dismissed because of the person's acceptance into and successful  
25 completion of a supervisory treatment or other diversion program  
26 shall be disclosed by said person to any judge who is determining  
27 the propriety of accepting said person into a supervisory treatment  
28 or other diversion program for subsequent criminal charges; and

29        c. Information divulged on expunged records shall be revealed  
30 by a **【petitioner】** person granted expungement seeking employment  
31 within the judicial branch or with a law enforcement or corrections  
32 agency and such information shall continue to provide a disability  
33 as otherwise provided by law.

34 (cf: P.L.1981, c.290, s.45)

35  
36        12. Section 5 of P.L.1997, c.353 (C.2C:52-27.1) is amended to  
37 read as follows:

38        5. a. If an **【order of】** expungement of records of conviction  
39 under the provisions of chapter 52 of Title 2C of the New Jersey  
40 Statutes is granted **【by the court】** to a person convicted of health  
41 care claims fraud **【in which the court had ordered】** wherein the  
42 offender's professional license or certificate is required to  
43 be forfeited and the person be forever barred from the practice of the  
44 profession, occupation, trade, vocation or business pursuant to  
45 subsection a. of section 4 of P.L.1997, c.353 (C.2C:51-5), the  
46 person may petition the court for an order to rescind the court's

1 order of debarment if the person can demonstrate that the person is  
2 sufficiently rehabilitated.

3 b. If an order to rescind the court's order of debarment is  
4 granted, the person granted the order may apply to be licensed or  
5 certified to practice the profession, occupation, trade, vocation or  
6 business from which the offender was barred.

7 (cf: P.L.2003, c.89, s.77)

8

9 13. (New section) No fee shall be charged for an automatic  
10 expungement of records pursuant to the provisions of chapter 52 of  
11 the New Jersey Statutes.

12

13 14. (New section) The Supreme Court of New Jersey may adopt  
14 Rules of Court and the Administrative Director of the Courts may  
15 issue directives and guidelines to implement the purposes of P.L. ,  
16 c. (C. ) (pending before the Legislature as this bill).

17

18 15. This act shall take effect on the 60th day after enactment.

19

20

21

#### STATEMENT

22

23 This bill would permit the automatic expungement of records of  
24 certain criminal offenses and would reduce the time that must  
25 elapse for any expungement. In the case of a crime, this bill would  
26 reduce the statutory period from 10 years to seven years, and in the  
27 case of a disorderly persons or petty disorderly persons offense,  
28 from five years to three years. In the case of a person adjudged a  
29 juvenile delinquent who seeks to have his entire juvenile record  
30 expunged, the bill would reduce the time period from five years to  
31 four years.

#### *Crimes*

33 Under the bill, a person may be granted an automatic  
34 expungement of a crime if it would otherwise qualify for  
35 expungement, and the record of the crime appears in a criminal  
36 history record maintained by the State Police. Under current law,  
37 the record of a conviction of a crime may be expunged when the  
38 person has not been convicted of any prior or subsequent crime,  
39 whether in this State or another jurisdiction, and has not been  
40 adjudged a disorderly person or petty disorderly person on more  
41 than two occasions for a period of 10 years from the date of his  
42 conviction, payment of fine, satisfactory completion of probation or  
43 parole, or release from incarceration, whichever is later. The bill  
44 would shorten this time period from 10 years to seven years but  
45 would not change any of the requirements concerning other  
46 convictions.

#### *Disorderly and petty disorderly persons offenses*

1 In the case of a disorderly persons or petty disorderly persons  
2 offense, the bill provides that the record of the conviction would be  
3 automatically expunged if the conviction appears in a criminal  
4 history record maintained by the State Police and was for a  
5 violation of N.J.S.2C:17-3 (criminal mischief), N.J.S.2C:20-11  
6 (shoplifting), or chapters 35 or 36 in Title 2C of the New Jersey  
7 Statutes (drug offenses). The record would be automatically  
8 expunged on the same grounds as current law provides for ordinary  
9 expungements: if the person has not been convicted of any prior or  
10 subsequent crime, whether within this State or any other  
11 jurisdiction, or of another three disorderly persons or petty  
12 disorderly persons offenses. Automatic expungement would take  
13 place after the expiration of a period of three years (decreased from  
14 five years in current law) from the date of conviction, payment of  
15 fine, or satisfactory completion of probation or release from  
16 incarceration, whichever is later.

17 *Juvenile delinquents*

18 This bill would also permit a person who was adjudged a  
19 juvenile delinquent to receive an automatic expungement if the act  
20 committed by the juvenile would, if committed by an adult, have  
21 been subject to automatic expungement. The bill also provides that  
22 a person may have his entire record of juvenile delinquency  
23 adjudications expunged if four years (decreased from five years in  
24 current law) have elapsed after the entry of any other court order  
25 not involving custody or supervision, and the following conditions  
26 apply: the person has not been convicted of a crime, disorderly  
27 persons, or petty disorderly persons offense, or been adjudged a  
28 delinquent, or in need of supervision, during the four years; no  
29 proceeding is pending seeking such a conviction or adjudication; he  
30 was not adjudged a juvenile delinquent on the basis of an act which  
31 if committed by an adult would constitute a crime not subject to  
32 expungement; he has never had an adult conviction expunged; and  
33 he has never had an adult criminal charge dismissed following  
34 completion of a supervisory treatment program or other diversion  
35 program.

36 *Young drug offenders*

37 In the case of a person convicted of a disorderly persons or petty  
38 disorderly offense involving controlled dangerous substances that  
39 appears in a criminal history record maintained by the State Police,  
40 if the person was 21 years of age or younger at the time of the  
41 offense the person may be granted automatic expungement if, after  
42 a period of one year following conviction, termination of probation  
43 or parole or discharge from custody, whichever is later, the person  
44 has not violated any of the conditions of his probation or parole, has  
45 not been convicted of any previous or subsequent criminal act, and  
46 has not had a prior or subsequent criminal matter dismissed because



1 of acceptance into a supervisory treatment or other diversion  
2 program.

3 *State Police records*

4 The requirement that to qualify for automatic expungement the  
5 conviction must appear in a criminal history record maintained by  
6 the State Police reflects the fact that the records of some  
7 convictions only appear in local or county records and are not  
8 available through a Statewide computerized search. If a conviction  
9 does not qualify for automatic expungement, and the statutory  
10 criteria for expungement are otherwise met, a person seeking  
11 expungement may petition the court for expungement in accordance  
12 with current statutory law.

13 *Information pertinent to expungement*

14 Current law provides that it is the responsibility of the county  
15 prosecutor of the county wherein any petition for expungement is  
16 filed to verify the accuracy of the allegations contained in the  
17 petition for expungement and to bring to the court's attention any  
18 facts which may be a bar to, or which may make inappropriate the  
19 granting of, such relief.

20 The bill expands the responsibility of the county prosecutor, who  
21 in addition to performing these duties for expungement petitions,  
22 would also be required to verify the accuracy of information  
23 concerning automatic expungements. The prosecutor would be  
24 required to bring to the court's attention any facts which may be a  
25 bar to, or which may make inappropriate the granting of, an  
26 automatic expungement.

27 The bill addresses both expungement petitions and automatic  
28 expungements by providing that if no disabling, adverse or relevant  
29 information is ascertained, the prosecutor shall provide  
30 documentation in that regard.

31 *Vacating orders*

32 Currently, if within five years of entry of an expungement order  
33 the court receives information demonstrating that there were  
34 criminal, disorderly persons, or petty disorderly persons charges  
35 pending against the person granted the expungement and that these  
36 charges were not revealed to the court at the time of the original  
37 motion, or that there was some other statutory disqualification, the  
38 court must vacate the expungement order and reconsider the motion  
39 for expungement.

40 Under the bill, if within five years of the grant of an automatic  
41 expungement, the court receives any information demonstrating that  
42 there were criminal, disorderly persons, or petty disorderly persons  
43 charges pending against the person granted the expungement, and  
44 that those charges were not available through a criminal history  
45 record maintained by the State Police at the time automatic  
46 expungement was granted or that there was some other statutory

1 disqualification, the grant of expungement would be reconsidered in  
2 conjunction with the previously unavailable information.

3 *No filing fees*

4 Automatic expungement would not be subject to the filing fee  
5 required for a petition for expungement filed with the Superior  
6 Court. The filing fee would remain in effect for any conviction not  
7 subject to automatic expungement.

8 *Grounds for denial*

9 This bill would not change the current provisions concerning the  
10 grounds for which expungement must be denied or the crimes  
11 which constitute an absolute bar to expungement.

12 Records of the following crimes, among others, are barred from  
13 expungement: criminal homicide except death by auto; kidnapping;  
14 human trafficking; sexual assault or aggravated sexual assault;  
15 robbery; arson; selling or manufacturing child pornography; any  
16 crime committed by a person holding public office, position, or  
17 employment that involved or touched such office, position, or  
18 employment; and sale or distribution of a controlled dangerous  
19 substance except where the sale or distribution involved certain  
20 small amounts or certain convictions of the third or fourth degree.

21 Additionally, records of conviction for any crime committed by a  
22 person holding any public office, position or employment, elective  
23 or appointive, under the government of this State or any agency or  
24 political subdivision thereof and any conspiracy or attempt to  
25 commit such a crime may not be expunged if the crime involved or  
26 touched such office, position or employment.

**ASSEMBLY, No. 471**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Giblin**

**SYNOPSIS**

Permits automatic expungement for certain persons completing a sentence to drug court under the special probation statute.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/23/2014)**

1 AN ACT concerning expungement and amending and supplementing  
2 chapter 52 of Title 2C 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. 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; Prosecutorial  
12 Objections; Commitment to Residential Treatment Facilities or  
13 Participation in a Nonresidential Treatment Program; Presumption  
14 of Revocation; Brief Incarceration in Lieu of Permanent  
15 Revocation.

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

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

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

43 (3) the present offense was committed while the person was  
44 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 abuse treatment and monitoring will serve to  
5 benefit the person by addressing his drug or alcohol dependency  
6 and will thereby reduce the likelihood that the person will thereafter  
7 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, robbery, kidnapping,  
21 aggravated assault, aggravated sexual assault or sexual assault, or a  
22 similar crime under the laws of any other state or the United States;  
23 and

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

38 As a condition of special probation, the court shall order the  
39 person to enter a residential treatment program at a facility licensed  
40 and approved by the Division of Addiction Services in the  
41 Department of Human Services or a program of nonresidential  
42 treatment by a licensed and approved treatment provider, to comply  
43 with program rules and the requirements of the course of treatment,  
44 to cooperate fully with the treatment provider, and to comply with  
45 such other reasonable terms and conditions as may be required by  
46 the court or by law, pursuant to N.J.S.2C:45-1, and which shall  
47 include periodic urine testing for drug or alcohol usage throughout

1 the period of special probation. In determining whether to order the  
2 person to participate in a nonresidential rather than a residential  
3 treatment program, the court shall follow the procedure set forth in  
4 subsection j. of this section. Subject to the requirements of  
5 subsection d. of this section, the conditions of special probation  
6 may include different methods and levels of community-based or  
7 residential supervision.

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

11 (1) a crime of the first degree;

12 (2) a crime of the first or second degree enumerated in  
13 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

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

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

21 c. A person who is subject to sentencing under this section in  
22 accordance with subsection a. shall not be eligible for a sentence of  
23 special probation pursuant to this section if:

24 (1) the person has been:

25 (a) convicted of or adjudicated delinquent for an offense under  
26 section 1 of P.L.1987, c.101 (C.2C:35-7), subsection b. of section 1  
27 of P.L.1997, c.185 (C.2C:35-4.1), or any crime for which there  
28 exists a presumption of imprisonment pursuant to subsection d. of  
29 N.J.S.2C:44-1 or any other statute;

30 (b) previously convicted of an offense under subsection a. of  
31 N.J.S.2C:35-5 or a similar offense under any other law of this State,  
32 any other state or the United States; or

33 (c) previously convicted on two or more separate occasions of  
34 crimes of the third degree, other than crimes defined in  
35 N.J.S.2C:35-10; and

36 (2) the prosecutor objects to the person being placed on special  
37 probation. The court shall not place a person on special probation  
38 over the prosecutor's objection except upon a finding by the court of  
39 a gross and patent abuse of prosecutorial discretion. If the court  
40 makes a finding of a gross and patent abuse of prosecutorial  
41 discretion and imposes a sentence of special probation  
42 notwithstanding the objection of the prosecutor, the sentence of  
43 special probation imposed pursuant to this section shall not become  
44 final for 10 days in order to permit the appeal of such sentence by  
45 the prosecution.

46 d. Except as otherwise provided in subsection j. of this section,  
47 a person convicted of or adjudicated delinquent for a crime of the

1 second degree or of a violation of section 1 of P.L.1987, c.101  
2 (C.2C:35-7), or who previously has been convicted of or  
3 adjudicated delinquent for an offense under subsection a. of  
4 N.J.S.2C:35-5 or a similar offense under any other law of this State,  
5 any other state or the United States, who is placed on special  
6 probation under this section shall be committed to the custody of a  
7 residential treatment facility licensed and approved by the Division  
8 of Addiction Services in the Department of Human Services.  
9 Subject to the authority of the court to temporarily suspend  
10 imposition of all or any portion of the term of commitment to a  
11 residential treatment facility pursuant to subsection j. of this  
12 section, the person shall be committed to the residential treatment  
13 facility immediately, unless the facility cannot accommodate the  
14 person, in which case the person shall be incarcerated to await  
15 commitment to the residential treatment facility. The term of such  
16 commitment shall be for a minimum of six months, or until the  
17 court, upon recommendation of the treatment provider, determines  
18 that the person has successfully completed the residential treatment  
19 program, whichever is later, except that no person shall remain in  
20 the custody of a residential treatment facility pursuant to this  
21 section for a period in excess of five years. Upon successful  
22 completion of the required residential treatment program, the person  
23 shall complete the period of special probation, as authorized by  
24 subsection a. of this section, with credit for time served for any  
25 imprisonment served as a condition of probation and credit for each  
26 day during which the person satisfactorily complied with the terms  
27 and conditions of special probation while committed pursuant to  
28 this section to a residential treatment facility. Except as otherwise  
29 provided in subsection l. of this section, the person shall not be  
30 eligible for early discharge of special probation pursuant to  
31 N.J.S.2C:45-2, or any other provision of the law. The court, in  
32 determining the number of credits for time spent in residential  
33 treatment, shall consider the recommendations of the treatment  
34 provider. A person placed into a residential treatment facility  
35 pursuant to this section shall be deemed to be subject to official  
36 detention for the purposes of N.J.S.2C:29-5 (escape).

37 e. The probation department or other appropriate agency  
38 designated by the court to monitor or supervise the person's special  
39 probation shall report periodically to the court as to the person's  
40 progress in treatment and compliance with court-imposed terms and  
41 conditions. The treatment provider shall promptly report to the  
42 probation department or other appropriate agency all significant  
43 failures by the person to comply with any court imposed term or  
44 condition of special probation or any requirements of the course of  
45 treatment, including but not limited to a positive drug or alcohol  
46 test or the unexcused failure to attend any session or activity, and  
47 shall immediately report any act that would constitute an escape.

1 The probation department or other appropriate agency shall  
2 immediately notify the court and the prosecutor in the event that the  
3 person refuses to submit to a periodic drug or alcohol test or for any  
4 reason terminates his participation in the course of treatment, or  
5 commits any act that would constitute an escape.

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

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

24 (3) In making its determination whether to revoke special  
25 probation, and whether to overcome the presumption of revocation  
26 established in paragraph (2) of this subsection, the court shall  
27 consider the nature and seriousness of the present infraction and any  
28 past infractions in relation to the person's overall progress in the  
29 course of treatment, and shall also consider the recommendations of  
30 the treatment provider. The court shall give added weight to the  
31 treatment provider's recommendation that the person's special  
32 probation be permanently revoked, or to the treatment provider's  
33 opinion that the person is not amenable to treatment or is not likely  
34 to complete the treatment program successfully.

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



1 conditions of special probation while committed pursuant to this  
2 section to a residential treatment facility. The court, in determining  
3 the number of credits for time spent in a residential treatment  
4 facility, shall consider the recommendations of the treatment  
5 provider.

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

12 (6) Notwithstanding any other provision of this subsection, if  
13 the person at any time refuses to undergo urine testing for drug or  
14 alcohol usage as provided in subsection a. of this section, the court  
15 shall, subject only to the provisions of subsection g. of this section,  
16 permanently revoke the person's special probation.  
17 Notwithstanding any other provision of this section, if the person at  
18 any time while committed to the custody of a residential treatment  
19 facility pursuant to this section commits an act that would constitute  
20 an escape, the court shall forthwith permanently revoke the person's  
21 special probation.

22 (7) An action for a violation under this section may be brought  
23 by a probation officer or prosecutor or on the court's own motion.  
24 Failure to complete successfully the required treatment program  
25 shall constitute a violation of the person's special probation. A  
26 person who fails to comply with the terms of his special probation  
27 pursuant to this section and is thereafter sentenced to imprisonment  
28 in accordance with this subsection shall thereafter be ineligible for  
29 entry into the Intensive Supervision Program, provided however  
30 that this provision shall not affect the person's eligibility for entry  
31 into the Intensive Supervision Program for a subsequent conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 l. If the court finds that the person has made exemplary  
44 progress in the course of treatment, the court may, upon  
45 recommendation of the person's supervising probation officer or on  
46 the court's own motion, and upon notice to the prosecutor, grant  
47 early discharge from a term of special probation provided that the

1 person: (1) has satisfactorily completed the treatment program  
2 ordered by the court; (2) has served at least two years of special  
3 probation; (3) did not commit a substantial violation of any term or  
4 condition of special probation, including but not limited to a  
5 positive urine test, within the preceding 12 months; and (4) is not  
6 likely to relapse or commit an offense if probation supervision and  
7 related services are discontinued.

8 m. Upon completion of a sentence to a term of special  
9 probation, the conviction and all records and information pertaining  
10 thereto shall be automatically expunged, provided that:

11 (1) The person has not been convicted of any prior crime,  
12 whether within this State or any other jurisdiction, and has not been  
13 adjudged a disorderly person or petty disorderly person on more  
14 than two prior occasions;

15 (2) The conviction is for a crime not included in the list of  
16 crimes that may not be expunged as provided in subsections b. or c.  
17 of N.J.S.2C:52-2; and

18 (3) The person has not had a previous criminal conviction  
19 expunged regardless of the lapse of time between the prior  
20 expungement, or sealing under prior law, and the completion of the  
21 present sentence to a term of special probation.

22 (cf: P.L.2008, c.15, s.1)

23  
24 2. N.J.S.2C:52-2 is amended to read as follows:

25 2C:52-2. Indictable Offenses.

26 a. In all cases, except as herein provided, wherein a person has  
27 been convicted of a crime under the laws of this State and who has  
28 not been convicted of any prior or subsequent crime, whether within  
29 this State or any other jurisdiction, and has not been adjudged a  
30 disorderly person or petty disorderly person on more than two  
31 occasions may, after the expiration of a period of 10 years from the  
32 date of his conviction, payment of fine, satisfactory completion of  
33 probation or parole, or release from incarceration, whichever is  
34 later, present a duly verified petition as provided in section 2C:52-7  
35 to the Superior Court in the county in which the conviction was  
36 entered praying that such conviction and all records and information  
37 pertaining thereto be expunged.

38 Notwithstanding the provisions of the preceding paragraph, a  
39 petition may be filed and presented, and the court may grant an  
40 expungement pursuant to this section, although less than 10 years  
41 has expired in accordance with the requirements of the preceding  
42 paragraph where the court finds:

43 (1) less than 10 years has expired from the satisfaction of a fine,  
44 but the 10-year time requirement is otherwise satisfied, and the  
45 court finds that the person substantially complied with any payment  
46 plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so

1 due to compelling circumstances affecting his ability to satisfy the  
2 fine; or

3 (2) at least five years has expired from the date of his  
4 conviction, payment of fine, satisfactory completion of probation or  
5 parole, or release from incarceration, whichever is later; the person  
6 has not been convicted of a crime, disorderly persons offense, or  
7 petty disorderly persons offense since the time of the conviction;  
8 and the court finds in its discretion that expungement is in the  
9 public interest, giving due consideration to the nature of the  
10 offense, and the applicant's character and conduct since conviction.

