

House Copy                      OLS Copy                      Public Copy  
For Official House Use

<b>BILL NO.</b> _____
<b>Date of Intro.</b> _____
<b>Ref.</b> _____

NOTE TO SPONSOR	Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.
--------------------	---

AN ACT concerning certain procedures for expunging records of conviction and amending various parts of the statutory law

Revises certain procedures for expungement of records of conviction.

PRIME Sponsor \_\_\_\_\_ / \_\_\_\_\_

CO-Sponsor	District	CO-Sponsor	District
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Same as \_\_\_\_\_ 16/17                      Same as \_\_\_\_\_ 18/19

Suggested allocation:

AN ACT concerning certain procedures for expunging records of conviction and amending various parts of the statutory law.

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

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

a. Except as otherwise provided in this chapter, expungement shall mean the extraction, **[and] sealing, or** isolation of all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person's detection, apprehension, arrest, detention, trial or disposition of an offense within the criminal justice system.

b. Expunged records shall include complaints, warrants, arrests, commitments, processing records, fingerprints, photographs, index cards, "rap sheets" and judicial docket records.

(cf:P.L.1979, c. 178, s. 108)

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

2C:52-2. Indictable Offenses.

a. In all cases, except as herein provided, a person may present an expungement application to the Superior Court pursuant to this **[section] subsection** if:

the person has been convicted of one crime under the laws of this State, and does not otherwise have any **[prior or]** subsequent conviction for another crime, whether within this State or any other jurisdiction; or

the person has been convicted of one crime and less than four disorderly persons or petty disorderly persons offenses under the laws of this State, and does not otherwise have any **[prior or]** subsequent conviction for another crime, or **[any prior or subsequent]** conviction for another disorderly persons or petty disorderly persons offense such that the total number of convictions for disorderly persons and petty disorderly persons offenses would exceed three, whether any such crime or offense conviction was within this State or any other jurisdiction; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, all of which are listed in a single judgment of conviction, and does not otherwise have any **[prior or]** subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction; or

the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State, which crimes or combination of crimes and offenses were

**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.**

D

R

A

F

T

interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual crime or offense, and the person does not otherwise have any [prior or] subsequent conviction for another crime or offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of [six] five years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term "fine" as used herein and throughout this section means and includes any fine, restitution, and other court-ordered financial assessment imposed by the court as part of the sentence for the conviction, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the conviction for the crime was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition for each conviction appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Notwithstanding the provisions concerning the [six-year] five-year time requirement, if a fine which is [currently] subject at the time of application to collection under the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of [six] five years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement, provided, however, that [if expungement is granted under this paragraph,] the court shall provide [for the continued collection of any outstanding amount owed that is necessary to satisfy the fine or] the entry of civil judgment in the name of the Treasurer, State of New Jersey and transfer collections and disbursement responsibility to the Treasurer, State of New Jersey for the outstanding amount in accordance with section 8 of P.L.2017, c.244 (C.2C:52-23.1).

Additionally, an application may be filed and presented, and the court may grant an expungement pursuant to this section, although less than [six] five years have expired in accordance with the time requirements when the court finds:

(1) the fine is satisfied but less than [six] five years have expired from the date of satisfaction, and the time requirement of [six] five years is otherwise satisfied, and the court finds that the person

substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least ~~[five]~~ four but less than ~~[six]~~ five years have expired from the date of the most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; and

the person has not been otherwise convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the most recent conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense or offenses, and the applicant's character and conduct since the conviction or convictions.

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

b. “Clean slate” expungement. In all cases, except as otherwise provided in this subsection, a person may present an expungement application to the Superior Court pursuant to this subsection if the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses under the laws of this State and is not otherwise eligible under subsection a. of this section.

The person, if eligible, may present the expungement application after the expiration of a period of ten years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term “fine” as used herein and throughout this section means and includes any fine, restitution, and other court-ordered financial assessment imposed by the court as part of the sentence for the conviction, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the conviction for the most recent crime was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, praying that the conviction or convictions, and all records and information pertaining thereto, be expunged. The petition for each conviction appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Notwithstanding the provisions concerning the ten-year time requirement, if a fine which is currently subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c. 9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of ten

years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement, provided, however, that if expungement is granted under this subsection, the court shall provide for the entry of civil judgment in the name of the Treasurer, State of New Jersey and transfer collection and disbursement responsibility to the Treasurer, State of New Jersey for the outstanding amount in accordance with section 8 of P.L.2017, c. 244 (C.2C:52-23.1).

