

2A:164-28

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:164-28

Laws of 1975 Chapter 383

Bill No. A 909 (S 898-1972)

Sponsor(s) Bate

Date Introduced Jan. 24, 1975

Committee: Assembly Judiciary

Senate Judiciary

Amended during passage Yes No

Amendments during passage denoted by asterisks.

Date of passage: Assembly April 16, 1974

Senate Jan. 27, 1975

Date of approval March 3, 1976

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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CHAPTER 383 LAWS OF N. J. 1975
APPROVED 333-76

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ASSEMBLY, No. 909

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1974

By Assemblyman BATE

Referred to Committee on Judiciary

AN ACT concerning expunging the record of certain criminal convictions and amending N. J. S. 2A:164-28.

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

1 1. N. J. S. 2A:164-28 is amended to read as follows:

2 2A:164-28. In all cases wherein a criminal conviction has been
3 entered against any person [whereon sentence was suspended, or a
4 fine imposed of not more than \$1,000.00], and no subsequent con-
5 viction has been entered against such person, it shall be lawful
6 after the lapse of 10 years from the date of such conviction *or 10*
7 *years after the date such person completed his term of imprison-*
8 *ment or was released from parole, whichever is later*, for the person
9 so convicted to present a duly verified petition to the court wherein
10 such conviction was entered, setting forth all the facts in the matter
11 and praying for the relief provided for in this section.

12 Upon reading and filing such petition such court may by order
13 fix a time, not less than 10 nor more than 30 days thereafter, for the
14 hearing of the matter, a copy of which order shall be served in the
15 usual manner upon the prosecutor of the county wherein such court
16 is located, and upon the chief of police or other executive head of
17 the police department of the municipality wherein said offense was
18 committed, ***and upon the Diagnostic Center at Menlo Park if such*
19 *person was committed to that institution before sentencing,*** within
20 5 days from the date of such order, and at the time so appointed
21 the court shall hear the matter and if no material objection is made
22 and no reason appears to the contrary, an order may be granted
23 directing the clerk of such court to expunge from the records all
24 evidence of said conviction and that the person against whom such
25 conviction was entered shall be forthwith thereafter relieved from

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

26 such disabilities as may have heretofore existed by reason thereof,
27 excepting convictions involving the following crimes: treason, mis-
28 prision of treason, anarchy, all ****[capital cases,]**** ****homicides**
29 *other than death by driving a vehicle under N. J. S. 2A:113-9,*
30 *assault on a head of state, as defined in N. J. S. 2A:148-6,*** kid-
31 napping, [perjury, carrying concealed weapons or weapons of any
32 deadly nature or type,] rape, [seduction, aiding, assisting or con-
33 cealing persons accused of high misdemeanors, or aiding the escape
34 of inmates of prisons, embracery,] ***[or]*** arson[, robbery or bur-
35 glary] ***or robbery* ****, and further excepting that the court may
36 *continue the hearing for 30 days and order an evaluation of such*
37 *person by the Diagnostic Center if he was committed to such center*
38 *before sentencing**.*

39 For services performed under this section same fees shall be
40 taxed as are usual for like services in other matters, which fees shall
41 be payable by the petitioner.

1 2. This act shall take effect immediately.

27 kidnapping, [perjury, carrying concealed weapons or weapons of
28 any deadly nature or type,] rape, [seduction, aiding, assisting or
29 concealing persons accused of high misdemeanors, or aiding the
30 escape of inmates of prisons, embracery,] or arson[, robbery or
31 burglary].

32 For services performed under this section same fees shall be
33 taxed as are usual for like services in other matters, which fees shall
34 be payable by the petitioner.

1 2. This act shall take effect immediately.

STATEMENT

Any individual who has not been convicted of a serious crime and who can prove himself to the satisfaction of the courts of this State that he is and has been a useful and productive citizen in our society for a period of 10 years, should be entitled to have his criminal record expunged. The present requirement of the statute that an individual is entitled to an expungement only in cases where the sentence has been suspended is basically unfair and adds to the factors which fail to motivate rehabilitation. Those crimes which are presently listed as exceptions in the statutes under today's standards are basically inconsistent with those crimes which are not listed.

This amendment is basically designed to further motivate the rehabilitation of the majority of offenders who have been or will be convicted under our criminal statutes.

A 909

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 909

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with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 21, 1974

The purpose of this bill is to permit the expungement of certain criminal convictions 10 years after the date the person convicted completed his term of imprisonment or was released from parole provided there have been no subsequent convictions. The bill removes as a requirement for expungement that either the sentence was suspended or that the fine imposed was not more than \$1,000.00.

The bill was amended in committee to provide for service of the petition for expungement upon the Diagnostic Center at Menlo Park if the petitioner was committed to that institution before sentencing and to allow the court to continue an expungement hearing for the purpose of evaluation of the petitioner. The bill was also amended to reflect that there are no longer capital crimes in New Jersey.