11 In determining whether compelling circumstances exist for the  
12 purposes of paragraph (1) of this subsection, a court may consider  
13 the amount of the fine or fines imposed, the person's age at the time  
14 of the offense, the person's financial condition and other relevant  
15 circumstances regarding the person's ability to pay.

16 Although subsequent convictions for no more than two  
17 disorderly or petty disorderly offenses shall not be an absolute bar  
18 to relief, the nature of those conviction or convictions and the  
19 circumstances surrounding them shall be considered by the court  
20 and may be a basis for denial of relief if they or either of them  
21 constitute a continuation of the type of unlawful activity embodied  
22 in the criminal conviction for which expungement is sought.

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

29 Records of conviction for the following crimes specified in the  
30 New Jersey Code of Criminal Justice shall not be subject to  
31 expungement: **【Section】** N.J.S.2C:11-1 et seq. (Criminal  
32 Homicide), except death by auto as specified in **【section】**  
33 N.J.S.2C:11-5; **【section】** N.J.S.2C:13-1 (Kidnapping); **【section**  
34 2C:13-6】 section 1 of P.L.1993, c.291, (C.2C:13-6) (Luring or  
35 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human  
36 Trafficking); **【section】** N.J.S.2C:14-2 (Sexual Assault or  
37 Aggravated Sexual Assault); **【section 2C:14-3a】** subsection a. of  
38 N.J.S.2C:14-3 (Aggravated Criminal Sexual Contact); if the victim  
39 is a minor, **【section 2C:14-3b】** subsection b. of N.J.S.2C:14-3  
40 (Criminal Sexual Contact); if the victim is a minor and the offender  
41 is not the parent of the victim, **【section】** N.J.S.2C:13-2 (Criminal  
42 Restraint) or **【section】** N.J.S.2C:13-3 (False Imprisonment);  
43 **【section】** N.J.S.2C:15-1 (Robbery); **【section】** N.J.S.2C:17-1  
44 (Arson and Related Offenses); **【section 2C:24-4a.】** subsection a. of  
45 N.J.S.2C:24-4 (Endangering the welfare of a child by engaging in  
46 sexual conduct which would impair or debauch the morals of the

1 child); **【section 2C:24-4b(4)】** paragraph (4) of subsection b. of  
2 N.J.S.2C:24-4 (Endangering the welfare of a child); **【section 2C:24-**  
3 **4b. (3)】** paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or  
4 permitting a child to engage in a prohibited sexual act); **【section**  
5 **2C:24-4b.(5)(a)】** subparagraph (a) of paragraph (5) of subsection b.  
6 of N.J.S.2C:24-4 (Selling or manufacturing child pornography);  
7 **【section】** N.J.S.2C:28-1 (Perjury); **【section】** N.J.S.2C:28-2 (False  
8 Swearing); **【section 2C:34-1b.(4)】** paragraph (4) of subsection b. of  
9 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's  
10 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);  
11 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing  
12 or Possessing Chemical Weapons, Biological Agents or Nuclear or  
13 Radiological Devices); and conspiracies or attempts to commit such  
14 crimes.

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

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

24 (1) Marijuana, where the total quantity sold, distributed or  
25 possessed with intent to sell was 25 grams or less;

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

28 (3) Any controlled dangerous substance provided that the  
29 conviction is of the third or fourth degree, where the court finds that  
30 expungement is consistent with the public interest, giving due  
31 consideration to the nature of the offense and the petitioner's  
32 character and conduct since conviction.

33 d. In the case of a State licensed physician or podiatrist  
34 convicted of an offense involving drugs or alcohol or pursuant to  
35 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
36 court shall notify the State Board of Medical Examiners upon  
37 receipt of a petition for expungement of the conviction and records  
38 and information pertaining thereto.

39 e. In the case of a person who has completed a sentence to  
40 special probation under N.J.S.2C:35-14 and who qualifies for  
41 automatic expungement pursuant to subsection m. of N.J.S.2C:35-  
42 14, the conviction and all records and information pertaining thereto  
43 shall be automatically expunged.

44 (cf: P.L.2009, c.188, s.1)

45

46 3. (New section) a. Records subject to automatic expungement  
47 as provided in subsection m. of N.J.S.2C:35-14 and subsection e. of

- 1 N.J.S.2C:52-2 shall be treated in the same manner as records  
2 subject to an order of expungement as provided in N.J.S.2C:52-1 et  
3 seq.
- 4 b. A person eligible for automatic expungement shall not be  
5 required to file a petition for automatic expungement.
- 6 c. Notwithstanding subsection b., any office or agency required  
7 to be served with a petition for expungement pursuant to  
8 N.J.S.2C:52-10 shall be notified by the court not less than 10 days  
9 prior to the grant of an automatic expungement that an automatic  
10 expungement is pending. All such offices and agencies shall be  
11 served with all information relevant to the grant of the automatic  
12 expungement.
- 13 d. An office or agency notified under subsection c. shall notify  
14 the court of any statutory disqualification to the grant of automatic  
15 expungement. A statutory disqualification shall be the only basis  
16 for an office or agency to object to automatic expungement.
- 17 e. No fee shall be charged for an automatic expungement of  
18 records.
- 19 f. It shall be the obligation of the county prosecutor of the  
20 county wherein any automatic expungement is pending to verify the  
21 accuracy of the information pertinent to the granting of the  
22 automatic expungement and to bring to the court's attention any  
23 facts which may be a bar to, or which may make inappropriate the  
24 granting of, such relief. If no disabling, adverse or relevant  
25 information is ascertained the prosecutor shall provide  
26 documentation in that regard.
- 27 g. If, within five years of the grant of an automatic  
28 expungement, the court which granted the expungement is notified  
29 that at the time the expungement was granted there were criminal,  
30 disorderly persons or petty disorderly persons charges pending  
31 against the person granted expungement, which charges were not  
32 revealed to the court at the time the expungement was granted or  
33 that there was some other statutory disqualification, said court shall  
34 vacate the order granting automatic expungement and reconsider the  
35 matter in conjunction with the previously undisclosed information.  
36
- 37 4. (New section) The Supreme Court of New Jersey may adopt  
38 Rules of Court and the Administrative Director of the Courts may  
39 issue directives and guidelines to implement the purposes of  
40 P.L. , c. (C. ) (pending before the Legislature as this  
41 bill).
- 42
- 43 5. This act shall take effect on the 60th day after enactment.

STATEMENT

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This bill would grant automatic expungement of records of a criminal conviction to certain persons who have completed a sentence to a term of special probation, commonly referred to as drug court. To qualify for automatic expungement, the person cannot have been convicted of any prior crime or have been adjudged a disorderly person or petty disorderly person on more than two prior occasions; the conviction cannot be for any of the crimes that are ineligible for expungement under subsections b. and c. of N.J.S.2C:52-2; and the person cannot have had a previous criminal conviction expunged regardless of the lapse of time between the prior expungement and the completion of a sentence to special probation.

The bill would set forth certain procedural requirements for a grant of automatic expungement. No petition would be required and no fee would be charged for a grant of automatic expungement. Any office or agency that would be required to be served with a petition for expungement pursuant to N.J.S.2C:52-10 would be notified by the court not less than 10 days prior to the grant of an automatic expungement that the automatic expungement is pending and would be served with all relevant information. An office or agency entitled to notice would be required to notify the court of any statutory disqualification to the grant of automatic expungement. A statutory disqualification would be the only basis for the office or agency to object to automatic expungement.

The county prosecutor would be required to investigate all facts relevant to a pending automatic expungement and report any facts that would bar expungement or make a grant of expungement inappropriate. If no disabling, adverse or relevant information is ascertained the prosecutor shall provide documentation in that regard.

If, within five years of the grant of an automatic expungement, the court that granted the expungement is notified that at the time expungement was granted there were criminal, disorderly persons or petty disorderly persons charges pending against the person, which charges were not revealed to the court at the time the expungement was granted or that there was some other statutory disqualification, the court would be required to vacate the order granting automatic expungement and reconsider the matter in conjunction with the previously undisclosed information. Records subject to a grant of automatic expungement would be treated the same as records subject to an order of expungement as provided in N.J.S.2C:52-1 et seq.

Crimes that are not subject to expungement include: criminal homicide, kidnapping, luring or enticing, human trafficking, sexual assault or aggravated sexual assault, aggravated criminal sexual



1 contact if the victim is a minor, criminal sexual contact if the victim  
2 is a minor and the offender is not the parent of the victim, criminal  
3 restraint, false imprisonment, robbery, arson and related offenses,  
4 endangering the welfare of a child by engaging in sexual conduct  
5 which would impair or debauch the morals of the child,  
6 endangering the welfare of a child, causing or permitting a child to  
7 engage in a prohibited sexual act, selling or manufacturing child  
8 pornography, perjury, false swearing, knowingly promoting the  
9 prostitution of the actor's child, terrorism, producing or possessing  
10 chemical weapons, biological agents or nuclear or radiological  
11 devices, certain convictions for the sale or distribution of a  
12 controlled dangerous substance or possession thereof with intent to  
13 sell, and conspiracies or attempts to commit such crimes.  
14 Additionally, records of conviction for any crime committed by a  
15 person holding any public office, position or employment, elective  
16 or appointive, under the government of this State or any agency or  
17 political subdivision thereof and any conspiracy or attempt to  
18 commit such a crime may not be expunged if the crime involved or  
19 touched such office, position or employment.

20 This bill would not alter the procedures for filing a petition for  
21 expungement under N.J.S.2C:52-1 et seq.

# ASSEMBLY, No. 1663

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblymen Coughlin and Diegnan**

**SYNOPSIS**

Permits immediate expungement of court records where the person is acquitted or discharged or where the charges have been dismissed.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 12/12/2014)**

1 AN ACT concerning expungement and amending N.J.S.2C:52-6.

2

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

5

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

7 2C:52-6. a. In all cases, except as herein provided, wherein a  
8 person has been arrested or held to answer for a crime, disorderly  
9 persons offense, petty disorderly persons offense or municipal  
10 ordinance violation under the laws of this State or of any  
11 governmental entity thereof and against whom proceedings were  
12 dismissed, or who was acquitted, or who was discharged without a  
13 conviction or finding of guilt**【,】**: (1) the court may, upon motion of  
14 the defense, at the time of dismissal, acquittal or discharge, order  
15 the expungement of all records and information relating to the  
16 arrest. All relevant criminal justice and law enforcement agencies  
17 required to be notified pursuant to N.J.S.2C:52-10 shall be  
18 immediately notified of the expungement order; or (2) the person  
19 may at any time following the disposition of proceedings, present a  
20 duly verified petition as provided in **【section】** N.J.S.2C:52-7 to the  
21 Superior Court in the county in which the disposition occurred  
22 praying that records of such arrest and all records and information  
23 pertaining thereto be expunged.

24 b. Any person who has had charges dismissed against him  
25 pursuant to **【P.L.1970, c.226, s.27 (C.24:21-27)】** N.J.S.2C:36A-1  
26 or pursuant to a program of supervisory treatment, shall be barred  
27 from the relief provided in this section until 6 months after the entry  
28 of the order of dismissal.

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

34 (cf: P.L.1979, c.178, s.113).

35

36 2. This act shall take effect immediately.

37

38

39

#### STATEMENT

40

41 Under the current provisions of N.J.S.2C:52-6, any individual at  
42 any time following the disposition of a proceeding may file a  
43 petition to have his records expunged when the proceedings have  
44 been dismissed, when the person has been acquitted or when the  
45 person's case has been discharged without a conviction or a finding

**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.**

**A1663 JOHNSON, GIBLIN**

3

1 of guilt. This bill enhances this section by also authorizing the court  
2 to order the expungement of records in cases where a person is  
3 acquitted or discharged, or where charges are dismissed. The court  
4 would be required to notify all relevant criminal justice and law  
5 enforcement agencies of the expungement order.

# ASSEMBLY, No. 2879

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 10, 2014

**Sponsored by:**  
**Assemblywoman L. GRACE SPENCER**  
**District 29 (Essex)**

### **SYNOPSIS**

Authorizes court to waive certain fees, offer mediation as sentence; authorizes defendant information in presentence report; reduces certain expungement waiting periods; requires benefits be considered in juvenile plan.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning criminal penalties and amending various parts  
2 of the statutory law.

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:46-3 is amended to read as follows:

8 2C:46-3. **[A]** Notwithstanding the provisions of any other law  
9 to the contrary, a defendant who has been sentenced or is required  
10 to pay a fine may at any time, including the time of sentencing,  
11 **[petition]** apply to the court which sentenced him for a revocation  
12 of the fine or of any unpaid portion thereof in accordance with rules  
13 adopted by the Supreme Court. If it appears to the satisfaction of  
14 the court that the circumstances which warranted the imposition of  
15 the fine have changed, or that it would otherwise be unjust to  
16 require payment, the court may revoke the fine or the unpaid  
17 portion thereof in whole or in part.

18 Notwithstanding the provisions of any other law to the contrary,  
19 a defendant who has been sentenced or is required to pay an  
20 assessment, penalty, or fee imposed in accordance with the  
21 provisions of Title 2C of the New Jersey Statutes may at any time,  
22 including the time of sentencing, apply to the court which sentenced  
23 him for a waiver of the assessment, penalty, or fee or of any unpaid  
24 portion thereof in accordance with rules adopted by the Supreme  
25 Court. If it appears to the satisfaction of the court that the  
26 defendant has demonstrated that requiring such payment would  
27 impose an extreme financial hardship or that it would otherwise be  
28 unjust to require payment, the court may waive the assessment,  
29 penalty, or fee or the unpaid portion thereof in whole or in part, or  
30 establish an appropriate payment schedule that takes into account  
31 defendant's financial or other circumstances.

32 (cf: N.J.S.2C:46-3)

33

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

35 2C:45-1 Conditions of Suspension or Probation.

36 a. When the court suspends the imposition of sentence on a  
37 person who has been convicted of an offense or sentences him to be  
38 placed on probation, it shall attach such reasonable conditions,  
39 authorized by this section, as it deems necessary to insure that he  
40 will lead a law-abiding life or is likely to assist him to do so. These  
41 conditions may be set forth in a set of standardized conditions  
42 promulgated by the county probation department and approved by  
43 the court.

44 b. The court, as a condition of its order, may require the  
45 defendant:

**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 (1) To support his dependents and meet his family
- 2 responsibilities;
- 3 (2) To find and continue in gainful employment;
- 4 (3) To undergo available medical or psychiatric treatment and to
- 5 enter and remain in a specified institution, when required for that
- 6 purpose;
- 7 (4) To pursue a prescribed secular course of study or vocational
- 8 training;
- 9 (5) To attend or reside in a facility established for the
- 10 instruction, recreation or residence of persons on probation;
- 11 (6) To refrain from frequenting unlawful or disreputable places
- 12 or consorting with disreputable persons;
- 13 (7) Not to have in his possession any firearm or other dangerous
- 14 weapon unless granted written permission;
- 15 (8) (Deleted by amendment, P.L.1991, c.329);
- 16 (9) To remain within the jurisdiction of the court and to notify
- 17 the court or the probation officer of any change in his address or his
- 18 employment;
- 19 (10) To report as directed to the court or the probation officer, to
- 20 permit the officer to visit his home, and to answer all reasonable
- 21 inquiries by the probation officer;
- 22 (11) To pay a fine;
- 23 (12) To satisfy any other conditions reasonably related to the
- 24 rehabilitation of the defendant and not unduly restrictive of his
- 25 liberty or incompatible with his freedom of conscience;
- 26 (13) To require the performance of community-related service;
- 27 **[and]**
- 28 (14) To be subject to Internet access conditions pursuant to
- 29 paragraph (2) of subsection d. of this section; and
- 30 (15) To participate, if the victim voluntarily consents to
- 31 participate, in an approved mediation program that will mediate
- 32 between the defendant and the victim with the purpose of holding
- 33 the defendant accountable to the victim, including holding the
- 34 defendant accountable by means of restitution to the victim or other
- 35 agreed upon symbolic means of taking responsibility for the
- 36 defendant's actions.
- 37 In addition to any condition of probation, the court may enter an
- 38 order prohibiting a defendant who is convicted of a sex offense
- 39 from having any contact with the victim including, but not limited
- 40 to, entering the victim's residence, place of employment or business,
- 41 or school, and from harassing or stalking the victim or victim's
- 42 relatives in any way, and may order other protective relief as
- 43 provided in section 2 of P.L.2007, c.133 (C.2C:14-12).
- 44 c. The court, as a condition of its order, shall require the
- 45 defendant to pay any assessments required by section 2 of P.L.1979,
- 46 c.396 (C.2C:43-3.1) and shall, consistent with the applicable
- 47 provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or

1 section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to  
2 make restitution.

3 d. (1) In addition to any condition imposed pursuant to  
4 subsection b. or c., the court shall order a person placed on  
5 probation to pay a fee, not exceeding \$25.00 per month for the  
6 probationary term, to probation services for use by the State, except  
7 as provided in subsection g. of this section. This fee may be waived  
8 in cases of indigency upon application by the chief probation officer  
9 to the sentencing court.

10 (2) In addition to any conditions imposed pursuant to subsection  
11 b. or c., the court may order a person who has been convicted or  
12 adjudicated delinquent of a sex offense as defined in subsection b.  
13 of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to  
14 register as provided in subsections c. and d. of section 2 of  
15 P.L.1994, c.133 (C.2C:7-2), or who has been convicted or  
16 adjudicated delinquent for a violation of N.J.S.2C:34-3 to be  
17 subject to any of the following Internet access conditions:

18 (a) Prohibit the person from accessing or using a computer or  
19 any other device with Internet capability without the prior written  
20 approval of the court, except the person may use a computer or any  
21 other device with Internet capability in connection with that  
22 person's employment or search for employment with the prior  
23 approval of the person's probation officer;

24 (b) Require the person to submit to periodic unannounced  
25 examinations of the person's computer or any other device with  
26 Internet capability by a probation officer, law enforcement officer  
27 or assigned computer or information technology specialist,  
28 including the retrieval and copying of all data from the computer or  
29 device and any internal or external peripherals and removal of such  
30 information, equipment or device to conduct a more thorough  
31 inspection;

32 (c) Require the person to submit to the installation on the  
33 person's computer or device with Internet capability, at the person's  
34 expense, one or more hardware or software systems to monitor the  
35 Internet use; and

36 (d) Require the person to submit to any other appropriate  
37 restrictions concerning the person's use or access of a computer or  
38 any other device with Internet capability.

39 e. When the court sentences a person who has been convicted  
40 of a crime to be placed on probation, it may require him to serve a  
41 term of imprisonment not exceeding 364 days as an additional  
42 condition of its order. When the court sentences a person convicted  
43 of a disorderly persons offense to be placed on probation, it may  
44 require him to serve a term of imprisonment not exceeding 90 days  
45 as an additional condition of its order. In imposing a term of  
46 imprisonment pursuant to this subsection, the sentencing court shall  
47 specifically place on the record the reasons which justify the  
48 sentence imposed. The term of imprisonment imposed hereunder



1 shall be treated as part of the sentence, and in the event of a  
2 sentence of imprisonment upon the revocation of probation, the  
3 term of imprisonment served hereunder shall be credited toward  
4 service of such subsequent sentence. A term of imprisonment  
5 imposed under this section shall be governed by the "Parole Act of  
6 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

7 Whenever a person is serving a term of parole as a result of a  
8 sentence of incarceration imposed as a condition of probation,  
9 supervision over that person shall be maintained pursuant to the  
10 provisions of the law governing parole. Upon termination of the  
11 period of parole supervision provided by law, the county probation  
12 department shall assume responsibility for supervision of the person  
13 under sentence of probation. Nothing contained in this section shall  
14 prevent the sentencing court from at any time proceeding under the  
15 provisions of this chapter against any person for a violation of  
16 probation.