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

Records of conviction for the following crimes specified in the New Jersey Code of Criminal Justice shall not be subject to expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in N.J.S.2C:11-5 and strict liability vehicular homicide as specified in section 1 of P.L.2017, c.165 (C.2C:11-5.3); N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal Sexual Contact); if the victim is a minor, subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor and the offender is not the parent of the victim, N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child, or causing the child other harm); paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or filming a child in a prohibited sexual act or for portrayal in a sexually suggestive manner); paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to engage in a prohibited sexual act or the simulation of an act, or to be portrayed in a sexually suggestive manner); subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with intent to distribute or using a file-sharing program to store items depicting the sexual exploitation or abuse of a child); subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing or viewing items depicting the sexual exploitation or abuse of a child); section 8 of P.L.2017, c.141 (C.2C:24-4.1) (Leader of a child pornography network); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or

D

R

A

F

T

Radiological Devices); and conspiracies or attempts to commit such crimes.

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

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

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was less than one ounce;

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

(3) Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction.] (Deleted by amendment, P.L. c. ) (pending before the Legislature as this bill)

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), [the court] prosecutor shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.  
(cf:P.L.2017, c.244, s.1)

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

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

a. Applicability. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has also been convicted of one or more crimes shall not be eligible to apply for an expungement pursuant to this section, but may present an expungement application to the Superior Court pursuant to N.J.S.2C:52-2.

b. Eligibility. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an

expungement application to the Superior Court pursuant to this section if:

the person has been convicted, under the laws of this State, on the same or separate occasions of no more than ~~[four]~~ five disorderly persons offenses, no more than ~~[four]~~ five petty disorderly persons offenses, or a combination of no more than ~~[four]~~ five disorderly persons and petty disorderly persons offenses, and the person does not otherwise have any ~~[prior or]~~ subsequent conviction for a disorderly persons or petty disorderly persons offense, whether within this State or any other jurisdiction, such that the total number of convictions for disorderly persons and petty disorderly persons offenses would exceed ~~[four]~~ five; or

the person has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses under the laws of this State, or a combination of multiple disorderly persons and petty disorderly persons offenses under the laws of this State, which convictions were entered on the same day, and does not otherwise have any ~~[prior or]~~ subsequent conviction for another offense in addition to those convictions included in the expungement application, whether any such conviction was within this State or any other jurisdiction; or

the person has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses under the laws of this State, or a combination of multiple disorderly persons and petty disorderly persons offenses under the laws of this State, which offenses or combination of offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time, regardless of the date of conviction or sentencing for each individual offense, and the person does not otherwise have any prior or subsequent conviction for another offense in addition to those convictions included in the expungement application, whether within this State or any other jurisdiction.

The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later. The term "fine" as used herein and throughout this section means and includes any fine, restitution, and other court-ordered financial assessment imposed by the court as part of the sentence for the conviction, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the most recent conviction for a disorderly persons or petty disorderly persons offense was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged.

D

R

A

F

T

The petition for each conviction appended to an application shall comply with the requirements of N.J.S.2C:52-1 et seq.

c. For any person who may be eligible for an expungement pursuant to subsection b. of this section, the Superior Court in the county in which the most recent conviction for a disorderly persons or petty disorderly persons offense was adjudged shall, within 30 days of the person filing the application, notify relevant law enforcement and criminal justice agencies pursuant to subsection d. of this section.

d. (1) For any person who may be eligible after the effective date of P.L. c. (C. ) (pending before the Legislature as this bill) and who has filed an expungement application, the court shall provide information to accompany the notice to law enforcement and criminal justice agencies, which shall include the information required by N.J.S.2C:52-7 for each conviction eligible to be expunged, to relevant law enforcement and criminal justice agencies, as set forth in N.J.S.2C:52-10, within 30 days of the filing of the expungement application.

(2) Upon receipt of the information from the courts pursuant to paragraph (1) of this subsection, the Superintendent of State Police, the Attorney General, and the county prosecutor of any county in which the person was adjudged a disorderly person or petty disorderly person shall, within 30 days, notify the Administrative Office of the Courts of any inaccurate or incomplete data contained in the information provided by the Administrative Office of the Courts or of any other basis for ineligibility under this section.

