

2C:52-4.1

LEGISLATIVE HISTORY CHECKLIST

NJSA 2C:52-4.1; 2A:4-67 (Expungement--Juvenile delinquency adjudications)

LAWS 1980 CHAPTER 163

Bill No. S1266

Sponsor(s) Perskie

Date Introduced May 5, 1980

Committee: Assembly Judiciary, Law, Public Safety & Defense
Senate Judiciary

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 16, 1980
Senate June 23, 1980

Date of approval Dec. 10, 1980

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

Recommendations made in:

974.90 New Jersey. Juvenile Justice Task Force.
J97 Advisory Committee on "Data Collection".
1981b Final report... January, 1981.
Trenton, 1981.

6/22/91

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SENATE, No. 1266

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1980

By Senator PERSKIE

Referred to Committee on Judiciary

AN ACT concerning the expungement of adjudications of juvenile delinquency ***[and]***,* supplementing chapter 52 of Title 2C of the New Jersey Statutes **and amending P. L. 1973, c. 306**.

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

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

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

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

8 (3) Pursuant to N. J. S. 2C:52-4, if the act committed by the
9 juvenile would have constituted an ordinance violation if com-
10 mitted by an adult.

11 For purposes of expungement, any act which resulted in a juve-
12 nile being adjudged a delinquent shall be classified as if that act
13 had been committed by an adult.

14 b. Additionally, any person who has been adjudged a juvenile
15 delinquent may have his entire ***[juvenile]*** record **of delinquency*
15A *adjudications** expunged if:

16 (1) Five years have elapsed since the final discharge of the
17 person from legal custody or supervision or 5 years have elapsed
18 after the entry of any other court order not involving custody or
19 supervision;

20 (2) He has not been convicted of a crime, or a disorderly or
21 petty disorderly persons offense, or adjudged a delinquent, or in
22 need of supervision, during the 5 years prior to the filing the
23 petition, and no proceeding or complaint is pending seeking such
24 a conviction or adjudication; ***[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.

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

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

29 (5) *He has never had adult criminal charges dismissed follow-*
 30 *ing completion of a supervisory treatment or other diversion pro-*
 31 *gram.*

32 *c. Any person who has been charged with an act of delinquency*
 33 *and against whom proceedings were dismissed may have the filing*
 34 *of those charges dismissed pursuant to the provisions of N. J. S.*
 35 *2C:52-6.*

1 2. Section 26 of P. L. 1973, c. 306 (C. 2A:4-67) is amended to
 2 read as follows:

3 26. Sealing of records. a. On motion of a person who has been
 4 the subject of a complaint filed under this act or on its own motion,
 5 the juvenile and domestic relations court may vacate its order and
 6 findings and order the nondisclosure of social, medical, psycho-
 7 logical, legal and other records of the court and probation services,
 8 and records of law enforcement agencies if it finds:

9 (1) Two years have elapsed since the final discharge of the
 10 person from legal custody or supervision, or 2 years have elapsed
 11 after the entry of any other court order not involving custody or
 12 supervision; and

13 (2) He has not been convicted of a crime, or a disorderly person's
 14 offense or adjudged delinquent, or in need of supervision, during
 15 the 2 years prior to the filing of the motion, and no proceeding
 16 or complaint is pending seeking such conviction or adjudication.

17 b. In any case wherein an adjudication has been entered upon
 18 the status of a juvenile under 18 years of age, and said juvenile
 19 intends to enlist in any branch of the Armed Forces of the United
 20 States, he may at any time after the date of such adjudication pre-
 21 sent a duly verified petition to the court wherein such adjudication
 22 was entered, setting forth all the facts in the matter, including his
 23 intention to enlist in said armed forces, and praying for the relief
 24 provided in this section and subject to the limitations hereinafter
 25 provided in this section, an order may be granted to seal all the
 26 records concerning such adjudication including records of the court,
 27 probation services and law enforcement agencies.

28 c. Reasonable written notice of the motion shall be given to:

29 (1) The Attorney General and the county prosecutor;

30 (2) The authority granting the discharge if the final discharge
 31 was from an institution, parole, or probation; and

32 (3) The law enforcement office, department, and central
33 depository having custody of the files and records if such files and
34 records are included in the motion.