17 f. The defendant shall be given a copy of the terms of his  
18 probation or suspension of sentence and any requirements imposed  
19 pursuant to this section, stated with sufficient specificity to enable  
20 him to guide himself accordingly. The defendant shall  
21 acknowledge, in writing, his receipt of these documents and his  
22 consent to their terms.

23 g. Of the moneys collected under the provisions of subsection  
24 d. of this section, \$15.00 of each monthly fee collected before  
25 January 1, 1995 shall be deposited in the temporary reserve fund  
26 created by section 25 of P.L.1993, c.275, and \$10.00 of each shall  
27 be deposited into a "Community Service Supervision Fund" which  
28 shall be established by each county. The moneys in the  
29 "Community Service Supervision Fund" shall be expended only in  
30 accordance with the provisions of State law as shall be enacted to  
31 provide for expenditures from this fund for the purpose of  
32 supervising and monitoring probationers performing community  
33 service to ensure, by whatever means necessary and appropriate,  
34 that probationers are performing the community service ordered by  
35 the court and that the performance is in the manner and under the  
36 terms ordered by the court.

37 (cf: P.L.2007, c.219, s.4)

38

39 3. Section 24 of P.L. 1982, c.77 (C.2A:4A-43) is amended to  
40 read as follows:

41 24. Disposition of delinquency cases. a. In determining the  
42 appropriate disposition for a juvenile adjudicated delinquent the  
43 court shall weigh the following factors:

44 (1) The nature and circumstances of the offense;

45 (2) The degree of injury to persons or damage to property  
46 caused by the juvenile's offense;

47 (3) The juvenile's age, previous record, prior social service  
48 received, and out-of-home placement history;

- 1 (4) Whether the disposition supports family strength,  
2 responsibility and unity and the well-being and physical safety of  
3 the juvenile;
  - 4 (5) Whether the disposition provides for reasonable  
5 participation by the child's parent, guardian, or custodian, provided,  
6 however, that the failure of a parent or parents to cooperate in the  
7 disposition shall not be weighed against the juvenile in arriving at  
8 an appropriate disposition;
  - 9 (6) Whether the disposition recognizes and treats the unique  
10 physical, psychological, and social characteristics and needs of the  
11 child;
  - 12 (7) Whether the disposition contributes to the developmental  
13 needs of the child, including the academic and social needs of the  
14 child where the child has intellectual disabilities or learning  
15 disabilities;
  - 16 (8) Any other circumstances related to the offense and the  
17 juvenile's social history as deemed appropriate by the court;
  - 18 (9) The impact of the offense on the victim or victims;
  - 19 (10) The impact of the offense on the community; and
  - 20 (11) The threat to the safety of the public or any individual posed  
21 by the child.
- 22 b. If a juvenile is adjudged delinquent, and except to the extent  
23 that an additional specific disposition is required pursuant to  
24 subsection e. or f. of this section, the court may order incarceration  
25 pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one  
26 or more of the following dispositions:
- 27 (1) Adjourn formal entry of disposition of the case for a period  
28 not to exceed 12 months for the purpose of determining whether the  
29 juvenile makes a satisfactory adjustment, and if during the period of  
30 continuance the juvenile makes such an adjustment, dismiss the  
31 complaint; provided that if the court adjourns formal entry of  
32 disposition of delinquency for a violation of an offense defined in  
33 chapter 35 or 36 of Title 2C of the New Jersey Statutes the court  
34 shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but  
35 may waive imposition of the penalty set forth in N.J.S.2C:35-16 for  
36 juveniles adjudicated delinquent;
  - 37 (2) Release the juvenile to the supervision of the juvenile's  
38 parent or guardian;
  - 39 (3) Place the juvenile on probation to the chief probation officer  
40 of the county or to any other suitable person who agrees to accept  
41 the duty of probation supervision for a period not to exceed three  
42 years upon such written conditions as the court deems will aid  
43 rehabilitation of the juvenile;
  - 44 (4) Transfer custody of the juvenile to any relative or other  
45 person determined by the court to be qualified to care for the  
46 juvenile;
  - 47 (5) Place the juvenile under the care and responsibility of the  
48 Department of Children and Families so that the commissioner may

1 designate a division or organizational unit in the department  
2 pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of  
3 providing services in or out of the home. Within 14 days, unless for  
4 good cause shown, but not later than 30 days, the Department of  
5 Children and Families shall submit to the court a service plan,  
6 which shall be presumed valid, detailing the specifics of any  
7 disposition order. The plan shall be developed within the limits of  
8 fiscal and other resources available to the department, and shall take  
9 into account, without limitation, any Medicaid or other benefits for  
10 which the juvenile may be eligible. If the court determines that the  
11 service plan is inappropriate, given existing resources, the  
12 department may request a hearing on that determination;

13 (6) Place the juvenile under the care and custody of the  
14 Commissioner of Children and Families for the purpose of  
15 receiving the services of the Division of Children's System of Care  
16 of that department, provided that the juvenile has been determined  
17 to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-  
18 25.4);

19 (7) Commit the juvenile, pursuant to applicable laws and the  
20 Rules of Court governing civil commitment, to the Department of  
21 Children and Families under the responsibility of the Division of  
22 Children's System of Care for the purpose of placement in a suitable  
23 public or private hospital or other residential facility for the  
24 treatment of persons who are mentally ill, on the ground that the  
25 juvenile is in need of involuntary commitment;

26 (8) Fine the juvenile an amount not to exceed the maximum  
27 provided by law for such a crime or offense if committed by an  
28 adult and which is consistent with the juvenile's income or ability to  
29 pay and financial responsibility to the juvenile's family, provided  
30 that the fine is specially adapted to the rehabilitation of the juvenile  
31 or to the deterrence of the type of crime or offense. If the fine is  
32 not paid due to financial limitations, the fine may be satisfied by  
33 requiring the juvenile to submit to any other appropriate disposition  
34 provided for in this section;

35 (9) Order the juvenile to make restitution to a person or entity  
36 who has suffered loss resulting from personal injuries or damage to  
37 property as a result of the offense for which the juvenile has been  
38 adjudicated delinquent. The court may determine the reasonable  
39 amount, terms, and conditions of restitution. If the juvenile  
40 participated in the offense with other persons, the participants shall  
41 be jointly and severally responsible for the payment of restitution.  
42 The court shall not require a juvenile to make full or partial  
43 restitution if the juvenile reasonably satisfies the court that the  
44 juvenile does not have the means to make restitution and could not  
45 reasonably acquire the means to pay restitution;

46 (10) Order that the juvenile perform community services under  
47 the supervision of a probation division or other agency or individual  
48 deemed appropriate by the court. Such services shall be

1 compulsory and reasonable in terms of nature and duration. Such  
2 services may be performed without compensation, provided that any  
3 money earned by the juvenile from the performance of community  
4 services may be applied towards any payment of restitution or fine  
5 which the court has ordered the juvenile to pay;

6 (11) Order that the juvenile participate in work programs which  
7 are designed to provide job skills and specific employment training  
8 to enhance the employability of job participants. Such programs  
9 may be without compensation, provided that any money earned by  
10 the juvenile from participation in a work program may be applied  
11 towards any payment of restitution or fine which the court has  
12 ordered the juvenile to pay;

13 (12) Order that the juvenile participate in programs emphasizing  
14 self-reliance, such as intensive outdoor programs teaching survival  
15 skills, including but not limited to camping, hiking, and other  
16 appropriate activities;

17 (13) Order that the juvenile participate in a program of academic  
18 or vocational education or counseling, such as a youth service  
19 bureau, requiring attendance at sessions designed to afford access to  
20 opportunities for normal growth and development. This may  
21 require attendance after school, evenings, and weekends;

22 (14) Place the juvenile in a suitable residential or nonresidential  
23 program for the treatment of alcohol or narcotic abuse, provided  
24 that the juvenile has been determined to be in need of such services;

25 (15) Order the parent or guardian of the juvenile to participate in  
26 appropriate programs or services when the court has found either  
27 that such person's omission or conduct was a significant  
28 contributing factor towards the commission of the delinquent act,  
29 or, under its authority to enforce litigant's rights, that such person's  
30 omission or conduct has been a significant contributing factor  
31 towards the ineffective implementation of a court order previously  
32 entered in relation to the juvenile;

33 (16) (a) Place the juvenile in a nonresidential program operated  
34 by a public or private agency, providing intensive services to  
35 juveniles for specified hours, which may include education,  
36 counseling to the juvenile and the juvenile's family if appropriate,  
37 vocational training, employment counseling, work, or other  
38 services;

39 (b) Place the juvenile under the custody of the Juvenile Justice  
40 Commission established pursuant to section 2 of P.L.1995, c.284  
41 (C.52:17B-170) for placement with any private group home or  
42 private residential facility with which the commission has entered  
43 into a purchase of service contract;

44 (17) Instead of or in addition to any disposition made according  
45 to this section, the court may postpone, suspend, or revoke for a  
46 period not to exceed two years the driver's license, registration  
47 certificate, or both of any juvenile who used a motor vehicle in the  
48 course of committing an act for which the juvenile was adjudicated

1 delinquent. In imposing this disposition and in deciding the duration  
2 of the postponement, suspension, or revocation, the court shall  
3 consider the severity of the delinquent act and the potential effect of  
4 the loss of driving privileges on the juvenile's ability to be  
5 rehabilitated. Any postponement, suspension, or revocation shall be  
6 imposed consecutively with any custodial commitment;

7 (18) Order that the juvenile satisfy any other conditions  
8 reasonably related to the rehabilitation of the juvenile;

9 (19) Order a parent or guardian who has failed or neglected to  
10 exercise reasonable supervision or control of a juvenile who has  
11 been adjudicated delinquent to make restitution to any person or  
12 entity who has suffered a loss as a result of that offense. The court  
13 may determine the reasonable amount, terms, and conditions of  
14 restitution; **[or]**

15 (20) Place the juvenile, if eligible, in an appropriate juvenile  
16 offender program established pursuant to P.L.1997, c.81 (C.30:8-61  
17 et al.); or

18 (21) Order the juvenile, where appropriate, to participate, if the  
19 victim voluntarily consents to participate, in an approved mediation  
20 program that will mediate between the juvenile and the victim with  
21 the purpose of holding the juvenile accountable to the victim,  
22 including holding the juvenile accountable by means of restitution  
23 to the victim or other agreed upon symbolic means of taking  
24 responsibility for the juvenile's actions.

25 c. (1) Except as otherwise provided in subsections e. and f. of  
26 this section, if the county in which the juvenile has been adjudicated  
27 delinquent has a juvenile detention facility meeting the physical and  
28 program standards established pursuant to this subsection by the  
29 Juvenile Justice Commission, the court may, in addition to any of  
30 the dispositions not involving placement out of the home  
31 enumerated in this section, incarcerate the juvenile in the youth  
32 detention facility in that county for a term not to exceed 60  
33 consecutive days. Counties which do not operate their own juvenile  
34 detention facilities may contract for the use of approved  
35 commitment programs with counties with which they have  
36 established agreements for the use of pre-disposition juvenile  
37 detention facilities. The Juvenile Justice Commission shall  
38 promulgate such rules and regulations from time to time as deemed  
39 necessary to establish minimum physical facility and program  
40 standards for the use of juvenile detention facilities pursuant to this  
41 subsection.

42 (2) No juvenile may be incarcerated in any county detention  
43 facility unless the county has entered into an agreement with the  
44 Juvenile Justice Commission concerning the use of the facility for  
45 sentenced juveniles. Upon agreement with the county, the Juvenile  
46 Justice Commission shall certify detention facilities which may  
47 receive juveniles sentenced pursuant to this subsection and shall  
48 specify the capacity of the facility that may be made available to

1 receive such juveniles; provided, however, that in no event shall the  
2 number of juveniles incarcerated pursuant to this subsection exceed  
3 50% of the maximum capacity of the facility.

4 (3) The court may fix a term of incarceration under this  
5 subsection where:

6 (a) The act for which the juvenile was adjudicated delinquent, if  
7 committed by an adult, would have constituted a crime or repetitive  
8 disorderly persons offense;

9 (b) Incarceration of the juvenile is consistent with the goals of  
10 public safety, accountability, and rehabilitation and the court is  
11 clearly convinced that the aggravating factors substantially  
12 outweigh the mitigating factors as set forth in section 25 of  
13 P.L.1982, c.77 (C.2A:4A-44); and

14 (c) The detention facility has been certified for admission of  
15 adjudicated juveniles pursuant to paragraph (2).

16 (4) If as a result of incarceration of adjudicated juveniles  
17 pursuant to this subsection, a county is required to transport a  
18 predisposition juvenile to a juvenile detention facility in another  
19 county, the costs of such transportation shall be borne by the  
20 Juvenile Justice Commission.

21 d. Whenever the court imposes a disposition upon an  
22 adjudicated delinquent which requires the juvenile to perform a  
23 community service, restitution, or to participate in any other  
24 program provided for in this section other than subsection c., the  
25 duration of the juvenile's mandatory participation in such  
26 alternative programs shall extend for a period consistent with the  
27 program goal for the juvenile and shall in no event exceed one year  
28 beyond the maximum duration permissible for the delinquent if the  
29 juvenile had been committed to a term of incarceration.

30 e. In addition to any disposition the court may impose pursuant  
31 to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the  
32 following orders shall be included in dispositions of the  
33 adjudications set forth below:

34 (1) An order of incarceration for a term of the duration  
35 authorized pursuant to this section or section 25 of P.L.1982, c.77  
36 (C.2A:4A-44) or an order to perform community service pursuant to  
37 paragraph (10) of subsection b. of this section for a period of at  
38 least 60 days, if the juvenile has been adjudicated delinquent for an  
39 act which, if committed by an adult, would constitute the crime of  
40 theft of a motor vehicle, or the crime of unlawful taking of a motor  
41 vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third  
42 degree crime of eluding in violation of subsection b. of  
43 N.J.S.2C:29-2;

44 (2) An order of incarceration for a term of the duration  
45 authorized pursuant to this section or section 25 of P.L.1982, c.77  
46 (C.2A:4A-44) which shall include a minimum term of 60 days  
47 during which the juvenile shall be ineligible for parole, if the  
48 juvenile has been adjudicated delinquent for an act which, if

1 committed by an adult, would constitute the crime of aggravated  
2 assault in violation of paragraph (6) of subsection b. of  
3 N.J.S.2C:12-1, the second degree crime of eluding in violation of  
4 subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case  
5 in which the juvenile has previously been adjudicated delinquent for  
6 an act, which if committed by an adult, would constitute unlawful  
7 taking of a motor vehicle or theft of a motor vehicle;

8 (3) An order to perform community service pursuant to  
9 paragraph (10) of subsection b. of this section for a period of at  
10 least 30 days, if the juvenile has been adjudicated delinquent for an  
11 act which, if committed by an adult, would constitute the fourth  
12 degree crime of unlawful taking of a motor vehicle in violation of  
13 subsection b. of N.J.S.2C:20-10;

14 (4) An order of incarceration for a term of the duration  
15 authorized pursuant to this section or section 25 of P.L.1982, c.77  
16 (C.2A:4A-44) which shall include a minimum term of 30 days  
17 during which the juvenile shall be ineligible for parole, if the  
18 juvenile has been adjudicated delinquent for an act which, if  
19 committed by an adult, would constitute the crime of unlawful  
20 taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third  
21 degree crime of eluding in violation of subsection b. of  
22 N.J.S.2C:29-2, and if the juvenile has previously been adjudicated  
23 delinquent for an act which, if committed by an adult, would  
24 constitute either theft of a motor vehicle, the unlawful taking of a  
25 motor vehicle or eluding.

26 f. (1) The minimum terms of incarceration required pursuant  
27 to subsection e. of this section shall be imposed regardless of the  
28 weight or balance of factors set forth in this section or in section 25  
29 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of  
30 those factors shall determine the length of the term of incarceration  
31 appropriate, if any, beyond any mandatory minimum term required  
32 pursuant to subsection e. of this section.

33 (2) When a court in a county that does not have a juvenile  
34 detention facility or a contractual relationship permitting  
35 incarceration pursuant to subsection c. of this section is required to  
36 impose a term of incarceration pursuant to subsection e. of this  
37 section, the court may, subject to limitations on commitment to  
38 State correctional facilities of juveniles who are under the age of 11  
39 or developmentally disabled, set a term of incarceration consistent  
40 with subsection c. which shall be served in a State correctional  
41 facility. When a juvenile who because of age or developmental  
42 disability cannot be committed to a State correctional facility or  
43 cannot be incarcerated in a county facility, the court shall order a  
44 disposition appropriate as an alternative to any incarceration  
45 required pursuant to subsection e.

46 (3) For purposes of subsection e. of this section, in the event  
47 that a "boot camp" program for juvenile offenders should be

1 developed and is available, a term of commitment to such a  
2 program shall be considered a term of incarceration.

3 g. Whenever the court imposes a disposition upon an  
4 adjudicated delinquent which requires the juvenile to perform a  
5 community service, restitution, or to participate in any other  
6 program provided for in this section, the order shall include  
7 provisions which provide balanced attention to the protection of the  
8 community, accountability for offenses committed, fostering  
9 interaction and dialogue between the offender, victim and  
10 community and the development of competencies to enable the  
11 child to become a responsible and productive member of the  
12 community.

13 (cf: P.L.2012, c.16, s.1)

14

15 4. N.J.S.2C:44-6 is amended to read as follows:

16 2C:44-6 Procedure on sentence; presentence investigation and  
17 report.

18 a. The court shall not impose sentence without first ordering a  
19 presentence investigation of the defendant and according due  
20 consideration to a written report of such investigation when  
21 required by the Rules of Court. The court may order a presentence  
22 investigation in any other case.

23 b. The presentence investigation shall include an analysis of  
24 the circumstances attending the commission of the offense, the  
25 defendant's history of delinquency or criminality, family situation,  
26 financial resources, including whether or not the defendant is an  
27 enrollee or covered person under a health insurance contract, policy  
28 or plan, debts, including any amount owed for a fine, assessment or  
29 restitution ordered in accordance with the provisions of Title 2C,  
30 any obligation of child support including any child support  
31 delinquencies, employment history, personal habits, the disposition  
32 of any charge made against any codefendants, the defendant's  
33 history of civil commitment, any disposition which arose out of  
34 charges suspended pursuant to N.J.S.2C:4-6 including the records  
35 of the disposition of those charges and any acquittal by reason of  
36 insanity pursuant to N.J.S.2C:4-1, and any other matters that the  
37 probation officer deems relevant or the court directs to be included.  
38 In addition, the defendant's immediate family may submit a written  
39 statement to be included in the presentence report, which statement  
40 may describe the circumstances related to the defendant and the  
41 commission of the crime from the family's perspective and the  
42 potential impact of the defendant's sentence on the family. The  
43 defendant shall disclose any information concerning any history of  
44 civil commitment. The report shall also include a medical history  
45 of the defendant and a complete psychological evaluation of the  
46 defendant in any case in which the defendant is being sentenced for  
47 a first or second degree crime involving violence and:



1 (1) the defendant has a prior acquittal by reason of insanity  
2 pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to  
3 N.J.S.2C:4-6; or

4 (2) the defendant has a prior conviction for murder pursuant to  
5 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant  
6 to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1,  
7 endangering the welfare of a child which would constitute a crime  
8 of the second degree pursuant to N.J.S.2C:24-4, or stalking which  
9 would constitute a crime of the third degree pursuant to section 1 of  
10 P.L.1992, c.209 (C.2C:12-10); or

11 (3) the defendant has a prior diagnosis of psychosis.

12 The defendant may provide information concerning any  
13 developmental disability or mental health issue affecting the  
14 defendant, which information shall be included in the presentence  
15 report. The court, in its discretion and considering all the  
16 appropriate circumstances, may waive the medical history and  
17 psychological examination in any case in which a term of  
18 imprisonment including a period of parole ineligibility is imposed.  
19 In any case involving a conviction of N.J.S.2C:24-4, endangering  
20 the welfare of a child; N.J.S.2C:18-3, criminal trespass, where the  
21 trespass was committed in a school building or on school property;  
22 section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure or  
23 entice a child with purpose to commit a criminal offense; section 1  
24 of P.L.1992, c.209 (C.2C:12-10), stalking; or N.J.S.2C:13-1,  
25 kidnapping, where the victim of the offense is a child under the age  
26 of 18, the investigation shall include a report on the defendant's  
27 mental condition.