(3) Unless the relevant law enforcement and criminal justice agencies, in response to the information received from the Administrative Office of the Courts, provide information about any inaccurate or incomplete data, or any other basis for ineligibility, the Administrative Office of the Courts shall promptly provide notice of the person's eligibility and the Superior Court shall issue an order listing the conviction or convictions to be expunged.

e. Notwithstanding the provisions of the five-year time requirement, an application may be filed and presented to the Superior Court in the county in which the most recent conviction for a disorderly persons or petty disorderly persons offense was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, and the court may grant an expungement pursuant to this section, when the court finds:

(1) the fine is satisfied but less than five years have expired from the date of satisfaction, and the five-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least three but less than five years have expired from the date of the most recent conviction, payment of fine, satisfactory

D

R

A

F

T



completion of probation or parole, or release from incarceration, whichever is later; and

the person has not been otherwise convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the most recent conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense or offenses, and the applicant's character and conduct since the conviction or convictions.

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

(cf: P.L. 2017, c.244, s.2)

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

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

a. When a person has been arrested or held to answer for a crime, disorderly persons offense, petty disorderly persons offense, or municipal ordinance violation under the laws of this State or of any governmental entity thereof and proceedings against the person were dismissed, the person was acquitted, or the person was discharged without a conviction or finding of guilt, the Superior Court shall, at the time of dismissal, acquittal, or discharge, or, in any case set forth in paragraph (1) of this subsection, [upon receipt of an application from the person,] order the expungement of all records and information relating to the arrest or charge.

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

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

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

(4) The Superior Court shall forward a copy of the expungement order to the appropriate court and to the prosecutor. The prosecutor shall promptly distribute copies of the expungement order to appropriate law enforcement agencies and correctional institutions

D

R

A

F

T

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.

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

(6) Where a dismissal of an offense is based on an eligible servicemember's successful participation in a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), the county prosecutor, on behalf of the eligible servicemember, may move before the court for the expungement of all records and information relating to the arrest or charge, and the diversion at the time of dismissal pursuant to this section.

b. When a person did not apply or a prosecutor did not move on behalf of an eligible servicemember for an expungement of an arrest or charge not resulting in a conviction pursuant to subsection a. of this section, the person may at any time following the disposition of proceedings, present a duly verified petition as provided in N.J.S.2C:52-7 to the Superior Court in the county in which the disposition occurred praying that records of such arrest and all records and information pertaining thereto be expunged. No fee shall be charged to the person for applying for an expungement of an arrest or charge not resulting in a conviction pursuant to this subsection.

c. (1) Any person who has had charges dismissed against him pursuant to a program of supervisory treatment pursuant to N.J.S.2C:43-12, or conditional discharge pursuant to N.J.S.2C:36A-1, or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), shall be barred from the relief provided in this section until six months after the entry of the order of dismissal.

(2) A servicemember who has successfully participated in a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.) may apply for expungement pursuant to this section at any time following the order of dismissal if an expungement was not granted at the time of dismissal.

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

(cf:P.L.2017, c.42, s.7)

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

2C:52-8. Statements to accompany petition. There shall be attached to a petition for expungement:

a. A statement with the affidavit or verification that there are no disorderly persons, petty disorderly persons or criminal charges pending against the petitioner at the time of filing of the petition for expungement.

D

R

A

F

T

b. In those instances where the petitioner is seeking the expungement of a criminal conviction [, or the expungement of convictions] pursuant to [N.J.S.2C:52-3 for multiple disorderly persons or petty disorderly persons offenses, all of which were entered the same day, or which were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time] N.J.S. 2C:52-2, a statement with affidavit or verification that he has never been granted expungement, sealing or similar relief regarding a criminal conviction [or convictions for multiple disorderly persons or petty disorderly persons offenses, all of which were entered the same day, or which were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time] by any court in this State or other state or by any Federal court. "Sealing" refers to the relief previously granted pursuant to P.L.1973, c.191 (C.2A:85-15 et seq.).

c. In those instances where a person has received a dismissal of a criminal charge because of acceptance into a supervisory treatment or any other diversion program, a statement with affidavit or verification setting forth the nature of the original charge, the court of disposition and date of disposition.

d. A statement as to whether the petitioner has legally changed their name, the date of judgment of name change, and the previous legal name.

(cf: P.L.2017, c.244, s.4)

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

2C:52-14. A petition for expungement filed pursuant to this chapter shall be denied when:

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

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

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

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

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

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

(2) When the person is seeking the expungement of records pursuant to N.J.S.2C:52-6.] (Deleted by amendment, P.L. c. )  
(pending before the Legislature as this bill)

f. (Deleted by amendment, P.L.2017, c.244)  
(cf: P.L.2017, c.244, s.5)