35 d. Upon the entry of the order, the proceedings in the case
36 shall be sealed and all index references shall be marked
37 "not available" or "no record" and law enforcement officers and
38 departments shall reply and the person may reply to any inquiry
39 that there is no record with respect to such person, except that
40 records may be maintained for purposes of prior offender status.
41 This section shall not apply to reports required under the Con-
42 trolled Dangerous Substances Registry Act of 1970, P. L. 1970,
43 c. 227 (C. 26:2G-17 et seq.). Copies of the order shall be sent to
44 each agency or official named therein.

45 Inspection of the files and records included in the order may
46 thereafter be permitted by the court only upon motion and only to
47 those persons named in the motion; provided, however, the court,
48 in its discretion, may by special order in an individual case permit
49 inspection by or release of information in the records to any clinic,
50 hospital, or agency which has the person under care or treatment
51 or to individuals or agencies engaged in fact-finding or research.

52 e. Any adjudication of delinquency or in need of supervision or
53 conviction of a crime subsequent to sealing shall have the effect
54 of nullifying the sealing order.

55 *f. Expungement of juvenile records shall be governed by the*
56 *provisions of chapter 52 of Title 2C.**

1 ***[2.]*** *3.* This act shall take effect 30 days following enactment.

SENATE, No. 1266

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1980

By Senator PERSKIE

Referred to Committee on Judiciary

AN ACT concerning the expungement of adjudications of juvenile delinquency and supplementing chapter 52 of Title 2C of the New Jersey Statutes.

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

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

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

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

8 (3) Pursuant to N. J. S. 2C:52-4, if the act committed by the
9 juvenile would have constituted an ordinance violation if com-
10 mitted by an adult.

11 For purposes of expungement, any act which resulted in a juve-
12 nile being adjudged a delinquent shall be classified as if that act
13 had been committed by an adult.

14 b. Additionally, any person who has been adjudged a juvenile
15 delinquent may have his entire juvenile record expunged if:

16 (1) Five years have elapsed since the final discharge of the
17 person from legal custody or supervision or 5 years have elapsed
18 after the entry of any other court order not involving custody or
19 supervision;

20 (2) He has not been convicted of a crime, or a disorderly or
21 petty disorderly persons offense, or adjudged a delinquent, or in
22 need of supervision, during the 5 years prior to the filing the
23 petition, and no proceeding or complaint is pending seeking such
24 a conviction or adjudication; and

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

1 2. This act shall take effect 30 days following enactment.

STATEMENT

Under present law, expungement is now authorized for records of convictions of certain crimes; convictions of disorderly persons offenses and petty disorderly persons offenses; violations of municipal ordinances and arrests not resulting in convictions. There is, however, no procedure authorizing the expungement of juvenile delinquency adjudications. Juvenile records may be "sealed" but they may not be expunged.

The purpose of this bill is to allow for the expungement of juvenile delinquency adjudications. It provides that such records may be expunged under the same conditions as if the act which resulted in the adjudication of delinquency had been committed by an adult.

Additionally, the bill provides that a person may have his entire juvenile record expunged if he has not been convicted of a crime or a disorderly or petty disorderly persons offense or adjudged a delinquent or a JINS for a period of 5 years and his record contains no offense which could not be expunged if committed by an adult.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
SENATE, No. 1266
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: AUGUST 7, 1980

Under the present law, expungement is now authorized for records of convictions of certain crimes; convictions of disorderly persons offenses and petty disorderly persons offenses; violations of municipal ordinances and arrests not resulting in convictions. There is, however, no procedure authorizing the expungement of juvenile delinquency adjudications. Juvenile records may be "sealed" but they may not be expunged.

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Additionally, the bill provides that a person may have his entire juvenile record expunged if he has not been convicted of a crime or a disorderly or petty disorderly persons offense or adjudged a delinquent for a period of 5 years and his record contains no offense which could not be expunged if committed by an adult.