28 The presentence investigation shall also include information  
29 regarding the defendant's history of substance abuse and substance  
30 abuse treatment, if any, including whether the defendant has sought  
31 treatment in the past. If any of the factors listed in subsection b. of  
32 section 1 of P.L.2012, c.23 (C.2C:35-14.1) apply, the presentence  
33 report shall also include consideration of whether the defendant  
34 may be a drug dependent person as defined in N.J.S.2C:35-2.

35 The presentence investigation shall include an analysis of  
36 whether the defendant should be required to submit to a  
37 professional diagnostic assessment within the meaning of paragraph  
38 (1) of subsection a. of N.J.S.2C:35-14 in any case where: the  
39 defendant may be a drug dependent person as defined in  
40 N.J.S.2C:35-2; the defendant is eligible to be considered for a  
41 sentence to special probation pursuant to N.J.S.2C:35-14; and the  
42 court has not already ordered the defendant to submit to any such  
43 diagnostic assessment in regard to the pending matter.

44 The presentence report shall also include a report on any  
45 compensation paid by the Victims of Crime Compensation Agency  
46 as a result of the commission of the offense and, in any case where  
47 the victim chooses to provide one, a statement by the victim of the  
48 offense for which the defendant is being sentenced. The statement

1 may include the nature and extent of any physical harm or  
2 psychological or emotional harm or trauma suffered by the victim,  
3 the extent of any loss to include loss of earnings or ability to work  
4 suffered by the victim and the effect of the crime upon the victim's  
5 family. The probation department shall notify the victim or nearest  
6 relative of a homicide victim of his right to make a statement for  
7 inclusion in the presentence report if the victim or relative so  
8 desires. Any such statement shall be made within 20 days of  
9 notification by the probation department.

10 The presentence report shall specifically include an assessment  
11 of the gravity and seriousness of harm inflicted on the victim,  
12 including whether or not the defendant knew or reasonably should  
13 have known that the victim of the offense was particularly  
14 vulnerable or incapable of resistance due to advanced age,  
15 disability, ill-health, or extreme youth, or was for any other reason  
16 substantially incapable of exercising normal physical or mental  
17 power of resistance.

18 c. If, after the presentence investigation, the court desires  
19 additional information concerning an offender convicted of an  
20 offense before imposing sentence, it may order any additional  
21 psychological or medical testing of the defendant.

22 d. Disclosure of any presentence investigation report or  
23 psychiatric examination report shall be in accordance with law and  
24 the Rules of Court, except that information concerning the  
25 defendant's financial resources shall be made available upon request  
26 to the Victims of Crime Compensation Agency or to any officer  
27 authorized under the provisions of section 3 of P.L.1979, c.396  
28 (C.2C:46-4) to collect payment on an assessment, restitution or fine  
29 and that information concerning the defendant's coverage under any  
30 health insurance contract, policy or plan shall be made available, as  
31 appropriate to the Commissioner of Corrections and to the chief  
32 administrative officer of a county jail in accordance with the  
33 provisions of P.L.1995, c.254 (C.30:7E-1 et al.).

34 e. The court shall not impose a sentence of imprisonment for  
35 an extended term unless the ground therefor has been established at  
36 a hearing after the conviction of the defendant and on written notice  
37 to him of the ground proposed. The defendant shall have the right  
38 to hear and controvert the evidence against him and to offer  
39 evidence upon the issue.

40 f. (Deleted by amendment, P.L.1986, c.85).  
41 (cf: P.L.2012, c.23, s.6)

42

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

44 2C:52-3. Disorderly Persons Offenses and Petty Disorderly  
45 Persons Offenses

46 Any person convicted of a disorderly persons offense or petty  
47 disorderly persons offense under the laws of this State who has not  
48 been convicted of any prior or subsequent crime, whether within

1 this State or any other jurisdiction, or of another three disorderly  
2 persons or petty disorderly persons offenses, may, after the  
3 expiration of a period of **[5]** two years from the date of his  
4 conviction, payment of fine, satisfactory completion of probation or  
5 release from incarceration, whichever is later, present a duly  
6 verified petition as provided in section 2C:52-7 hereof to the  
7 Superior Court in the county in which the conviction was entered  
8 praying that such conviction and all records and information  
9 pertaining thereto be expunged.

10 (cf: P.L.1981, c.290, s.43)

11  
12 6. This act shall take effect immediately.

13  
14  
15 STATEMENT

16  
17 This bill authorizes courts to waive certain criminal fines, or  
18 revoke certain assessments, penalties or fees and include mediation  
19 as an alternative condition of probation for adults and juveniles;  
20 authorizes testimony from a defendant and the defendant's  
21 immediate family in the presentence report; reduces the waiting  
22 period for disorderly persons expungements from five years to two  
23 years; and requires disposition service plans submitted to the court  
24 to consider all benefits for which a juvenile adjudicated delinquent  
25 is eligible.

26 Specifically, the bill allows a person who has been convicted of a  
27 crime to apply to the sentencing court at any time, including the  
28 time of sentencing, to either revoke a fine, or waive an assessment,  
29 penalty, or fee, that has been imposed. Currently, a court may only  
30 exercise its discretion in determining whether a fine may be  
31 revoked.

32 This bill also would provide judges with the discretion to order  
33 defendants, as a condition of probation, to submit to an approved  
34 mediation program in lieu of incarceration if a victim voluntarily  
35 consents to participate. The mediation program would mediate  
36 between the defendant and the victim with the purpose of holding  
37 the defendant accountable to the victim, including holding the  
38 defendant accountable by means of restitution or other agreed upon  
39 symbolic means of taking responsibility for the defendant's action.  
40 This bill would provide courts in juvenile delinquency cases the  
41 same discretion.

42 Under the bill, a defendant's immediate family would be allowed  
43 to provide statements that would be made part of the presentence  
44 reports. Currently, the presentence report includes an analysis of the  
45 circumstances surrounding the commission of the offense; the  
46 defendant's history of delinquency or criminality, family situation  
47 and financial resources; whether the defendant owes any amount for  
48 a fine, assessment, or restitution; the defendant's employment

1 history and personal habits; the disposition of any charge made  
2 against any codefendant; the defendant's history of civil  
3 commitment; and any other matters that the probation officer deems  
4 relevant or the court directs to be included. Additionally, if a  
5 defendant is being sentenced for first or second degree violent  
6 crime, the report includes a medical history and psychological  
7 evaluation. The report also includes an impact statement by the  
8 victim or his relative.

9 The bill would allow the defendant's family to submit a written  
10 statement to also be included in the presentence report. The  
11 statement could include a description of the circumstances related  
12 to the defendant and the commission of the crime from the family's  
13 perspective and the potential impact of the defendant's sentence on  
14 the family. The bill further allows information on the defendant's  
15 developmental disabilities or mental health in the presentence  
16 report.

17 Also under the bill, the waiting period for an expungement for  
18 disorderly persons offenses and petty disorderly persons offenses  
19 would be reduced. Currently, a person may petition for  
20 expungement of a record of a disorderly persons or petty disorderly  
21 persons offense five years from the date of conviction. This bill  
22 would reduce that waiting period to two years from the date of  
23 conviction.

24 Finally, the bill clarifies that when the court places a juvenile  
25 who has been adjudicated delinquent in the custody of the  
26 Department of Children and Families as a disposition, the service  
27 plan that the department is required to submit to the court must take  
28 into account any Medicaid or other benefits for which the juvenile  
29 is eligible.

# ASSEMBLY, No. 3060

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 24, 2014

**Sponsored by:**

**Assemblyman CHARLES MAINOR**

**District 31 (Hudson)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**SYNOPSIS**

Directs the expungement of all crimes, upon application, after two-year period, except crimes of the first degree.

**CURRENT VERSION OF TEXT**

As introduced.



A3060 MAINOR, WIMBERLY

2

1 AN ACT concerning expungements and amending N.J.S.2C:52-2  
2 and N.J.S.2C:52-3.

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:52-2 is amended to read as follows:

8 2C:52-2. Indictable Offenses.

9 a. In all cases, except as herein provided, wherein a person has  
10 been convicted of a crime under the laws of this State and who has  
11 not been convicted of any prior or subsequent crime, whether within  
12 this State or any other jurisdiction, and has not been adjudged a  
13 disorderly person or petty disorderly person on more than two  
14 occasions may, after the expiration of a period of **[10]** 2 years from  
15 the date of his conviction, payment of fine, satisfactory completion  
16 of probation or parole, or release from incarceration, whichever is  
17 later, present a duly verified petition as provided in N.J.S.2C:52-7  
18 to the Superior Court in the county in which the conviction was  
19 entered praying that such conviction and all records and information  
20 pertaining thereto be expunged.

21 Notwithstanding the provisions of the preceding paragraph, a  
22 petition may be filed and presented, and the court may grant an  
23 expungement pursuant to this section, although less than **[10]** 2  
24 years has expired in accordance with the requirements of the  
25 preceding paragraph where the court finds:

26 (1) less than **[10]** 2 years has expired from the satisfaction of a  
27 fine, but the **[10-year]** 2-year time requirement is otherwise  
28 satisfied, and the court finds that the person substantially complied  
29 with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or  
30 could not do so due to compelling circumstances affecting his  
31 ability to satisfy the fine; or

32 (2) at least **[five years]** one year has expired from the date of  
33 his conviction, payment of fine, satisfactory completion of  
34 probation or parole, or release from incarceration, whichever is  
35 later; the person has not been convicted of a crime, disorderly  
36 persons offense, or petty disorderly persons offense since the time  
37 of the conviction; and the court finds in its discretion that  
38 expungement is in the public interest, giving due consideration to  
39 the nature of the offense, and the applicant's character and conduct  
40 since conviction.

41 In determining whether compelling circumstances exist for the  
42 purposes of paragraph (1) of this subsection, a court may consider  
43 the amount of the fine or fines imposed, the person's age at the time  
44 of the offense, the person's financial condition and other relevant  
45 circumstances regarding the person's ability to pay.

**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 Although subsequent convictions for no more than two  
2 disorderly or petty disorderly offenses shall not be an absolute bar  
3 to relief, the nature of those conviction or convictions and the  
4 circumstances surrounding them shall be considered by the court  
5 and may be a basis for denial of relief if they or either of them  
6 constitute a continuation of the type of unlawful activity embodied  
7 in the criminal conviction for which expungement is sought.

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

14 Records of conviction for **【the following crimes】** all crimes of  
15 the first degree and conspiracies and attempts to commit such  
16 crimes specified in the New Jersey Code of Criminal Justice shall  
17 not be subject to expungement**【**: N.J.S.2C:11-1 et seq. (Criminal  
18 Homicide), except death by auto as specified in N.J.S.2C:11-5  
19 N.J.S. 2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291  
20 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77  
21 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or  
22 Aggravated Sexual Assault) N.J.S.2C:14-3a (Aggravated Criminal  
23 Sexual Contact); if the victim is a minor, N.J.S.2C:14-3b (Criminal  
24 Sexual Contact); if the victim is a minor and the offender is not the  
25 parent of the victim, N.J.S.2C:13-2 (Criminal Restraint) or  
26 N.J.S.2C:13-3 (False Imprisonment); N.J.S.2C:15-1 (Robbery);  
27 N.J.S.2C:17-1 (Arson and Related Offenses); N.J.S.2C:24-4a.  
28 (Endangering the welfare of a child by engaging in sexual conduct  
29 which would impair or debauch the morals of the child);  
30 N.J.S.2C:24-4b(4) (Endangering the welfare of a child);  
31 N.J.S.2C:24-4b. (3) (Causing or permitting a child to engage in a  
32 prohibited sexual act); N.J.S.2C:24-4b.(5)(a) (Distributing,  
33 possessing with intent to distribute or using a file-sharing program  
34 to store items depicting the sexual exploitation or abuse of a child);  
35 N.J.S.2C:24-4b.(5)(b) (Possessing items depicting the sexual  
36 exploitation or abuse of a child); N.J.S.2C:28-1 (Perjury);  
37 N.J.S.2C:28-2 (False Swearing); N.J.S.2C:34-1b.(4) (Knowingly  
38 promoting the prostitution of the actor's child); section 2 of  
39 P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3  
40 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical  
41 Weapons, Biological Agents or Nuclear or Radiological Devices);  
42 and conspiracies or attempts to commit such crimes**】**.

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

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

4 (1) Marijuana, where the total quantity sold, distributed or  
5 possessed with intent to sell was 25 grams or less;

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

8 (3) Any controlled dangerous substance provided that the  
9 conviction is of the third or fourth degree, where the court finds that  
10 expungement is consistent with the public interest, giving due  
11 consideration to the nature of the offense and the petitioner's  
12 character and conduct since conviction.

13 d. In the case of a State licensed physician or podiatrist  
14 convicted of an offense involving drugs or alcohol or pursuant to  
15 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
16 court shall notify the State Board of Medical Examiners upon  
17 receipt of a petition for expungement of the conviction and records  
18 and information pertaining thereto.

19 (cf: P.L.2013, c.136, s.3)

20

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

22 2C:52-3. Disorderly persons offenses and petty disorderly  
23 persons offenses. Any person convicted of a disorderly persons  
24 offense or petty disorderly persons offense under the laws of this  
25 State who has not been convicted of any prior or subsequent crime,  
26 whether within this State or any other jurisdiction, or of another  
27 three disorderly persons or petty disorderly persons offenses, may,  
28 after the expiration of a period of **[5]** 2 years from the date of his  
29 conviction, payment of fine, satisfactory completion of probation or  
30 release from incarceration, whichever is later, present a duly  
31 verified petition as provided in section 2C:52-7 hereof to the  
32 Superior Court in the county in which the conviction was entered  
33 praying that such conviction and all records and information  
34 pertaining thereto be expunged.

35 (cf: P.L.1981, c. 290, s. 43)

36

37 3. This act shall take effect immediately.

38

39

40

#### STATEMENT

41

42 This bill amends N.J.S. 2C:52-2, to permit expungement of  
43 crimes and offenses after a two -year period, except that any crime  
44 in the Code of Criminal Justice classified as a crime of the first  
45 degree would be ineligible for expungement.



# ASSEMBLY, No. 3108

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 8, 2014

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman ALISON LITTELL MCHOSE**

**District 24 (Morris, Sussex and Warren)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblymen Space and Coughlin**

**SYNOPSIS**

Permits expungement for one-time disorderly persons offense after a period of two years.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/17/2014)**

1 AN ACT concerning expungement of certain offenses and amending  
2 N.J.S. 2C:52-3.

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:52-3 is amended to read as follows:

8 2C:52-3. Disorderly Persons Offenses and Petty Disorderly  
9 Persons Offenses.

10 a. Any person convicted of a disorderly persons offense or  
11 petty disorderly persons offense under the laws of this State who  
12 has not been convicted of any prior or subsequent crime, whether  
13 within this State or any other jurisdiction, or of another three  
14 disorderly persons or petty disorderly persons offenses, may, after  
15 the expiration of a period of 5 years from the date of his  
16 conviction, payment of fine, satisfactory completion of probation or  
17 release from incarceration, whichever is later, present a duly  
18 verified petition as provided in section 2C:52-7 hereof to the  
19 Superior Court in the county in which the conviction was entered  
20 praying that such conviction and all records and information  
21 pertaining thereto be expunged.

22 b. Any person convicted of a disorderly persons offense or  
23 petty disorderly persons offense under the laws of this State who  
24 has not been convicted of any prior crime or subsequent crime or  
25 offense, whether within this State or any other jurisdiction, may,  
26 after the expiration of a period of 2 years from the date of his  
27 conviction, payment of fine, or release from incarceration,  
28 whichever is later, present a duly verified petition as provided in  
29 section 2C:52-7 hereof to the Superior Court in the county in which  
30 the conviction was entered praying that such conviction and all  
31 records and information pertaining thereto be expunged.

32 (cf: P.L.1981, c.290, s.43)

33

34 2. This act shall take effect immediately.

35

36

37

#### STATEMENT

38

39 At present, a person convicted of a disorderly persons or petty  
40 disorderly persons offense and who meets the statutory criteria,  
41 including that the person has not been convicted of another three  
42 disorderly persons or petty disorderly persons offenses, may, after  
43 five years from the date of conviction, payment of fine, satisfactory  
44 completion of probation or release from incarceration, whichever is  
45 later, petition the Superior Court for the expungement of all records  
46 and related information.

**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.

**A3108 GUSCIORA, MCHOSE**

3

1       This bill would reduce, to a period of two years, the amount of  
2 time a person convicted of a disorderly persons or petty disorderly  
3 persons offense must wait before petitioning the court for an  
4 expungement in cases where the individual has not been convicted  
5 of any prior crime or subsequent crime or offense.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060, and 3108

# STATE OF NEW JERSEY

DATED: DECEMBER 11, 2014

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 206, 471, 1663, 2879, 3060 and 3108.

This committee substitute shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed.

SECTION 1 OF THE SUBSTITUTE: DRUG COURT. The substitute provides that the Superior Court may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions, and proceedings upon successful discharge from a term of special probation (drug court) as provided in N.J.S.2C:35-14, regardless of whether the person was sentenced to special probation under N.J.S.2C:35-14, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a substance abuse treatment program ordered by the court and was not convicted of any crime, or adjudged a disorderly person or petty disorderly person, during the term of special probation. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14, concerning application procedures for expungement, would not apply, and no fee would be charged to the person.

The substitute provides that a person would not be eligible for expungement under this provision of law if the records include a conviction for any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. It would be the obligation of the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant such an expungement.

Under the substitute, the Superior Court would provide a copy of the expungement order to the prosecutor and to the person and, if the person was represented by the Public Defender, to the Public Defender. The person or, if the person was represented by the Public Defender, the Public Defender on behalf of the person, would promptly distribute copies of the expungement order to appropriate

agencies who have custody and control of the records specified in the order so that the agencies may comply with the requirements of N.J.S.2C:52-15 concerning removing the records from public access.

The substitute provides that if the person is convicted of any crime following discharge from special probation, the full record of arrests and convictions may be restored to public access and no future expungement would be granted to such person.

The substitute also provides that a person who was successfully discharged from a term of special probation prior to the effective date of the substitute may seek an expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1) would not apply. The Superior Court would consider the person's verified petition and may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings of the person as appropriate. No fee would be charged to the person.

SECTION 2: WAITING PERIODS FOR EXPUNGEMENT OF A CRIME. Under current law, a person may petition the court for expungement of a crime after a period of 10 years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of a disorderly person or petty disorderly person offense on more than two occasions. The substitute would change this 10-year period to five years.

Current law also provides that if less than 10 years has passed since the payment of a fine, but the 10-year time requirement is otherwise satisfied, the person may also be eligible for expungement under two circumstances:

(1) if the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has passed; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

The substitute would also change this 10-year period to a five-year period. The substitute would eliminate paragraph (2), the "public interest" provision, since expungement would be available for all eligible persons after five years.

SECTION 3: WAITING PERIODS FOR EXPUNGEMENT OF A DISORDERLY PERSONS OR PETTY DISORDERLY PERSONS OFFENSE. Under current law, a person may petition the court for expungement of a disorderly persons offense or petty disorderly persons offense after a period of five years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of another three disorderly person or petty disorderly person offenses. The substitute would change this five-year period to three years.

The substitute also adds a new provision authorizing the court to grant an expungement when the court finds less than three years has expired from the satisfaction of a fine, but the three-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine.