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

2C:52-15. a. Except as provided in subsection b. of this section, if an order of expungement of records of arrest or conviction under this chapter is granted by the court, all the records specified in said order shall be removed from the files of the agencies which have been noticed of the pendency of petitioner's motion and which are, by the provisions of this chapter, entitled to notice, and shall be placed in the control of a person who has been designated by the head of each such agency which, at the time of the hearing, possesses said records. That designated person shall, except as otherwise provided in this chapter, ensure that such records or the information contained therein are not released for any reason and are not utilized or referred to for any purpose. In response to requests for information or records of the person who was arrested or convicted, all noticed officers, departments and agencies shall reply, with respect to the arrest, conviction or related proceedings which are the subject of the order, that there is no record information.

b. Records of the Probation Division of the Superior Court related to restitution, a fine, or other court-ordered financial assessment that remains due at the time the court grants an expungement [may be retained as confidential, restricted-access records in the Judiciary's automated system to facilitate the collection and distribution of any outstanding assessments by the comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.) as ordered by the court. The Administrative Director of the Courts shall ensure that such records are not released to the public. Such records shall be removed from the Judiciary's automated system upon satisfaction of court-ordered financial assessments or by order of the court] shall be transferred to the New Jersey Department of Treasury for the collection and disbursement of future payments and satisfaction of judgements.

(cf: P.L.2017, c.244, s.6)

8. Section 8 of P.L. 2017, c.244 (C.2C:52-23.1) is amended to read as follows:

8. a. Notwithstanding any provision in this act to the contrary, expunged records may be used by the [comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et al.)] Treasurer, State of New Jersey to collect restitution, fines and other court-ordered financial assessments that remain due at the time an expungement is granted by the court. Information regarding the nature of such financial assessments or their derivation from expunged criminal convictions shall not be disclosed to the public. Any record of a civil judgment for the unpaid portion of court-ordered financial obligations that may be docketed after the court has granted an expungement of the underlying criminal conviction shall be entered in the name of the Treasurer, State of New Jersey. The State Treasurer shall thereafter administer such judgments [in cooperation with the comprehensive enforcement program] without disclosure of any information related to the underlying criminal nature of the assessments.

b. The court, after providing appropriate due process, may nullify an expungement granted to a person pursuant to subsection a. of N.J.S.2C:52-2 if the person willfully fails to comply with an established payment plan or otherwise cooperate with the comprehensive enforcement program to facilitate the collection of any outstanding restitution, fines, and other court-ordered assessments, provided that prior to nullifying the expungement the person shall be afforded an opportunity to comply with or restructure the payment plan, or otherwise cooperate to facilitate the collection of outstanding restitution, fines, and other court-ordered assessments. In the event of nullification, the court may restore the previous expungement granted if the person complies with the payment plan or otherwise cooperates to facilitate the collection of any outstanding restitution, fines, and other court-ordered assessments.

(cf:P.L.2017, c.244, s.8)

9. N.J.S.2C:52- 29 is repealed.

10. This act shall take effect immediately.

#### STATEMENT

This bill would revise procedures for expunging criminal and other records and information.

The bill amends N.J.S.A.2C:52-2 to provide that the following categories of persons are eligible for expungement:

- a person who has been convicted of one crime, and does not otherwise have any subsequent conviction for another crime;

D

R

A

F

T

- a person who has been convicted of one crime and less than four disorderly persons or petty disorderly persons offenses, and does not otherwise have any subsequent conviction for another crime or for another disorderly persons or petty disorderly persons offense such that the total number of convictions for offenses exceeds three;
- a person who has been convicted of multiple crimes, or a combination of multiple crimes and disorderly persons or petty disorderly persons offenses, all of which are listed in a single judgment of conviction, and the person does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the person's expungement application; or
- a person who has been convicted of multiple crimes or a combination of multiple crimes and disorderly persons or petty disorderly persons offenses, which crimes or combination of crimes and offenses were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time (a so-called "crime spree"), regardless of the date of conviction or sentencing for each individual crime or offense, and the person does not otherwise have any subsequent conviction for another crime or offense in addition to those convictions included in the person's expungement application.

If a person with one or more criminal convictions is eligible as described above for expungement relief, the expungement application may generally proceed so long as one of the following time period requirements is met:

- five years have passed with respect to all aspects of satisfying the most recent conviction (five years from the date of conviction, payment of fine, satisfactory completion of probation or parole, and release from incarceration);
- the payment of a fine, which is currently subject to collection under the State's comprehensive enforcement program established pursuant to P.L.1995, c.9 (C.2B:19-1 et seq.), is not yet satisfied due to reasons other than willful misconduct, but the five-year time requirement is otherwise met.
- the fine is satisfied, but five years have not passed since doing so, and the five-year time requirement is otherwise met; or
- at least four but less than five years have passed with respect to all aspects of satisfying the conviction (this expedited expungement would also require the person to show that it is in the public interest to permit such expungement). **Under the bill, in that instance, the court shall provide for the entry of civil judgment in the name of the State Treasurer and transfer the collection and disbursement responsibility to the State Treasurer for the outstanding amount in accordance with section 8 of P.L.2017, c. 244 (C.2C:52-23.1).**

The bill further amends N.J.S.A.2C:52-2 to provide for a "clean slate" expungement. Under this provision, in applicable cases, a

D

R

A

F

T

person may present an expungement application to the Superior Court if the person has been convicted of multiple crimes or a combination of one or more crimes and one or more disorderly persons or petty disorderly persons offenses, but is not eligible for an expungement under the above provisions.