The amendments adopted by the Senate Judiciary Committee provide the following:

1. That persons against whom delinquency charges are dismissed be able to have those charges expunged in the same manner as an adult arrest not resulting in a conviction is expunged.
2. That complete expungement of juvenile records not be permitted if the person had an adult conviction expunged or had adult criminal charges dismissed after participation in PTI or some other type of diversion program.
3. That a JINS adjudication not disqualify a person from having his entire juvenile record expunged.
4. That some cross-reference to the provisions of Senate Bill No. 1266 be included in the Title 2A juvenile statutes to avoid confusion.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE, No. 1266

STATE OF NEW JERSEY

DATED: JUNE 9, 1980

Under the present law, expungement is now authorized for records of convictions of certain crimes; convictions of disorderly persons offenses and petty disorderly persons offenses; violations of municipal ordinances and arrests not resulting in convictions. There is, however, no procedure authorizing the expungement of juvenile delinquency adjudications. Juvenile records may be "sealed" but they may not be expunged.

The purpose of this bill is to allow for the expungement of juvenile delinquency adjudications. It provides that such records may be expunged under the same conditions as if the act which resulted in the adjudication of delinquency had been committed by an adult.

Additionally, the bill provides that a person may have his entire juvenile record expunged if he has not been convicted of a crime or a disorderly or petty disorderly persons offense or adjudged a delinquent for a period of 5 years and his record contains no offense which could not be expunged if committed by an adult.

The amendments adopted by the Senate Judiciary Committee provide the following:

1. That persons against whom delinquency charges are dismissed be able to have those charges expunged in the same manner as an adult arrest not resulting in a conviction is expunged.
2. That complete expungement of juvenile records not be permitted if the person had an adult conviction expunged or had adult criminal charges dismissed after participation in PTI or some other type of diversion program.
3. That a JINS adjudication not disqualify a person from having his entire juvenile record expunged.
4. That some cross-reference to the provisions of Senate Bill No. 1266 be included in the Title 2A juvenile statutes to avoid confusion.

The Assembly Judiciary, Law, Public Safety and Defense Committee Task Force on Juvenile Justice is currently studying and making recommendations on the Juvenile Justice code. The lack of an expungement procedure is one that has been repeatedly noted. It is inconsistent, and inequitable, that one person may not have expunged records of offenses which he committed as a juvenile whereas another person can have expunged records of the same offenses which he committed as an adult. Among other effects, inability to expunge juvenile offenses is an obstacle to finding employment, which is particularly harmful, as most indicators show that gainful employment is the best remedy for recidivism.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 11, 1980

PATRICK SWEENEY

Governor Brendan Byrne has signed the following bills:

S-1266, sponsored by Senator Steven P. Perskie (D-Atlantic), which provides for the expungement of adjudications of juvenile delinquency.

Under former juvenile law, those records could be sealed, but there was no provision for expunging them. (Sealed records can be maintained by an agency and used internally; expunged records must be removed from the agency's files and placed under the control of a designated custodian who is barred from releasing the records, except as provided by law).

A-1261, sponsored by Assemblyman James W. Bornheimer (D-Middlesex), which authorizes counties to compensate a municipality for vacating or relinquishing any rights which the municipality may have in streets within a county public park or recreational facility in excess of 500 acres. Middlesex County and East Brunswick need this enabling legislation in order to complete their agreement in the James Park acquisition.

A-1418, sponsored by Assemblyman Bornheimer, which governs the cancellation of automobile insurance policies. The bill requires that an insurer send a notice of cancellation or intention not to renew a policy by one of two methods: (1) by certified mail; or (2) by regular mail, but only if the insurer obtains a Postal Service proof of mailing certificate and the insurer has retained a true, certified copy of the mailed notice. The bill also requires insurers to give a 15 day notice of cancellation for non-payment of a premium where the cancellation is accompanied by a notice of the reasons for the cancellation.

A-1530, sponsored by Assemblyman Richard Van Wagner (D-Monmouth), which would exempt hearings in the Division of Taxation from the "contested case" provisions of the Administrative Procedure Act. This bill will eliminate the possibility of duplicative formal hearings.