SECTION 4: ARRESTS NOT RESULTING IN CONVICTION. Under current law, when a person is arrested for a crime, disorderly persons offense, petty disorderly persons offense, or municipal ordinance violation and charges are dismissed or the person was acquitted, the person may request expungement of the arrest records at any time following the disposition of the proceedings. The substitute simplifies the procedures for persons and removes the requirement that they must petition for expungement. Under the substitute, at the time of dismissal or acquittal of the charges, the Superior Court would order the expungement. If proceedings took place in municipal court, the municipal court would provide the person, upon request, with appropriate documentation to transmit to the Superior Court to request expungement pursuant to procedures developed by the Administrative Office of the Courts. Upon receipt of the documentation, the Superior Court would enter an *ex parte* order expunging all records and information relating to the person's arrest or charge. The person would not be required to comply with the expungement application proceedings set out in N.J.S.2C:52-7 through N.J.S.2C:52-14 and no fee would be charged to the person. An expungement would not be ordered under this provision of the substitute where the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges.

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

The substitute specifies that an expungement related to a dismissal, acquittal, or discharge would not bar any future expungement.

If a court failed to order expungement of an arrest or charge not resulting in a conviction, a person may at any time following the disposition of proceedings, present an expungement petition to the Superior Court as provided in N.J.S.2C:52-7. No fee would be charged.

SECTIONS 5 THROUGH 8: LANGUAGE CHANGES AND CLARIFICATION. Sections 5 through 8 make various language changes and clarify terms. For example, the term “judge” is changed to “court” in accordance with modern usage; the term “probation department” is changed to “the Probation Division of the Superior Court,” and the new pretrial services agency established by P.L.2014, c.31 (C.2A:162-15 et al.) is added to the list of agencies authorized to receive expunged records pursuant to N.J.S.2C:52-21.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060 and 3108**

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 15, 2014

The Assembly Appropriations Committee reports favorably Assembly Bill No. 206/471/1663/2879/3060/3108 (ACS), with committee amendments.

The bill, as amended, shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed.

**SECTION 1 OF THE BILL: DRUG COURT.** The bill provides that the Superior Court may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions, and proceedings upon successful discharge from a term of special probation (drug court) as provided in N.J.S.2C:35-14, regardless of whether the person was sentenced to special probation under N.J.S.2C:35-14, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a substance abuse treatment program ordered by the court and was not convicted of any crime, or adjudged a disorderly person or petty disorderly person, during the term of special probation. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14, concerning application procedures for expungement, would not apply, and no fee would be charged to the person.

The bill provides that a person would not be eligible for expungement under this provision of law if the records include a conviction for any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. The bill obligates the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant such an expungement.

Under the bill, the Superior Court would provide a copy of the expungement order to the prosecutor and to the person and, if the person was represented by the Public Defender, to the Public Defender. The person or, if the person was represented by the Public Defender, the Public Defender on behalf of the person, would



promptly distribute copies of the expungement order to appropriate agencies who have custody and control of the records specified in the order so that the agencies may comply with the requirements of N.J.S.2C:52-15 concerning removing the records from public access.

The bill provides that if the person is convicted of any crime following discharge from special probation, the full record of arrests and convictions may be restored to public access and no future expungement would be granted to such person.

The bill also provides that a person who was successfully discharged from a term of special probation prior to the effective date of the bill may seek an expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1) would not apply. The Superior Court would consider the person's verified petition and may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings of the person as appropriate. No fee would be charged to the person.

SECTION 2: WAITING PERIODS FOR EXPUNGEMENT OF A CRIME. Under current law, a person may petition the court for expungement of a crime after a period of 10 years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of a disorderly person or petty disorderly person offense on more than two occasions. The bill would change this 10-year period to five years from his last conviction .

The bill provides that the expungement would include the crime which is the subject of the petition and up to three disorderly persons offenses or petty disorderly persons offenses.

Current law also provides that if less than 10 years has passed since the payment of a fine, but the 10-year time requirement is otherwise satisfied, the person may also be eligible for expungement under two circumstances:

(1) if the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has passed; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

The bill would also change this 10-year period to a five-year period. The bill would eliminate paragraph (2), the "public interest"

provision, since expungement would be available for all eligible persons after five years.

SECTION 3: WAITING PERIODS FOR EXPUNGEMENT OF A DISORDERLY PERSONS OR PETTY DISORDERLY PERSONS OFFENSE. Under current law, a person may petition the court for expungement of a disorderly persons offense or petty disorderly persons offense after a period of five years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of another three disorderly person or petty disorderly person offenses. The bill would change this five-year period to three years.

The bill also adds a new provision authorizing the court to grant an expungement when the court finds less than three years has expired from the satisfaction of a fine, but the three-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine.

SECTION 4: ARRESTS NOT RESULTING IN CONVICTION. Under current law, when a person is arrested for a crime, disorderly persons offense, petty disorderly persons offense, or municipal ordinance violation and charges are dismissed or the person was acquitted, the person may request expungement of the arrest records at any time following the disposition of the proceedings. The bill simplifies the procedures for persons and removes the requirement that they must petition for expungement. Under the bill, at the time of dismissal or acquittal of the charges, the Superior Court would order the expungement. If proceedings took place in municipal court, the municipal court would provide the person, upon request, with appropriate documentation to transmit to the Superior Court to request expungement pursuant to procedures developed by the Administrative Office of the Courts. Upon receipt of the documentation, the Superior Court would enter an ex parte order expunging all records and information relating to the person's arrest or charge. The person would not be required to comply with the expungement application proceedings set out in N.J.S.2C:52-7 through N.J.S.2C:52-14 and no fee would be charged to the person. An expungement would not be ordered under this provision of the bill where the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges.

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

The bill specifies that an expungement related to a dismissal, acquittal, or discharge would not bar any future expungement.

If a court failed to order expungement of an arrest or charge not resulting in a conviction, a person may at any time following the disposition of proceedings, present an expungement petition to the Superior Court as provided in N.J.S.2C:52-7. No fee would be charged.

SECTIONS 5 THROUGH 8: LANGUAGE CHANGES AND CLARIFICATION. Sections 5 through 8 make various language changes and clarify terms. For example, the term “judge” is changed to “court” in accordance with modern usage; the term “probation department” is changed to “the Probation Division of the Superior Court,” and the new pretrial services agency established by P.L.2014, c.31 (C.2A:162-15 et al.) is added to the list of agencies authorized to receive expunged records pursuant to N.J.S.2C:52-21.

#### FISCAL IMPACT:

The shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.

The bill provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the bill provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

#### COMMITTEE AMENDMENTS

The amendments provide that the expungement would include the crime which is the subject of the petition and up to three disorderly persons offenses or petty disorderly persons offenses.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060, and 3108

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: DECEMBER 23, 2014

#### SUMMARY

**Synopsis:** Shortens waiting periods for expungement of criminal records; makes various changes to other expungement procedures and requirements.

**Type of Impact:** State and Local Cost, State Revenue loss.

**Agencies Affected:** Judiciary.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Cost – See comments below		
<b>State Revenue</b>	Indeterminate Revenue Loss – See comments below		
<b>Local Cost</b>	Indeterminate Cost – See comments below		

- The Office of Legislative Services (OLS) notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.
- The OLS also notes that substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

- The committee substitute shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed. No fee would be charged for drug court graduates expungement for where charges are dismissed.

## **BILL DESCRIPTION**

The First Reprint of the Assembly Committee Substitute to Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 of 2014 shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed.

SECTION 1 OF THE SUBSTITUTE: DRUG COURT. The substitute provides that the Superior Court may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions, and proceedings upon successful discharge from a term of special probation (drug court) as provided in N.J.S.2C:35-14, regardless of whether the person was sentenced to special probation under N.J.S.2C:35-14, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the person satisfactorily completed a substance abuse treatment program ordered by the court and was not convicted of any crime, or adjudged a disorderly person or petty disorderly person, during the term of special probation. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14, concerning application procedures for expungement, would not apply, and no fee would be charged to the person.

The substitute provides that a person would not be eligible for expungement under this provision of law if the records include a conviction for any offense barred from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. The substitute obligates the prosecutor to notify the court of any disqualifying convictions or any other factors related to public safety that should be considered by the court when deciding to grant such an expungement.

Under the substitute, the Superior Court would provide a copy of the expungement order to the prosecutor and to the person and, if the person was represented by the Public Defender, to the Public Defender. The person or, if the person was represented by the Public Defender, the Public Defender on behalf of the person, would promptly distribute copies of the expungement order to appropriate agencies who have custody and control of the records specified in the order so that the agencies may comply with the requirements of N.J.S.2C:52-15 concerning removing the records from public access.

The substitute provides that if the person is convicted of any crime following discharge from special probation, the full record of arrests and convictions may be restored to public access and no future expungement would be granted to such person.

The substitute also provides that a person who was successfully discharged from a term of special probation prior to the effective date of the substitute may seek an expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980, c.163 (C.2C:52-4.1) would not apply. The Superior Court would consider the person's verified petition and may order the expungement of all records and information relating to all prior criminal arrests, detention, convictions and proceedings of the person as appropriate. No fee would be charged to the person.

SECTION 2: WAITING PERIODS FOR EXPUNGEMENT OF A CRIME. Under current law, a person may petition the court for expungement of a crime after a period of 10 years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of a disorderly person or petty disorderly person offense on more than two occasions. The substitute would change this 10-year period to five years from his last conviction.

The substitute provides that the expungement would include the crime which is the subject of the petition and up to three disorderly persons offenses or petty disorderly persons offenses.

Current law also provides that if less than 10 years has passed since the payment of a fine, but the 10-year time requirement is otherwise satisfied, the person may also be eligible for expungement under two circumstances:

(1) if the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has passed; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

The substitute would also change this 10-year period to a five-year period. The substitute would eliminate paragraph (2), the "public interest" provision, since expungement would be available for all eligible persons after five years.

SECTION 3: WAITING PERIODS FOR EXPUNGEMENT OF A DISORDERLY PERSONS OR PETTY DISORDERLY PERSONS OFFENSE. Under current law, a person may petition the court for expungement of a disorderly persons offense or petty disorderly persons offense after a period of five years from the date of conviction, payment of a fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The person must not have been convicted of any prior or subsequent crime, or convicted of another three disorderly person or petty disorderly person offenses. The substitute would change this five-year period to three years.

The substitute also adds a new provision authorizing the court to grant an expungement when the court finds less than three years has expired from the satisfaction of a fine, but the three-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered by the court or could not do so due to compelling circumstances affecting his ability to satisfy the fine.

SECTION 4: ARRESTS NOT RESULTING IN CONVICTION. Under current law, when a person is arrested for a crime, disorderly persons offense, petty disorderly persons offense, or municipal ordinance violation and charges are dismissed or the person was acquitted, the person may request expungement of the arrest records at any time following the disposition of the proceedings. The substitute simplifies the procedures for persons and removes the requirement that they must petition for expungement. Under the substitute, at the time of dismissal or acquittal of the charges, the Superior Court would order the expungement. If proceedings took place in municipal court, the municipal court would provide the person, upon request, with appropriate documentation to transmit to the Superior Court to request expungement pursuant to procedures developed by the Administrative Office of the Courts. Upon receipt of the documentation, the Superior Court would enter an ex parte order expunging all records and information relating to the person's arrest or charge. The person would not be required to comply with the expungement application proceedings set out in N.J.S.2C:52-7 through N.J.S.2C:52-14 and no fee would be charged to the person. An expungement would not be ordered under this

provision of the substitute where the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges.

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

The substitute specifies that an expungement related to a dismissal, acquittal, or discharge would not bar any future expungement.

If a court failed to order expungement of an arrest or charge not resulting in a conviction, a person may at any time following the disposition of proceedings, present an expungement petition to the Superior Court as provided in N.J.S.2C:52-7. No fee would be charged.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.

The OLS also notes that substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

*Section:           Judiciary*  
*Analyst:         Anne Raughley*  
*Principal Fiscal Analyst*  
*Approved:       David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060, and 3108

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 7, 2015

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 ACS.

This substitute bill, as amended, establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense



following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person, upon request, with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges.

If an expungement related to a dismissal, acquittal, or discharge was not ordered by the court at the time of such action, a person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to

appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State's special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person's records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person's date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

This bill, as amended and reported by the committee, is identical to Senate Bill No. 2663, also amended and reported by the committee today.

The committee amendments to the substitute bill:

- add language to clarify the proper Superior Court to which an expungement application should be made;
- provide that any application to expunge a criminal conviction may also simultaneously seek to expunge up to two other convictions for disorderly persons or petty disorderly persons offenses, not three as

previously indicated, with a separate duly verified petition included with the application for each conviction;

- provide that any application to expunge a conviction for a disorderly persons or petty disorderly persons offense may also simultaneously seek to expunge up to two other convictions for such offenses, with a separate duly verified petition included with the application for each conviction;

- clarify the separate timeframes and procedures for filing an expungement application with a criminal conviction, and for filing an expungement application with only disorderly persons or petty disorderly persons offenses, as described above;

- regarding expungements for any person successfully discharged from the State's special probation drug court program, clarify the expungement process for persons discharged prior to the bill's effective date versus the process for those discharged on and after that date;

- regarding expungements for any person successfully discharged from the State's special probation drug court program, permit expungements for any offense enumerated in the State's Criminal Code, which would include disorderly persons and petty disorderly persons offenses as well as crimes, as opposed to only crimes as indicated in the underlying bill;

- further regarding expungements for any person successfully discharged from the State's special probation drug court program, establish that the Superior Court would grant the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability;

- regarding such expungements for a person who was discharged from the drug court program prior to the bill's effective date, specify that: (1) only those criminal convictions that existed at the time of discharge could be expunged, (2) the person would not be eligible to have all those convictions expunged if convicted of any crime or offense since the person's date of discharge, and (3) the person, if eligible, would not be charged any fee for such an expungement action;

- update, using the accepted current citation format, the statutory citations for the list of criminal convictions that are not subject to expungement; such updating does not add any additional crimes to this list;

- indicate that the expungement statutes are to be construed with the primary objective of providing relief to a "reformed" offender, and not create a system whereby "persistent" violators of the law or those associating themselves with continuing criminal activity have a regular means of expunging records and information; and

- update the bill's title and synopsis to better reflect the provisions of the bill and the changes made by the amendments.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060, and 3108

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 8, 2015

The Senate Budget and Appropriations Committee reports favorably Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 (ACS/2R), with committee amendments.

As amended, this bill establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense

following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged, upon a person presenting an application for expungement:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges. However, this bar on such expungements would no longer apply once the conviction connected to the plea bargain was itself expunged.

If the person did not apply for an expungement related to a dismissal, acquittal, or discharge at the time such action occurred, the person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought. The person, pursuing this "after the fact" expungement application, would also not be charged an application fee.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State's special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person's records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person's date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

As amended and reported, this bill is identical to Senate Bill No. 2663 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- provide, with respect to the expungement of an arrest or charge that did not result in a conviction or finding of guilt due to a plea bargaining agreement involving the conviction of other charges, that such expungement would only be barred until the time that the conviction connected to the plea bargain was itself expunged; and

- clarify that if a person is eligible to expunge an arrest or charge that did not result in a conviction or finding of guilt due to a dismissal, acquittal, or discharge, but the person did not make an expungement application with the court at the time of such action, the person could, at any time following the disposition of those proceedings, present an application to the appropriate Superior Court seeking the expungement of the arrest or charge.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement.

The OLS also notes that the bill provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the bill provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. There are insufficient data available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 206, 471, 1663, 2879, 3060, and 3108 STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 18, 2015

### SUMMARY

**Synopsis:** Shortens waiting periods for expungement of criminal records; makes various changes to other expungement procedures and requirements.

**Type of Impact:** State and Local Cost, State Revenue loss.

**Agencies Affected:** Judiciary.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Cost – See comments below		
<b>State Revenue</b>	Indeterminate Revenue Loss – See comments below		
<b>Local Cost</b>	Indeterminate Cost – See comments below		

- The Office of Legislative Services (OLS) notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.
- The OLS also notes that the substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.



- The committee substitute shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed. No fee would be charged for drug court graduates expungement for where charges are dismissed.

## **BILL DESCRIPTION**

The Third Reprint of the Assembly Committee Substitute for Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 of 2014 establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged, upon a person presenting an application for expungement:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges. However, this bar on such expungements would no longer apply once the conviction connected to the plea bargain was itself expunged.

If the person did not apply for an expungement related to a dismissal, acquittal, or discharge at the time such action occurred, the person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought. The person, pursuing this “after the fact” expungement application, would also not be charged an application fee.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State’s special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person’s records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person’s date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.

The OLS also notes that the substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

*Section:           Judiciary*

*Analyst:          Anne Raughley  
                      Principal Fiscal Analyst*

*Approved:        David J. Rosen  
                      Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE, No. 2663

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 15, 2014

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Shortens waiting periods for expungement of criminal records; makes various changes to other expungement procedures and requirements.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/8/2015)

1 AN ACT concerning expungement of criminal records and amending  
2 various sections of Title 2C 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. 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; **【**Prosecutorial  
12 Objections;**】** Commitment to Residential Treatment Facilities or  
13 Participation in a Nonresidential Treatment Program; Presumption  
14 of Revocation; Brief Incarceration in Lieu of Permanent  
15 Revocation.

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

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

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

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

6 (4) substance abuse treatment and monitoring will serve to  
7 benefit the person by addressing his drug or alcohol dependency  
8 and will thereby reduce the likelihood that the person will thereafter  
9 commit another offense; and

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

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

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

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

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

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

44 As a condition of special probation, the court shall order the  
45 person to enter a residential treatment program at a facility licensed  
46 and approved by the Division of Mental Health and Addiction  
47 Services in the Department of Human Services or a program of  
48 nonresidential treatment by a licensed and approved treatment

1 provider, to comply with program rules and the requirements of the  
2 course of treatment, to cooperate fully with the treatment provider,  
3 and to comply with such other reasonable terms and conditions as  
4 may be required by the court or by law, pursuant to N.J.S.2C:45-1,  
5 and which shall include periodic urine testing for drug or alcohol  
6 usage throughout the period of special probation. In determining  
7 whether to order the person to participate in a nonresidential rather  
8 than a residential treatment program, the court shall follow the  
9 procedure set forth in subsection j. of this section. Subject to the  
10 requirements of subsection d. of this section, the conditions of  
11 special probation may include different methods and levels of  
12 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 treatment facility licensed and approved by the Division  
38 of Mental Health and Addiction Services in the Department of  
39 Human Services. Subject to the authority of the court to  
40 temporarily suspend imposition of all or any portion of the term of  
41 commitment to a residential treatment facility pursuant to  
42 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 or the unexcused failure to attend any session or activity, and  
30 shall immediately report any act that would constitute an escape.  
31 The probation department or other appropriate agency shall  
32 immediately notify the court and the prosecutor in the event that the  
33 person refuses to submit to a periodic drug or alcohol test or for any  
34 reason terminates his participation in the course of treatment, or  
35 commits any act that would constitute an escape.

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

40 (2) Upon a second or subsequent violation of any term or  
41 condition of the special probation authorized by this section or of  
42 any requirements of the course of treatment, the court shall, subject  
43 only to the provisions of subsection g. of this section, permanently  
44 revoke the person's special probation unless the court finds on the  
45 record that there is a substantial likelihood that the person will  
46 successfully complete the treatment program if permitted to  
47 continue on special probation, and the court is clearly convinced,  
48 considering the nature and seriousness of the violations, that no



1 danger to the community will result from permitting the person to  
2 continue on special probation pursuant to this section. The court's  
3 determination to permit the person to continue on special probation  
4 following a second or subsequent violation pursuant to this  
5 paragraph may be appealed by the prosecution.

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

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

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

41 (6) Notwithstanding any other provision of this subsection, if  
42 the person at any time refuses to undergo urine testing for drug or  
43 alcohol usage as provided in subsection a. of this section, the court  
44 shall, subject only to the provisions of subsection g. of this section,  
45 permanently revoke the person's special probation.  
46 Notwithstanding any other provision of this section, if the person at  
47 any time while committed to the custody of a residential treatment  
48 facility pursuant to this section commits an act that would constitute

1 an escape, the court shall forthwith permanently revoke the person's  
2 special probation.