Under this new provision, the person, if eligible, may present the expungement application after the expiration of a period of ten years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term “fine” means and includes any fine, restitution, and other court-ordered financial assessment imposed by the court as part of the sentence for the conviction, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes. The person shall submit the expungement application to the Superior Court in the county in which the conviction for the most recent crime was adjudged, which contains a separate, duly verified petition as provided in N.J.S.2C:52-7 for each conviction sought to be expunged, praying that the conviction or convictions, and all records and information pertaining thereto, be expunged. The petition for each conviction appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Under the bill, notwithstanding the provisions concerning the ten-year time requirement, if a fine which is currently subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c. 9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of ten years is otherwise satisfied, the person may submit the expungement application and the court may grant an expungement. Under the bill, if expungement is granted, the court shall provide for the entry of civil **judgment in the name of the State Treasurer and transfer the collection and disbursement responsibility to the State Treasurer** for the outstanding amount in accordance with section 8 of P.L.2017, c. 244 (C.2C:52-23.1).

The bill deletes the provision in N.J.S.A.2C:52-2 concerning the expungement of convictions for the sale and distribution of a controlled dangerous substance, and possession with intent to distribute. This subsection barred expungement in these categories except in cases involving small amounts of marijuana and hashish, or any controlled dangerous substance where the conviction is of the third or fourth degree. **The effect of deleting this provision is that for purposes of expungement, convictions for controlled dangerous substance crimes will be treated the same as other crimes and offenses in terms of eligibility.**

The bill amends N.J.S.A.2C:52-3 to provide that the following categories of persons are eligible for expungement:

- a person who has been convicted on the same or separate occasions of no more than five disorderly persons offenses, no more than five petty disorderly persons offenses, or a combination of no

D

R

A

F

T

more than five disorderly persons and petty disorderly persons offenses, and the person does not otherwise have any prior or subsequent conviction for a disorderly persons or petty disorderly persons offense such that the total number of convictions for such offenses exceeds five;

- a person who has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses, or a combination of multiple disorderly persons and petty disorderly persons offenses, which convictions were entered the same day, and the person does not otherwise have any prior or subsequent conviction for another offense in addition to those convictions included in the person's expungement application; or

- a person who has been convicted of multiple disorderly persons offenses or multiple petty disorderly persons offenses, or a combination of multiple disorderly persons and petty disorderly persons offenses, all of which were part of a "crime spree" (described in the same manner as above with respect to a spree which resulted in multiple criminal convictions).

The bill's provisions provide for an automatic expungement of disorderly persons and petty disorderly person offenses as follows:

For any eligible person who files an application for expungement, the Superior Court in the county in which the most recent conviction was adjudged would, within 30 days of the person filing the application, notify relevant law enforcement and criminal justice agencies, including the Superintendent of State Police and the Attorney General, and the Administrative Office of the Courts would include the information required by N.J.S.2C:52-7 for each conviction eligible to be expunged. Upon receipt of the information from the Administrative Office of the Courts the relevant law enforcement and criminal justice agencies would, within 30 days, notify the Administrative Office of the Courts of any inaccurate or incomplete data contained in the information provided by the Administrative Office of the Courts or of any other basis for ineligibility under the bill. Unless the relevant law enforcement and criminal justice agencies provide information about any inaccurate or incomplete data, or any other basis for ineligibility, the Administrative Office of the Courts would promptly provide notice of the person's eligibility and the Superior Court would issue an order listing the conviction or convictions to be expunged.

The bill does not change the five-year time requirement for expungements for disorderly persons and petty disorderly persons convictions.

The bill would revise the requirements for the statement which accompanies a petition for expungement in N.J.S. 2C:52-8, and the grounds for denial of an application in N.J.S. 2C:52-14, consistent with the revisions to N.J.S.A.2C:52-2 and N.J.S.A.2C:52-3.

**The bill would transfer fine collection and disbursement functions to the State Treasurer in instances where**

D

R

A

F

T



Revises certain procedures for expungement of records of conviction.