3 (7) An action for a violation under this section may be brought  
4 by a probation officer or prosecutor or on the court's own motion.  
5 Failure to complete successfully the required treatment program  
6 shall constitute a violation of the person's special probation. A  
7 person who fails to comply with the terms of his special probation  
8 pursuant to this section and is thereafter sentenced to imprisonment  
9 in accordance with this subsection shall thereafter be ineligible for  
10 entry into the Intensive Supervision Program, provided however  
11 that this provision shall not affect the person's eligibility for entry  
12 into the Intensive Supervision Program for a subsequent conviction.

13 g. When a person on special probation is subject to a  
14 presumption of revocation on a second or subsequent violation  
15 pursuant to paragraph (2) of subsection f. of this section, or when  
16 the person refuses to undergo drug or alcohol testing pursuant to  
17 paragraph (6) of subsection f. of this section, the court may, in lieu  
18 of permanently revoking the person's special probation, impose a  
19 term of incarceration for a period of not less than 30 days nor more  
20 than six months, after which the person's term of special probation  
21 pursuant to this section may be reinstated. In determining whether  
22 to order a period of incarceration in lieu of permanent revocation  
23 pursuant to this subsection, the court shall consider the  
24 recommendations of the treatment provider with respect to the  
25 likelihood that such confinement would serve to motivate the  
26 person to make satisfactory progress in treatment once special  
27 probation is reinstated. This disposition may occur only once with  
28 respect to any person unless the court is clearly convinced that there  
29 are compelling and extraordinary reasons to justify reimposing this  
30 disposition with respect to the person. Any such determination by  
31 the court to reimpose this disposition may be appealed by the  
32 prosecution. Nothing in this subsection shall be construed to limit  
33 the authority of the court at any time during the period of special  
34 probation to order a person on special probation who is not subject  
35 to a presumption of revocation pursuant to paragraph (2) of  
36 subsection f. of this section to be incarcerated over the course of a  
37 weekend, or for any other reasonable period of time, when the court  
38 in its discretion determines that such incarceration would help to  
39 motivate the person to make satisfactory progress in treatment.

40 h. The court, as a condition of its order, and after considering  
41 the person's financial resources, shall require the person to pay that  
42 portion of the costs associated with his participation in any  
43 rehabilitation program, nonresidential treatment program or period  
44 of residential treatment imposed pursuant to this section which, in  
45 the opinion of the court, is consistent with the person's ability to  
46 pay, taking into account the court's authority to order payment or  
47 reimbursement to be made over time and in installments.

1 i. The court shall impose, as a condition of the special  
2 probation, any fine, penalty, fee or restitution applicable to the  
3 offense for which the person was convicted or adjudicated  
4 delinquent.

5 j. Where the court finds that a person has satisfied all of the  
6 eligibility criteria for special probation and would otherwise be  
7 required to be committed to the custody of a residential treatment  
8 facility pursuant to the provisions of subsection d. of this section,  
9 the court may temporarily suspend imposition of all or any portion  
10 of the term of commitment to a residential treatment facility and  
11 may instead order the person to enter a nonresidential treatment  
12 program, provided that the court finds on the record that:

13 (1) the person conducting the diagnostic assessment required  
14 pursuant to paragraph (1) of subsection a. of this section has  
15 recommended in writing that the proposed course of nonresidential  
16 treatment services is clinically appropriate and adequate to address  
17 the person's treatment needs; and

18 (2) no danger to the community would result from the person  
19 participating in the proposed course of nonresidential treatment  
20 services; and

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

23 If the prosecutor objects to the court's decision to suspend the  
24 commitment of the person to a residential treatment facility  
25 pursuant to this subsection, the sentence of special probation  
26 imposed pursuant to this section shall not become final for ten days  
27 in order to permit the appeal by the prosecution of the court's  
28 decision.

29 After a period of six months of nonresidential treatment, if the  
30 court, considering all available information including but not  
31 limited to the recommendation of the treatment provider, finds that  
32 the person has made satisfactory progress in treatment and that  
33 there is a substantial likelihood that the person will successfully  
34 complete the nonresidential treatment program and period of special  
35 probation, the court, on notice to the prosecutor, may permanently  
36 suspend the commitment of the person to the custody of a  
37 residential treatment program, in which event the special  
38 monitoring provisions set forth in subsection k. of this section shall  
39 no longer apply.

40 Nothing in this subsection shall be construed to limit the  
41 authority of the court at any time during the term of special  
42 probation to order the person to be committed to a residential or  
43 nonresidential treatment facility if the court determines that such  
44 treatment is clinically appropriate and necessary to address the  
45 person's present treatment needs.

46 k. (1) When the court temporarily suspends the commitment of  
47 the person to a residential treatment facility pursuant to subsection  
48 j. of this section, the court shall, in addition to ordering

1 participation in a prescribed course of nonresidential treatment and  
2 any other appropriate terms or conditions authorized or required by  
3 law, order the person to undergo urine testing for drug or alcohol  
4 use not less than once per week unless otherwise ordered by the  
5 court. The court-ordered testing shall be conducted by the  
6 probation department or the treatment provider. The results of all  
7 tests shall be reported promptly to the court and to the prosecutor.  
8 In addition, the court shall impose appropriate curfews or other  
9 restrictions on the person's movements, and may order the person to  
10 wear electronic monitoring devices to enforce such curfews or other  
11 restrictions as a condition of special probation.

12 (2) The probation department or other appropriate agency shall  
13 immediately notify the court and the prosecutor in the event that the  
14 person fails or refuses to submit to a drug or alcohol test, knowingly  
15 defrauds the administration of a drug test, terminates his  
16 participation in the course of treatment, or commits any act that  
17 would constitute absconding from parole. If the person at any time  
18 while entered in a nonresidential treatment program pursuant to  
19 subsection j. of this section knowingly defrauds the administration  
20 of a drug test, goes into hiding or leaves the State with a purpose of  
21 avoiding supervision, the court shall permanently revoke the  
22 person's special probation.

23 1. If the court finds that the person has made exemplary  
24 progress in the course of treatment, the court may, upon  
25 recommendation of the person's supervising probation officer or on  
26 the court's own motion, and upon notice to the prosecutor, grant  
27 early discharge from a term of special probation provided that the  
28 person: (1) has satisfactorily completed the treatment program  
29 ordered by the court; (2) has served at least two years of special  
30 probation; (3) did not commit a substantial violation of any term or  
31 condition of special probation, including but not limited to a  
32 positive urine test, within the preceding 12 months; and (4) is not  
33 likely to relapse or commit an offense if probation supervision and  
34 related services are discontinued.

35 m. (1) Notwithstanding any law to the contrary, the Superior  
36 Court may order the expungement of all records and information  
37 relating to all prior criminal arrests, detention, convictions, and  
38 proceedings upon successful discharge from a term of special  
39 probation as provided in this section, regardless of whether the  
40 person was sentenced to special probation under this section,  
41 section 2 of P.L.2012, c.23 (C.2C:35-14.2), or N.J.S.2C:45-1, if the  
42 person satisfactorily completed a substance abuse treatment  
43 program as ordered by the court and was not convicted of any  
44 crime, or adjudged a disorderly person or petty disorderly person,  
45 during the term of special probation. The provisions of N.J.S.2C:52-  
46 7 through N.J.S.2C:52-14 shall not apply to an expungement  
47 pursuant to this paragraph and no fee shall be charged to a person  
48 eligible for relief pursuant to this paragraph.

1       (2) A person shall not be eligible for expungement under this  
2 subsection if the records include a conviction for any offense barred  
3 from expungement pursuant to subsection b. or c. of N.J.S.2C:52-2.  
4 It shall be the obligation of the prosecutor to notify the court of any  
5 disqualifying convictions or any other factors related to public  
6 safety that should be considered by the court when deciding to grant  
7 an expungement under this subsection.

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

16       (4) If the person is convicted of any crime following discharge  
17 from special probation, the full record of arrests and convictions  
18 may be restored to public access and no future expungement shall  
19 be granted to such person.

20       (5) A person who, prior to the effective date of P.L. , c. (C.)  
21 (pending before the Legislature as this bill), was successfully  
22 discharged from a term of special probation as provided in this  
23 section, regardless of whether the person was sentenced to special  
24 probation under this section, section 2 of P.L.2012, c.23 (C.2C:35-  
25 14.2), or N.J.S.2C:45-1, may seek an expungement of all records  
26 and information relating to all prior criminal arrests, detention,  
27 convictions and proceedings pursuant to N.J.S.2C:52-1 et seq.  
28 except that the requirements related to the expiration of the time  
29 periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980,  
30 c.163 (C.2C:52-4.1) shall not apply. The Superior Court shall  
31 consider the person's verified petition and may order the  
32 expungement of all records and information relating to all prior  
33 criminal arrests, detention, convictions and proceedings of the  
34 person as appropriate. No fee shall be charged to a person eligible  
35 for relief pursuant to this paragraph.

36 (cf: P.L.2012, c.23, s.5)

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

39       2C:52-2. Indictable Offenses.

40       a. In all cases, except as herein provided, wherein a person has  
41 been convicted of a crime under the laws of this State and who has  
42 not been convicted of any prior or subsequent crime, whether within  
43 this State or any other jurisdiction, and has not been adjudged a  
44 disorderly person or petty disorderly person on more than two  
45 occasions may, after the expiration of a period of **【10】** five years  
46 from the date of his conviction, payment of fine, satisfactory  
47 completion of probation or parole, or release from incarceration,  
48 whichever is later, present a duly verified petition as provided in

1 N.J.S.2C:52-7 to the Superior Court in the county in which the  
2 conviction was entered praying that such conviction and all records  
3 and information pertaining thereto be expunged.

4 Notwithstanding the provisions of the preceding paragraph, a  
5 petition may be filed and presented, and the court may grant an  
6 expungement pursuant to this section, **[although less than 10 years**  
7 **has expired in accordance with the requirements of the preceding**  
8 **paragraph where] when the court finds**:

9 (1) **[10] five years has expired from the satisfaction**  
10 **of a fine, but the [10-year] five-year time requirement is otherwise**  
11 **satisfied, and the court finds that the person substantially complied**  
12 **with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or**  
13 **could not do so due to compelling circumstances affecting his**  
14 **ability to satisfy the fine**; or

15 (2) at least five years has expired from the date of his  
16 conviction, payment of fine, satisfactory completion of probation or  
17 parole, or release from incarceration, whichever is later; the person  
18 has not been convicted of a crime, disorderly persons offense, or  
19 petty disorderly persons offense since the time of the conviction;  
20 and the court finds in its discretion that expungement is in the  
21 public interest, giving due consideration to the nature of the  
22 offense, and the applicant's character and conduct since  
23 conviction.

24 In determining whether compelling circumstances exist for the  
25 purposes of **[paragraph (1) of]** this subsection, a court may  
26 consider the amount of the fine or fines imposed, the person's age at  
27 the time of the offense, the person's financial condition and other  
28 relevant circumstances regarding the person's ability to pay.

29 Although subsequent convictions for no more than two  
30 disorderly or petty disorderly offenses shall not be an absolute bar  
31 to relief, the nature of those conviction or convictions and the  
32 circumstances surrounding them shall be considered by the court  
33 and may be a basis for denial of relief if they or either of them  
34 constitute a continuation of the type of unlawful activity embodied  
35 in the criminal conviction for which expungement is sought.

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

42 Records of conviction for the following crimes specified in the  
43 New Jersey Code of Criminal Justice shall not be subject to  
44 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
45 death by auto as specified in N.J.S.2C:11-5; N.J.S. 2C:13-1  
46 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or  
47 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human

1 Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual  
2 Assault); N.J.S.2C:14-3a<sub>2</sub> (Aggravated Criminal Sexual Contact); if  
3 the victim is a minor, N.J.S.2C:14-3b<sub>2</sub> (Criminal Sexual Contact); if  
4 the victim is a minor and the offender is not the parent of the  
5 victim, N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False  
6 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson  
7 and Related Offenses); N.J.S.2C:24-4a. (Endangering the welfare of  
8 a child by engaging in sexual conduct which would impair or  
9 debauch the morals of the child); N.J.S.2C:24-4b<sub>2</sub>(4) (Endangering  
10 the welfare of a child); N.J.S.2C:24-4b.(3) (Causing or permitting a  
11 child to engage in a prohibited sexual act); N.J.S.2C:24-4b.(5)(a)  
12 (Distributing, possessing with intent to distribute or using a file-  
13 sharing program to store items depicting the sexual exploitation or  
14 abuse of a child); N.J.S.2C:24-4b.(5)(b) (Possessing items depicting  
15 the sexual exploitation or abuse of a child); N.J.S.2C:28-1  
16 (Perjury); N.J.S.2C:28-2 (False Swearing); N.J.S.2C:34-1b.(4)  
17 (Knowingly promoting the prostitution of the actor's child); section  
18 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of  
19 section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing  
20 Chemical Weapons, Biological Agents or Nuclear or Radiological  
21 Devices); and conspiracies or attempts to commit such crimes.

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

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

31 (1) Marijuana, where the total quantity sold, distributed or  
32 possessed with intent to sell was 25 grams or less;

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

35 (3) Any controlled dangerous substance provided that the  
36 conviction is of the third or fourth degree, where the court finds that  
37 expungement is consistent with the public interest, giving due  
38 consideration to the nature of the offense and the petitioner's  
39 character and conduct since conviction.

40 d. In the case of a State licensed physician or podiatrist  
41 convicted of an offense involving drugs or alcohol or pursuant to  
42 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
43 court shall notify the State Board of Medical Examiners upon  
44 receipt of a petition for expungement of the conviction and records  
45 and information pertaining thereto.

46 (cf: P.L.2013, c.136, s.3)

47

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

1 2C:52-3. Disorderly persons offenses and petty disorderly  
2 persons offenses.

3 Any person convicted of a disorderly persons offense or petty  
4 disorderly persons offense under the laws of this State who has not  
5 been convicted of any prior or subsequent crime, whether within  
6 this State or any other jurisdiction, or of another three disorderly  
7 persons or petty disorderly persons offenses, may, after the  
8 expiration of a period of **【5】** three years from the date of his  
9 conviction, payment of fine, satisfactory completion of probation or  
10 release from incarceration, whichever is later, present a duly  
11 verified petition as provided in **【section 2C:52-7 hereof】**  
12 N.J.S.2C:52-7 to the Superior Court in the county in which the  
13 conviction was entered praying that such conviction and all records  
14 and information pertaining thereto be expunged.

15 Notwithstanding the provisions of the preceding paragraph, a  
16 petition may be filed and presented, and the court may grant an  
17 expungement pursuant to this section, when the court finds less than  
18 three years has expired from the satisfaction of a fine, but the three-  
19 year time requirement is otherwise satisfied, and the court finds that  
20 the person substantially complied with any payment plan ordered  
21 pursuant to N.J.S.2C:46-1 et seq., or could not do so due to  
22 compelling circumstances affecting his ability to satisfy the fine.

23 In determining whether compelling circumstances exist for the  
24 purposes of this section, a court may consider the amount of the  
25 fine or fines imposed, the person's age at the time of the offense, the  
26 person's financial condition and other relevant circumstances  
27 regarding the person's ability to pay.

28 (cf: P.L.1981, c.290, s.43)

29

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

31 2C:52-6. Arrests not resulting in conviction.

32 a. **【In all cases, except as herein provided, wherein】** When  
33 a person has been arrested or held to answer for a crime, disorderly  
34 persons offense, petty disorderly persons offense, or municipal  
35 ordinance violation under the laws of this State or of any  
36 governmental entity thereof and **【against whom】** proceedings  
37 against the person were dismissed, **【or who】** the person was  
38 acquitted, or **【who】** the person was discharged without a conviction  
39 or finding of guilt, the Superior Court shall, at the time of dismissal,  
40 acquittal, or discharge, or, in any case set forth in paragraph (1) of  
41 this subsection, upon receipt of an application from the person,  
42 order the expungement of all records and information relating to the  
43 arrest or charge.

44 (1) If proceedings took place in municipal court, the municipal  
45 court shall provide the person, upon request, with appropriate  
46 documentation to transmit to the Superior Court to request  
47 expungement pursuant to procedures developed by the



1 Administrative Office of the Courts. Upon receipt of the  
2 documentation, the Superior Court shall enter an ex parte order  
3 expunging all records and information relating to the person's arrest  
4 or charge.

5 (2) The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14  
6 shall not apply to an expungement pursuant to this subsection and  
7 no fee shall be charged to the person making such application.

8 (3) An expungement under this subsection shall not be ordered  
9 where the dismissal, acquittal, or discharge resulted from a plea  
10 bargaining agreement involving the conviction of other charges.

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

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

20 b. When the expungement of an arrest or charge not resulting in  
21 a conviction was not ordered by the court pursuant to subsection a.  
22 of this section, a person may at any time following the disposition  
23 of proceedings, present a duly verified petition as provided in  
24 N.J.S.2C:52-7 to the Superior Court in the county in which the  
25 disposition occurred praying that records of such arrest and all  
26 records and information pertaining thereto be expunged. No fee  
27 shall be charged to the person for applying for an expungement of  
28 an arrest or charge not resulting in a conviction pursuant to this  
29 subsection.

30 **【b.】** c. Any person who has had charges dismissed against him  
31 pursuant to [P.L.1970, c.226, s.27 (C.24:21-27) or pursuant to] a  
32 program of supervisory treatment pursuant to N.J.S.2C:43-12, or  
33 conditional discharge pursuant to N.J.S.2C:36A-1, or conditional  
34 dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), shall be  
35 barred from the relief provided in this section until six months after  
36 the entry of the order of dismissal.

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

42 (cf: P.L.2013, c.158, s.13)

43

44 5. N.J.S.2C:52-20 is amended to read as follows:

45 2C:52-20. Use of Expunged Records In Conjunction with  
46 Supervisory Treatment or Diversion Programs.

47 Expunged records may be used by **【any judge】** the court in  
48 determining whether to grant or deny the person's application for

1 acceptance into a supervisory treatment or diversion program for  
2 subsequent charges. Any expunged records which are possessed by  
3 any law enforcement agency may be supplied to the Attorney  
4 General, any county prosecutor, or **【judge】 court** of this State when  
5 same are requested and are to be used for the purpose of  
6 determining whether or not to accept a person into a supervisory  
7 treatment or diversion program for subsequent charges.

8 (cf: P.L.1979, c.178, s.127)

9

10 6. N.J.S.2C:52-21 is amended to read as follows:

11 2C:52-21. Use of Expunged Records in Conjunction with  
12 Setting Bail or Authorizing Pretrial Release, Presentence Report, or  
13 Sentencing.

14 Expunged records, or sealed records under prior law, of prior  
15 arrests or convictions shall be provided to any **【judge】 court**,  
16 county prosecutor, **【probation department】 the Probation Division**  
17 of the Superior Court, the pretrial services agency, or the Attorney  
18 General when same are requested for use in conjunction with a bail  
19 hearing, pretrial release determination pursuant to sections 1  
20 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.), **【or】** for the  
21 preparation of a presentence report, or for purpose of sentencing.

22 (cf: P.L.1979, c.178, s.128)

23

24 7. N.J.S.2C:52-24 is amended to read as follows:

25 2C:52-24. County prosecutor's obligation to ascertain propriety  
26 of petition.

27 Notwithstanding the notice requirements provided herein, it shall  
28 be the obligation of the county prosecutor of the county wherein  
29 any petition for expungement is filed to verify the accuracy of the  
30 allegations contained in the petition for expungement and to bring  
31 to the court's attention any facts which may be a bar to, or which  
32 may make inappropriate the granting of, such relief. If no disabling,  
33 adverse or relevant information is ascertained other than that as  
34 included in the petitioner's affidavit, such facts shall be  
35 communicated by the prosecutor to the **【hearing judge】 court**.

36 (cf: P.L.1979, c. 178, s. 131)

37

38 8. N.J.S.2C:52-27 is amended to read as follows:

39 2C:52-27. Effect of expungement.

40 Unless otherwise provided by law, if an order of expungement is  
41 granted, the arrest, conviction and any proceedings related thereto  
42 shall be deemed not to have occurred, and the petitioner may  
43 answer any questions relating to their occurrence accordingly,  
44 except as follows:

45 a. The fact of an expungement, sealing or similar relief shall be  
46 disclosed as provided in section 2C:52-8b.

47 b. The fact of an expungement of prior charges which were  
48 dismissed because of the person's acceptance into and successful

1 completion of a supervisory treatment or other diversion program  
2 shall be disclosed by said person to any [judge who] court that is  
3 determining the propriety of accepting said person into a  
4 supervisory treatment or other diversion program for subsequent  
5 criminal charges; and

6 c. Information divulged on expunged records shall be revealed  
7 by a petitioner seeking employment within the judicial branch or  
8 with a law enforcement or corrections agency and such information  
9 shall continue to provide a disability as otherwise provided by law.  
10 (cf: P.L.1981, c.290, s.45)

11  
12 9. This act shall take effect on the 90<sup>th</sup> day following enactment.  
13

14  
15 STATEMENT  
16

17 This bill shortens the waiting periods for expungement of  
18 criminal convictions, allows drug court graduates to expunge their  
19 entire criminal record, and, in cases where a person is arrested but  
20 not convicted, requires the expungement of arrest records at the  
21 time the charges are dismissed.

22 SECTION 1: DRUG COURT. The bill provides that the Superior  
23 Court may order the expungement of all records and information  
24 relating to all prior criminal arrests, detention, convictions, and  
25 proceedings upon successful discharge from a term of special  
26 probation (drug court) as provided in N.J.S.2C:35-14, regardless of  
27 whether the person was sentenced to special probation under  
28 N.J.S.2C:35-14, section 2 of P.L.2012, c.23 (C.2C:35-14.2), or  
29 N.J.S.2C:45-1, if the person satisfactorily completed a substance  
30 abuse treatment program ordered by the court and was not  
31 convicted of any crime, or adjudged a disorderly person or petty  
32 disorderly person, during the term of special probation. The  
33 provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14, concerning  
34 application procedures for expungement, would not apply, and no  
35 fee would be charged to the person.

36 The bill provides that a person would not be eligible for  
37 expungement under this provision of law if the records include a  
38 conviction for any offense barred from expungement pursuant to  
39 subsection b. or c. of N.J.S.2C:52-2. It would be the obligation of  
40 the prosecutor to notify the court of any disqualifying convictions  
41 or any other factors related to public safety that should be  
42 considered by the court when deciding to grant such an  
43 expungement.

44 Under the bill, the Superior Court would provide a copy of the  
45 expungement order to the prosecutor and to the person and, if the  
46 person was represented by the Public Defender, to the Public  
47 Defender. The person or, if the person was represented by the  
48 Public Defender, the Public Defender on behalf of the person,

1 would promptly distribute copies of the expungement order to  
2 appropriate agencies who have custody and control of the records  
3 specified in the order so that the agencies may comply with the  
4 requirements of N.J.S.2C:52-15 concerning removing the records  
5 from public access.

6 The bill provides that if the person is convicted of any crime  
7 following discharge from special probation, the full record of  
8 arrests and convictions may be restored to public access and no  
9 future expungement would be granted to such person.

10 The bill also provides that a person who was successfully  
11 discharged from a term of special probation prior to the effective  
12 date of the bill may seek an expungement of all records and  
13 information relating to all prior criminal arrests, detention,  
14 convictions and proceedings pursuant to N.J.S.2C:52-1 et seq.  
15 except that the requirements related to the expiration of the time  
16 periods specified in N.J.S.2C:52-2 through section 1 of P.L.1980,  
17 c.163 (C.2C:52-4.1) would not apply. The Superior Court would  
18 consider the person's verified petition and may order the  
19 expungement of all records and information relating to all prior  
20 criminal arrests, detention, convictions and proceedings of the  
21 person as appropriate. No fee would be charged to the person.

22 SECTION 2: WAITING PERIODS FOR EXPUNGEMENT OF A CRIME.  
23 Under current law, a person may petition the court for expungement  
24 of a crime after a period of 10 years from the date of conviction,  
25 payment of a fine, satisfactory completion of probation or parole, or  
26 release from incarceration, whichever is later. The person must not  
27 have been convicted of any prior or subsequent crime, or convicted  
28 of a disorderly person or petty disorderly person offense on more  
29 than two occasions. The bill would change this 10-year period to  
30 five years.

31 Current law also provides that if less than 10 years has passed  
32 since the payment of a fine, but the 10-year time requirement is  
33 otherwise satisfied, the person may also be eligible for  
34 expungement under two circumstances:

35 (1) if the court finds that the person substantially complied with  
36 any payment plan ordered by the court or could not do so due to  
37 compelling circumstances affecting his ability to satisfy the fine; or

38 (2) at least five years has passed; the person has not been  
39 convicted of a crime, disorderly persons offense, or petty disorderly  
40 persons offense since the time of the conviction; and the court finds  
41 in its discretion that expungement is in the public interest, giving  
42 due consideration to the nature of the offense, and the applicant's  
43 character and conduct since conviction.

44 The bill would also change this 10-year period to a five-year  
45 period. The bill would eliminate paragraph (2), the "public interest"  
46 provision, since expungement would be available for all eligible  
47 persons after five years.

1 SECTION 3: WAITING PERIODS FOR EXPUNGEMENT OF A  
2 DISORDERLY PERSONS OR PETTY DISORDERLY PERSONS OFFENSE.  
3 Under current law, a person may petition the court for expungement  
4 of a disorderly persons offense or petty disorderly persons offense  
5 after a period of five years from the date of conviction, payment of  
6 a fine, satisfactory completion of probation or parole, or release  
7 from incarceration, whichever is later. The person must not have  
8 been convicted of any prior or subsequent crime, or convicted of  
9 another three disorderly person or petty disorderly person offenses.  
10 The bill would change this five-year period to three years.

11 The bill also adds a new provision authorizing the court to grant  
12 an expungement when the court finds less than three years has  
13 expired from the satisfaction of a fine, but the three-year time  
14 requirement is otherwise satisfied, and the court finds that the  
15 person substantially complied with any payment plan ordered by the  
16 court or could not do so due to compelling circumstances affecting  
17 his ability to satisfy the fine.

18 SECTION 4: ARRESTS NOT RESULTING IN CONVICTION. Under  
19 current law, when a person is arrested for a crime, disorderly  
20 persons offense, petty disorderly persons offense, or municipal  
21 ordinance violation and charges are dismissed or the person was  
22 acquitted, the person may request expungement of the arrest records  
23 at any time following the disposition of the proceedings. The bill  
24 simplifies the procedures for persons and removes the requirement  
25 that they must petition for expungement. Under the bill, at the time  
26 of dismissal or acquittal of the charges, the Superior Court would  
27 order the expungement. If proceedings took place in municipal  
28 court, the municipal court would provide the person, upon request,  
29 with appropriate documentation to transmit to the Superior Court to  
30 request expungement pursuant to procedures developed by the  
31 Administrative Office of the Courts. Upon receipt of the  
32 documentation, the Superior Court would enter an ex parte order  
33 expunging all records and information relating to the person's arrest  
34 or charge. The person would not be required to comply with the  
35 expungement application proceedings set out in N.J.S.2C:52-7  
36 through N.J.S.2C:52-14 and no fee would be charged to the person.  
37 An expungement would not be ordered under this provision of the  
38 bill where the dismissal, acquittal, or discharge resulted from a plea  
39 bargaining agreement involving the conviction of other charges.

40 The bill provides that the Superior Court would forward a copy  
41 of the expungement order to the appropriate court and to the  
42 prosecutor. The prosecutor would promptly distribute copies of the  
43 expungement order to appropriate law enforcement agencies and  
44 correctional institutions who have custody and control of the  
45 records specified in the order so that they may comply with the  
46 requirements of N.J.S.2C:52-15.

47 The bill specifies that an expungement related to a dismissal,  
48 acquittal, or discharge would not bar any future expungement.

1       If a court failed to order expungement of an arrest or charge not  
2 resulting in a conviction, a person may at any time following the  
3 disposition of proceedings, present an expungement petition to the  
4 Superior Court as provided in N.J.S.2C:52-7. No fee would be  
5 charged.

6       SECTIONS 5 THROUGH 8: LANGUAGE CHANGES AND  
7 CLARIFICATION. Sections 5 through 8 make various language  
8 changes and clarify terms. For example, the term “judge” is  
9 changed to “court” in accordance with modern usage; the term  
10 “probation department” is changed to “the Probation Division of the  
11 Superior Court,” and the new pretrial services agency established  
12 by P.L.2014, c.31 (C.2A:162-15 et al.) is added to the list of  
13 agencies authorized to receive expunged records pursuant to  
14 N.J.S.2C:52-21.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2663**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 7, 2015

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2663.

This bill, as amended, establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent

conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person, upon request, with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges.

If an expungement related to a dismissal, acquittal, or discharge was not ordered by the court at the time of such action, a person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State's special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and



proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person's records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person's date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

This bill, as amended and reported by the committee, is identical to the Assembly Committee Substitute (1R) for Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108, also amended and reported by the committee today.

The committee amendments to the bill:

- add language to clarify the proper Superior Court to which an expungement application should be made;
- provide that any application to expunge a criminal conviction may also simultaneously seek to expunge up to two other convictions for disorderly persons or petty disorderly persons offenses, with a separate duly verified petition included with the application for each conviction;
- provide that any application to expunge a conviction for a disorderly persons or petty disorderly persons offense may also simultaneously seek to expunge up to two other convictions for such

offenses, with a separate duly verified petition included with the application for each conviction;

- clarify the separate timeframes and procedures for filing an expungement application with a criminal conviction, and for filing an expungement application with only disorderly persons or petty disorderly persons offenses, as described above;

- regarding expungements for any person successfully discharged from the State's special probation drug court program, clarify the expungement process for persons discharged prior to the bill's effective date versus the process for those discharged on and after that date;

- regarding expungements for any person successfully discharged from the State's special probation drug court program, permit expungements for any offense enumerated in the State's Criminal Code, which would include disorderly persons and petty disorderly persons offenses as well as crimes, as opposed to only crimes as indicated in the underlying bill;

- further regarding expungements for any person successfully discharged from the State's special probation drug court program, establish that the Superior Court would grant the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability;

- regarding such expungements for a person who was discharged from the drug court program prior to the bill's effective date, specify that: (1) only those criminal convictions that existed at the time of discharge could be expunged, (2) the person would not be eligible to have all those convictions expunged if convicted of any crime or offense since the person's date of discharge, and (3) the person, if eligible, would not be charged any fee for such an expungement action;

- update, using the accepted current citation format, the statutory citations for the list of criminal convictions that are not subject to expungement; such updating does not add any additional crimes to this list;

- indicate that the expungement statutes are to be construed with the primary objective of providing relief to a "reformed" offender, and not create a system whereby "persistent" violators of the law or those associating themselves with continuing criminal activity have a regular means of expunging records and information; and

- update the bill's title and synopsis to better reflect the provisions of the bill and the changes made by the amendments.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **SENATE, No. 2663**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 8, 2015

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2663 (1R), with committee amendments.

As amended, this bill establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty

disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged, upon a person presenting an application for expungement:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges. However, this bar on such expungements would no longer apply once the conviction connected to the plea bargain was itself expunged.

If the person did not apply for an expungement related to a dismissal, acquittal, or discharge at the time such action occurred, the person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought. The person, pursuing this "after the fact" expungement application, would also not be charged an application fee.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to

appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State's special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person's records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person's date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

As amended and reported, this bill is identical to Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 (ACS/2R), as also amended and reported by the committee.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- provide, with respect to the expungement of an arrest or charge that did not result in a conviction or finding of guilt due to a plea bargaining agreement involving the conviction of other charges, that

such expungement would only be barred until the time that the conviction connected to the plea bargain was itself expunged; and

- clarify that if a person is eligible to expunge an arrest or charge that did not result in a conviction or finding of guilt due to a dismissal, acquittal, or discharge, but the person did not make an expungement application with the court at the time of such action, the person could, at any time following the disposition of those proceedings, present an application to the appropriate Superior Court seeking the expungement of the arrest or charge.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement.

The OLS also notes that the bill provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the bill provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. There are insufficient data available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 2663**

## **STATE OF NEW JERSEY 216th LEGISLATURE**

DATED: JUNE 19, 2015

### SUMMARY

**Synopsis:** Shortens waiting periods for expungement of criminal records; makes various changes to other expungement procedures and requirements.

**Type of Impact:** State and Local Cost, State Revenue loss.

**Agencies Affected:** Judiciary.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Cost – See comments below		
<b>State Revenue</b>	Indeterminate Revenue Loss – See comments below		
<b>Local Cost</b>	Indeterminate Cost – See comments below		

- The Office of Legislative Services (OLS) notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.
- The OLS also notes that the substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.
- The committee substitute shortens the waiting periods for expungement of criminal convictions, allows drug court graduates to expunge their entire criminal record, and, in cases

where a person is arrested but not convicted, requires the expungement of arrest records at the time the charges are dismissed. No fee would be charged for drug court graduates expungement for where charges are dismissed.

## **BILL DESCRIPTION**

Senate Bill No. 2663 (2R) of 2014 establishes new expungement procedures for records and information pertaining to crimes and offenses, including procedures for persons who are, or previously have been, successfully discharged from the State's special probation drug court program. It also provides shorter waiting periods before certain records and information become expungeable.

Regarding a person with a criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court in the county in which the criminal conviction was adjudged. That application could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of five years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, for the crime or for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period under current law for a criminal conviction expungement is ordinarily 10 years). Alternatively, the court could grant an expungement on the application if less than five years has expired from the payment of any fine but the five-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with a conviction for a disorderly persons or petty disorderly persons offense, but no criminal conviction, that person would be permitted to make an application with an expungement petition to the Superior Court concerning that offense following a procedure similar to that used for criminal convictions. The application, like an application concerning a criminal conviction, could include additional, separate petitions seeking to expunge no more than two other convictions for disorderly persons or petty disorderly persons offenses. The application could only be filed after the expiration of three years from the date of the person's most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later (the waiting period on convictions for such offenses under current law is five years). Alternatively, the court could grant an expungement on the application if less than three years has expired from the payment of any fine but the three-year waiting period is otherwise satisfied, and the court finds that the person substantially complied with any payment plan for that fine or could not do so due to compelling circumstances.

Regarding a person with an arrest or charge that did not result in a conviction or finding of guilt, whether the proceedings were dismissed, or the person acquitted or discharged, upon a person presenting an application for expungement:

(1) if the proceedings took place in Superior Court, the court, at the time of dismissal, acquittal, or discharge, would order the expungement of all records and information relating to the arrest or charge; or

(2) if the proceedings took place in municipal court, the municipal court would provide the person with appropriate documentation to transmit to the Superior Court to request an expungement, and the Superior Court, upon receipt of the documentation with an expungement request would take action to order the expungement of all records and information relating to the



arrest or charge. A person seeking such an expungement of municipal court matters would not be charged an application fee for taking such action.

An expungement related to a dismissal, acquittal, or discharge without a conviction or finding of guilt would not be available whenever the dismissal, acquittal, or discharge resulted from a plea bargaining agreement involving the conviction of other charges. However, this bar on such expungements would no longer apply once the conviction connected to the plea bargain was itself expunged.

If the person did not apply for an expungement related to a dismissal, acquittal, or discharge at the time such action occurred, the person could, at any time following the disposition of proceedings, present to the Superior Court in the county in which the disposition occurred an application with a duly verified petition, containing relevant details concerning the applicant and the arrest or charge for which the expungement is sought. The person, pursuing this “after the fact” expungement application, would also not be charged an application fee.

A copy of any Superior Court order of expungement related to a dismissal, acquittal, or discharge would be presented to the appropriate court and the prosecutor. The prosecutor would then be responsible for promptly distributing copies of the expungement order to appropriate agencies with custody and control of the records specified in the order so that they may be properly expunged.

Regarding a person who is, or was prior to the effective date of the bill, successfully discharged from the State’s special probation drug court program, the bill would permit the Superior Court that had sentenced the person to the program to expunge all records and information relating to prior arrests, detentions, convictions, and proceedings for any offense enumerated in the Criminal Code, Title 2C of the New Jersey Statutes, existing at the time of discharge from the program. However, the person would not be eligible for such an expungement action if the person’s records include a conviction for any offense barred from expungement pursuant to N.J.S.2C:52-2.

For a person who is successfully discharged *on or after* the effective date of the bill, the person would only be eligible to have all prior matters expunged if the person was not convicted of any crime, disorderly persons offense, or petty disorderly persons offense during the term of special probation. For a person who was successfully discharged *prior* to the effective date of the bill, the person would only be eligible to have all matters expunged that existed at the time of discharge from the program if the person has not been convicted of any crime or offense since the person’s date of discharge.

The Superior Court would grant the person successfully discharged from the special probation drug court program the relief of expungement, unless it finds that the need for the availability of the records and information outweighs the desirability of having the person freed from any disabilities associated with their availability. The person would not be charged any fee for such an expungement action.

Lastly, regarding the continued availability of any expunged records and information, the bill updates the statutory list of parties within the criminal justice system that may still view such records and information. Along with courts, county prosecutors, the Probation Division of the Superior Court, and the Attorney General, the Pretrial Services Program making pretrial release recommendations on certain persons undergoing the release determination process set forth in sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.) would also be able to examine expunged records and information.

## FISCAL ANALYSIS

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the shortening of the waiting periods for expungement are anticipated to encourage increased petitions for expungement. Insufficient data are available to estimate the impact that this may have on the administrative costs of the agencies that have custody and control of the records that must be removed from public access.

The OLS also notes that the substitute provides for permissive action of the Superior Court to expunge records of certain persons who have completed a substance abuse program ordered by the court, without fee to the person affected, and the substitute provides for the automatic expungement of the arrest records of certain persons not convicted of the charges, without fee to the person affected. Insufficient data are available to estimate the impact that this may have on administrative costs of the Administrative Office of the Courts, prosecutors, public defenders, and the agencies that have custody and control of the records that must be removed from public access.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY BILL NOS. 206, 471, 1663, 2879, 3060, and 3108  
(Third Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 (Third Reprint) with my recommendations for reconsideration.

Helping non-violent offenders reclaim their lives and become productive members of society has long been a personal focus of mine and a pillar of my Administration. Since becoming Governor, we have reformed outdated, ineffective approaches to non-violent offenses and instituted programs designed to make a real difference in helping people reclaim their lives. From expanding drug courts and the lifesaving Narcan program statewide, to integrating job training and services to ex-offenders re-entering society, to preventing employers from asking about a prospective employee's criminal history on an initial job application, to expanding access to college degrees within correctional facilities, these efforts and others are already bearing much fruit. For instance, New Jersey is one of the only states in the nation to have seen a drop in both repeat offenses and incarceration. Fewer non-violent offenders are being housed in correctional facilities at taxpayer expense and more are being treated and educated in successful programs. But more than just a statistical success, our hard work is having a real impact in the lives of countless individuals and their families, providing them with the tools they need to re-emerge in society as productive citizens.

This bill promises to build upon these accomplishments and continue my commitment to helping New Jerseyans afflicted by

drug addiction turn their lives around. It proposes another step towards expanding the benefits of the Drug Court Program by allowing citizens who have successfully completed the program to expunge their entire record. I believe this proposal might incentivize greater participation in the Drug Court Program and help give non-violent offenders a fresh start, with better employment prospects and educational opportunities.

Moreover, the bill aims to make the expungement process more efficient. It would create an automatic expungement for arrest records that do not result in conviction other than through a plea agreement. This would cut costs and eliminate unnecessary hardships for innocent people with an arrest record. Additionally, the bill would streamline the process for an eligible person seeking to expunge multiple offenses through one application. A more efficient process will also reduce delays and costs.

Nevertheless, while I support breaking down barriers to employment and education for non-violent ex-offenders, I cannot endorse a bill that compromises public safety. As written, this bill would cut in half the presumptive waiting period to expunge indictable offenses, often felonies, from ten years to five years, and eliminate an important safeguard which allows a judge to consider whether granting an expungement is in the public's interest. The current public interest exception to the presumptive waiting period is an effective and efficient way to help ex-offenders combat the collateral consequences of their offenses, while also ensuring that public safety is not compromised. Therefore, I propose retaining current law regarding the public interest exception, and leave to courts the

decision to determine whether an expungement after five years is in the public interest on a case-by-case basis.

In addition, because the public interest exception has been successfully applied by courts when considering the expungement of indictable convictions, I recommend extending a similar exception to those seeking to expunge a disorderly persons offense or a petty disorderly persons offense. Specifically, I suggest creating an exception to the five-year waiting period that would mirror the public interest exception for indictable offenses, allowing the Superior Court to grant an expungement of a disorderly persons or petty disorderly persons offense after three years if the petitioner meets all other criteria and the expungement is in the public interest.

Accordingly, I herewith return Assembly Committee Substitute for Assembly Bill Nos. 206, 471, 1663, 2879, 3060, and 3108 (Third Reprint) and recommend that it be amended as follows:

<u>Page 11, Section 2, Line 37:</u>	Delete "five" and insert "10"
<u>Page 12, Section 2, Line 14:</u>	Delete "when" and insert "although less than 10 years has expired in accordance with the requirements of the preceding paragraph where"
<u>Page 12, Section 2, Line 14:</u>	After "finds" insert ":"
<u>Page 12, Section 2, Line 15:</u>	Before "less" insert "(1)"
<u>Page 12, Section 2, Line 15:</u>	Delete "five" and insert "10"
<u>Page 12, Section 2, Line 16:</u>	Delete "five-year" and insert "ten-year"
<u>Page 12, Section 2, Line 20:</u>	After "fine" insert "; or (2) at least five years has expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the

conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction"

Page 12, Section 2, Line 31:

After "purposes of" insert "paragraph (1) of"

Page 14, Section 3, Line 38:

Delete "three" and insert "five"

Page 15, Section 3, Line 11:

After "finds" and insert ": (1)"

Page 15, Section 3, Line 12:

Delete "three years" and insert "five years"

Page 15, Section 3, Line 12:

Delete "three-" and insert "five-"

Page 15, Section 3, Line 16:

After "fine" insert "; or (2) at least three years have expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction"

Page 15, Section 3, Line 18:

After "purposes of" insert "paragraph (1) of"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor

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## Governor Christie Takes Action On Pending Legislation

Monday, January 11, 2016 Tags: [Bill Action](#)



Trenton, NJ – Governor Chris Christie today took action on legislation, including a bill aimed at helping inmates who were victims of domestic violence and a second bill designed to help non-violent drug offenders reclaim their lives by streamlining the process for expungement of their criminal records.

The Governor suggested minor changes to strengthen Senate Bill No. 995, which seeks to help domestic violence victims who have been convicted of crimes against their abusers by establishing a community reentry program to assist victim-offenders assimilate into society upon release from custody and prevent further victimization.

Governor Christie conditionally vetoed the bill, proposing that the program be established solely in the Department of Corrections.

“The goal of this bill is commendable and I sincerely support its objective,” Governor Christie said. “Domestic violence is tragic, and victims deserve support and counseling. However, the bill conflates the statutory and regulatory responsibilities of the Department of Corrections and the State Parole Board, combining the agencies’ separate residential program functions. Accordingly, I suggest minor amendments, in accordance with the intent of the legislation to establish this program within the Department of Corrections, consistent with its existing reintegration programming and tailored to the specific needs of this limited inmate population.”

The bill as written also called for an automatic early release program for this specific subset of inmates upon successful completion of the reentry program, an element of the bill that Governor Christie does not support.

“I cannot support the creation of early release programs because they would begin to chisel away at the long-standing function of the State Parole Board,” Governor Christie said. “For decades, the State Parole Board has faithfully fulfilled its charge to carefully review and consider the underlying facts and circumstances of each applicant for parole. While I continue to encourage the Legislature to explore reforms that will create efficiencies in State government, I remain grounded in my belief that the review of parole applications is best accomplished through the reasoned, compassionate, experienced and individualized judgment of the State Parole Board and not through an automatic process based upon one factor.”

Governor Christie similarly took action to strengthen the Assembly Committee Substitute for Assembly Bills Nos. 206, 471, 1663, 2879, 3060 and 3108, and urged quick approval from the Legislature.

The bill proposes to allow those who have successfully completed the Drug Court program to expunge the related criminal charges, and it further aims to make the expungement process more efficient.

Seeking to balance the needs of non-violent ex-offenders with public safety, Governor Christie conditionally vetoed the bill, retaining the current waiting period for expungements for indictable offenses, currently 10 years, or five years if a court determines that expungement is in the public’s interest.

“While I support breaking down barriers to employment and education for non-violent ex-offenders, I cannot endorse a bill that compromises public safety,” Governor Christie said. “As written, this bill would cut in half the presumptive waiting period to expunge indictable offenses, often felonies, from ten years to five years, and eliminate an important safeguard which allows a judge to consider whether granting an expungement is in the public’s interest. The current public interest exception to the presumptive waiting period is an effective and efficient way to help ex-offenders combat the collateral consequences of their offense, while also ensuring that public safety is not compromised.”

Governor Christie further suggested retaining the five-year waiting period for disorderly persons offenses, while adopting the bill's provision to lower this waiting period to three years, if a court determines that expungement is in the public interest.

The Governor also took the following action on other pending legislation:

#### **BILL SIGNINGS:**

**S-475/A-3223 (Madden, Sweeney/Mosquera, Webber, Moriarty, Mukherji, Garcia, Munoz, Lampitt)** - Requires certain information regarding Down syndrome be provided to certain parents and families

**S-650 (Doherty, Beach/DiMaio, Andrzejczak, Peterson, DeAngelo)** - Designates State Route 173 between Clinton and Phillipsburg as "173rd Airborne Brigade Highway"

**S-835/A-1972 (Bateman/Garcia, Danielson)** - Enhances penalties for false incrimination and making fictitious reports

**S-939/A-2913 (Bateman, A.R. Bucco/Caride, Dancer, A.M. Bucco)** - Designates Black Swallowtail butterfly as State Butterfly

**S-1940/A-2893 (Oroho, Van Drew/Burzichelli, Space)** - Exempts board of education and local government payments to entities under BPU jurisdiction from certain certification requirements

**S-2145/A-631 (Van Drew, Madden/Moriarty, Burzichelli, Tucker, DeAngelo, Danielson, Mukherji)** - Authorizes hiring preference for veterans in non-civil service jurisdictions

**S-2301/A-3522 (Greenstein, Stack/Stender, Mukherji, Lagana, Diegnan)** - Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing

**S-2432/A-4720 (Madden/Moriarty, Mosquera)** - Requires notification of member or retiree of State-administered retirement system under certain circumstances when member or retiree requests change in beneficiary for group life insurance

**S-2453/A-3805 (Weinberg, Allen/Burzichelli, Singleton)** - Requires earlier mandatory polling hours for school elections; requires discretionary additional polling hours be consistent with current primary and general elections

**S-2523/A-3917 (Gill, Greenstein, Benson/DeAngelo, Johnson)** - Permits municipalities and municipal parking authorities to create Senior Citizen Priority Parking Program

**SCS for S-2586, 2587, A-3217, and 3218 (Stack, Cunningham, Mukherji, Pintor Marin, Garcia)** - Requires certain sanitary and protective procedures for used mattresses

**SCS for S-2668/A-4270 (Beach, Madden/Lampitt, Vainieri Huttie, Benson, Spencer, Wimberly, Mosquera)** - Establishes "MVP Emergency Alert System" for missing persons with mental, intellectual, or developmental disabilities

**SS for S-2770/AS for A-3956 (Sweeney, Addiego/Lampitt, Greenwald, Vainieri Huttie, Benson, Mazzeo)** - Authorizes establishment of Achieving a Better Life Experience accounts for persons with certain disabilities

**S-2940/A-4531 (Singer, Sweeney/Spencer, Benson, Casagrande, Muoio)** - Creates new criminal offenses concerning endangering another person; repeals N.J.S.2C:12-2 and N.J.S.2C:24-7

**S-2961/A-4188 (Codey, Vitale/Garcia, Lagana, Taliaferro, Vainieri Huttie, Daniels, Holley, Benson, Jimenez)** - Clarifies that Alzheimer's disease and related disorders may be listed as secondary cause of death on death certificate when appropriate

**S-2978/A-4194 (Van Drew, Oroho/Burzichelli, Spencer, Rumana, Webber, Benson)** - Authorizes mobile electronic waste destruction units to operate without DEP permit

**S-3004/A-4685 (Cunningham, Van Drew/Andrzejczak, Johnson, Muolo, Wimberly)** - Permits municipality with UEZ to participate in Downtown Business Improvements Zone Loan Fund

**S-3076/A-4621 (Weinberg, Bateman/Johnson, Caride)** - Increases maximum legal fee to represent victims from \$1,000 to \$3,000

**S-3110/A-4617 (Scutari/Johnson, Webber)** - Permits certain health clubs to offer swimming lessons and otherwise remain exempt from first aid personnel and lifeguarding requirements

**S-3117/A-4781 (Gordon, Bateman, Sweeney, T. Kean/Vainieri Huttie, Eustace, Gusciora, Lampitt, Angelini, Moriarty)** - Prohibits Division of Developmental Disabilities from compelling transfers of individuals with developmental disabilities from out-of-State to in-State facilities unless certain exceptions apply

**S-3220/A-4790 (Sweeney, O'Toole, Vitale/Greenwald, Conaway, Vainieri Huttie, Handlin, Garcia)** - Establishes a process to integrate certain health data and other data from publicly supported programs for population health research

**S-3232/A-4834 (Sarlo, Oroho/Lagana, Burzichelli, Schaer, DeAngelo, Phoebus)** - Allows businesses due to receive grant under Business Employment Incentive Program to receive tax credit instead of grant

**S-3270/A-4705 (Gill, Bateman/Schaer, Coughlin, Lagana, S. Kean, Ciattarelli)** - "Certificates of Insurance Act," governs use of certificates of insurance; provides DOBI with enforcement authority



**SJR-81/AJR-122 (Barnes/Vainieri Huttie, Schaer, Lampitt)** - Condemns Boycott, Divestment, and Sanctions movement against Israel

**A-308/S-2203 (Russo, Rumana/O'Toole, Smith)** - Prohibits escrow agent evaluation services from charging escrow agents fees

**A-1098/S-671 (Vainieri Huttie, Eustace, Diegnan, Giblin/Pou, Sarlo, Weinberg)** - Requires DHS and DMVA to conduct or contract for follow-up studies of former residents transitioning to community from their facilities

**A-1355/S-2963 (Stender, Lampitt, Holley, Moriarty/T. Kean, Vitale)** - Requires DOH to provide information about crib safety on its Internet website

**A-1783/S-2020 (McKeon, Rible, Sumter, Moriarty/Vitale, Cunningham)** - "Art Therapist Licensing Act"

**A-2023/S-2675 (Greenwald, Benson/Cruz-Perez)** - Revises definition of "responsible charge" as it pertains to licensed professional engineers and licensed architects

**A-2229 (Wisniewski, Diegnan)** - Concerns contracts for asphalt work under the "Local Public Contracts Law"

**A-2301/S-1481 (Andrzejczak/Van Drew)** - Designates certain interchanges of Garden State Parkway in honor of Melvin M. Loftus and Christopher Meyer

**A-3052/S-1090 (Mazzeo, Pinkin, Mukherji, Wimberly/A.R. Bucco, Whelan)** - Concerns property taxes due and owing on real property damaged or destroyed during, or as the result of, a natural disaster when a state of emergency is declared by the Governor

**A-3246/S-3069 (Dancer, Burzichelli, Vainieri Huttie/Oroho, Sarlo)** - Requires timeframe of standardbred mare residing in New Jersey breeding farm be inclusive of foaling instead of between foal's conception and birth

**A-3293/S-2146 (Mazzeo, Andrzejczak, Pinkin, Webber, Simon, Mukherji/Van Drew, Doherty)** - Allows military personnel and veterans to present certain identifying documents in lieu of municipal beach tags to gain admission to certain beaches

**A-3331/S-3111 (Benson, Rodriguez-Gregg, Coughlin/Gill, Beach)** - Requires health benefits coverage for synchronization of prescribed medications under certain circumstances

**A-3390/S-2309 (Coughlin, Pinkin, Webber, Diegnan/Vitale)** - Permits transmittal of certain land use documents via email

**A-3395/S-2294 (Wisniewski/Sacco)** - Allows insurer to obtain certificates of ownership or salvage certificates of title for motor vehicles under certain circumstances

**A-3499/S-2256 (Andrzejczak, Mazzeo, Johnson, Pinkin, DeAngelo/Van Drew)** - Requires DMVA to encourage and facilitate returning service members' registration with VA

**A-3507/S-2677 (Eustace, Webber, Munoz, Schepisi, Rumana/Gordon, Sarlo)** - Amends law concerning county and municipal stream cleaning activities

**A-3749/S-2568 (Lampitt, Mazzeo, Andrzejczak, Mukherji, Pinkin/Beach, Allen)** - Establishes program to provide assistance to qualified veterans in in-patient and out-patient treatment programs to travel to medical counseling in State

**A-3849/SCS for S-2466 (DeAngelo, Eustace, Mazzeo, Pintor Marin, Benson/Turner, Singer)** - Requires BPU to provide links to pricing information to customers from electric and gas public utilities, and third-party electric power and gas suppliers

**A-3950/S-2832 (Prieto, Jimenez, Quijano/Greenstein, Turner)** - Permits correctional facilities to utilize body imaging scanning equipment

**A-4079/S-2819 (Eustace, Andrzejczak, Taliaferro, Benson, Dancer/Van Drew, Beach)** - Directs Department of Agriculture to publish on its website "New Jersey Gleaning Week" and "Farmers Against Hunger Day" page

**A-4094/S-2884 (Conaway, Singleton, Wimberly, Lampitt, Benson/Whelan, Madden)** - Permits administration of epinephrine auto-injector device by persons who complete approved educational program

**A-4438/S-3202 (Mukherji, Burzichelli/Scutari, Madden)** - Raises maximum workers' compensation fees for evaluating physicians


**A-4518/S-3010 (Schaer, Eustace, Benson, Pintor MarIn/Sarlo)** - Modifies and clarifies provisions of certain economic incentive programs

**AJR-57/SJR-42 (Space/Oroho)** - Designates April of each year as "Sarcoidosis Awareness Month"

**AJR-93/SJR-73 (Eustace, Andrzejczak, Taliaferro, Benson/Van Drew, Beach)** - Designates third week of September as "New Jersey Gleaning Week"

**AJR-94/SJR-74 (Eustace, Andrzejczak, Taliaferro, Benson/Van Drew, Beach)** - Designates Wednesday of third week of September as "Farmers Against Hunger Day"

**AJR-100/SJR-70 (Andrzejczak, Tucker, DeAngelo, Mazzeo/Van Drew, Whelan)** - Designates first week in August of each year as "Coast Guard Week" and honors Cape May as U.S. Coast Guard's enlisted accession point and recruit training center

**BILLS VETOED:** 

**S-264/A-1347 (Greenstein, Cunningham/Stender, Egan, O'Donnell, Wimberly)** – **ABSOLUTE** - "Thomas P. Canzanella Twenty First Century First Responders Protection Act"; concerns workers compensation for public safety workers

**S-374/A-3403 (Scutari, Beck/Rible, DeAngelo, Mukherji)** - **ABSOLUTE** - Concerns attorney fees for workers' compensation awards

**SCS for S-779, 1952/ACS for A-2474 (Weinberg, Sarlo, Lesniak/Johnson, Garcia, Vainieri Huttie, Lagana, Mukherji, Moriarty)** - **ABSOLUTE** - "Garden State Film and Digital Media Jobs Act" expands existing film and digital media production tax credit programs

**S-995/A-1677 (Weinberg, Allen/Johnson, Vainieri Huttie, Lampitt, Mosquera)** – **CONDITIONAL** - Establishes in DOC, supervised community reintegration program for certain victims of domestic abuse

**S-1346/A-3837 (Rice/Coughlin, Garcia, Rodriguez-Gregg, Pintor Marin, Jasey)** - **CONDITIONAL** - Concerns the recording of mortgages

**S-2260/A-688 (Scutari, Cardinale/Schaer)** - **CONDITIONAL** - Modifies certain fees charged by, and requirements imposed on, check casher licensees

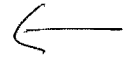
**S-2524/A-4067 (Gill, Allen/Lagana, Singleton, Moriarty)** - **CONDITIONAL** - The "Municipal Volunteer Property Tax Reduction Act"; permits certain municipal property owners to perform volunteer services in return for property tax vouchers

**S-2577/ACS for A-4139 (Stack, Schaer/Mazzeo, Andrzejczak, Mukherji, Quijano)** - **CONDITIONAL** - Establishes temporary mortgage relief programs for certain owners of real property impacted by "Superstorm Sandy"

**S-2867/A-4248 (Ruiz, Pou/Jasey, Sumter, Vainieri Huttie, Green, Holley, Wimberly)** - **ABSOLUTE** - Permits municipal land banking in conjunction with online property database development

**S-3024/A-4463 (Scutari/Giblin, Diegman, Jimenez, Caputo, Vainieri Huttie)** – **CONDITIONAL** - Revises laws concerning real estate licensees

**S-3282/A-4850 (Rice, Cunningham/Wimberly, Mainor, Johnson)** - **CONDITIONAL** - Expands Police Training Commission membership to include representative from Northern New Jersey and South Jersey Chapters of National Organization of Black Law Enforcement Executives

**ACS for A-206, 471, 1663, 2879, 3060, and 3108/S-2663 (Green, Spencer, Gusclora, Johnson, McKeon, Giblin, Wimberly, Mainor, Quijano/Turner, Lesniak, Pou)** - **CONDITIONAL** - Shortens waiting periods for expungement of criminal and other records and information; makes various changes to other expungement procedures and requirements 

**A-3257/S-2125 (Andrzejczak, Mazzeo, Burzichelli/Van Drew)** - **CONDITIONAL** - Provides that determination by county agriculture development board or State Agriculture Development Committee as to what qualifies as farm-based recreational activity in pinelands protection area is binding on Pinelands Commission

**A-4103/S-2840 (Mazzeo, Andrzejczak, Giblin/Allen, Whelan)** - **ABSOLUTE** - Creates workforce training program for former casino workers

**A-4233/S-2435 (Jasey, McKeon, Vainieri Huttie, Mukherji, Lampitt/Codey, Vitale)** - **ABSOLUTE** - Provides Medicaid coverage for advance care planning

**A-4275/S2831 (Prieto, Eustace, Lagana, Greewald, Quijano, Daniels, Mukherji/Sweeney, Turner, Sarlo)** – **CONDITIONAL** - "New Jersey Secure Choice Savings Program Act"; establishes retirement savings program for certain workers

**A-4326/S-2942 (Schaer, Lagana, Eustace, Prieto/Gordon, Barnes)** - **ABSOLUTE** - Reforms annual State revenue estimating and reporting, and executive State budget presentation and revenue certification processes

**A-4386/S-3042 (Coughlin, Pinkin/Vitale, Singer)** - **CONDITIONAL** - Permits candidates for school board to circulate petitions jointly and be bracketed together on ballot; permits short nonpolitical designation of principles on petitions and ballots; provides for study of impact of changes

**A-4638/S-3118 (Vainieri Huttie, Singleton, Holley, Mosquera, Tucker, Benson/Sweeney, Madden)** - **ABSOLUTE** - Requires DCPD to implement policies and procedures to ensure caseworker safety; "Leah's Law"

**A-4703/S-3172 (Spencer, Tucker, Pintor Marin, Egan, Muoio, Gusciora/Rice, Smith)** - **ABSOLUTE** - Increases tax credit cap by \$165 million for certain qualified residential projects under Economic Redevelopment and Growth Grant program and restricts increase to certain projects

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