

# ASSEMBLY, No. 2070

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman ELIZABETH MAHER MUOIO**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Allows expungement of multiple crimes and offenses resulting from one-time spree under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning expungement and amending various sections of  
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:52-2 is amended to read as follows:

8 2C:52-2. Indictable Offenses; Related Non-Indictable Offenses.

9 a. In all cases, except as herein provided, **[wherein]** a person  
10 who has been convicted **[of a crime]** under the laws of this State of  
11 a crime or crimes, or crimes and disorderly persons or petty  
12 disorderly persons offenses, arising from one act or multiple acts  
13 committed within a comparatively short time and set out in a single  
14 judgment of conviction or in multiple judgments of conviction  
15 entered on the same day, and who otherwise has not been convicted  
16 of any prior or subsequent crime, whether within this State or any  
17 other jurisdiction, and otherwise has not been adjudged a disorderly  
18 person or petty disorderly person on more than two occasions, the  
19 person may, after the expiration of a period of 10 years from the  
20 date of his conviction or convictions, payment of fine, satisfactory  
21 completion of probation or parole, or release from incarceration,  
22 whichever is later, present a duly verified petition as provided in  
23 N.J.S.2C:52-7 to the Superior Court in the county in which the  
24 conviction was entered, or convictions were entered, praying that  
25 **[such]** the conviction or convictions and all records and  
26 information pertaining thereto be expunged.

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, although less than 10 years  
30 has expired in accordance with the requirements of the preceding  
31 paragraph where the court finds:

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

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

**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 to the nature of the offense or offenses, and the applicant's character  
2 and conduct since the conviction or convictions.

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

8 Although subsequent convictions for no more than two  
9 disorderly persons or petty disorderly persons offenses shall not be  
10 an absolute bar to relief, the nature of **【those】** any such conviction  
11 or convictions and the circumstances surrounding them shall be  
12 considered by the court and may be a basis for denial of relief if  
13 they or either of them constitute a continuation of the type of  
14 unlawful activity embodied in the **【criminal】** conviction or  
15 convictions 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); **【N.J.S.2C:14-3a】** subsection a. of N.J.S.2C:14-3  
30 (Aggravated Criminal Sexual Contact); if the victim is a minor,  
31 **【N.J.S.2C:14-3b】** subsection b. of N.J.S.2C:14-3 (Criminal Sexual  
32 Contact); if the victim is a minor and the offender is not the parent  
33 of the victim, N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3  
34 (False Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1  
35 (Arson and Related Offenses); **【N.J.S.2C:24-4a.】** subsection a. of  
36 N.J.S.2C:24-4 (Endangering the welfare of a child by engaging in  
37 sexual conduct which would impair or debauch the morals of the  
38 child, or causing the child other harm); **【N.J.S.2C:24-4b(4)】**  
39 paragraph (4) of subsection b. of N.J.S.2C:24-4 (**【Endangering the**  
40 **welfare of】** Photographing or filming a child in a prohibited sexual  
41 act); **【N.J.S.2C:24-4b.(3)】** paragraph (3) of subsection b. of  
42 N.J.S.2C:24-4 (Causing or permitting a child to engage in a  
43 prohibited sexual act); **【N.J.S.2C:24-4b.(5)(a)】** subparagraph (a) of  
44 paragraph (5) of subsection b. of N.J.S.2C:24-4 (Distributing,  
45 possessing with intent to distribute or using a file-sharing program  
46 to store items depicting the sexual exploitation or abuse of a child);  
47 **【N.J.S.2C:24-4b.(5)(b)】** subparagraph (b) of paragraph (5) of

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

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

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

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

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

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

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

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

35

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

37 2C:52-3. Disorderly Persons Offenses and Petty Disorderly  
38 Persons Offenses. Any person convicted under the laws of this  
39 State of a disorderly persons offense or petty disorderly persons  
40 offense **[under the laws of this State]**, or convicted of disorderly  
41 persons offenses, petty disorderly persons offenses, or both, arising  
42 from one act or multiple acts committed within a comparatively  
43 short time and set out in a single judgment of conviction or in  
44 multiple judgments of conviction entered on the same day, and who  
45 otherwise has not been convicted of any prior or subsequent crime,  
46 whether within this State or any other jurisdiction, or otherwise of  
47 another three disorderly persons or petty disorderly persons  
48 offenses, may, after the expiration of a period of 5 years from the

1 date of his conviction or convictions, payment of fine, satisfactory  
2 completion of probation, or release from incarceration, whichever is  
3 later, present a duly verified petition as provided in **[section]**  
4 N.J.S.2C:52-7 [hereof] to the Superior Court in the county in  
5 which the conviction was entered, or convictions entered, praying  
6 that **[such]** the conviction or convictions and all records and  
7 information pertaining thereto be expunged.

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

9

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

11 2C:52-4. Ordinances. In all cases wherein a person has been  
12 found guilty of violating a municipal ordinance of any  
13 governmental entity of this State, or found guilty of violating  
14 municipal ordinances arising from one act or multiple acts  
15 committed within a comparatively short time and set out in a single  
16 judgment of conviction or in multiple judgments of conviction  
17 entered on the same day, and who otherwise has not been convicted  
18 of any prior or subsequent crime, whether within this State or any  
19 other jurisdiction, and who otherwise has not been adjudged a  
20 disorderly person or petty disorderly person on more than two  
21 occasions, may, after the expiration of a period of 2 years from the  
22 date of his conviction or convictions, payment of fine, satisfactory  
23 completion of probation or release from incarceration, whichever is  
24 later, present a duly verified petition as provided in **[section]**  
25 N.J.S.2C:52-7 [herein] to the Superior Court in the county in which  
26 the violation or violations occurred praying that **[such]** the  
27 conviction or convictions and all records and information pertaining  
28 thereto be expunged.

29 (cf: N.J.S.2C:52-4)

30

31 4. This act shall take effect immediately.

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33

#### 34 STATEMENT

35

36 This bill would allow a person to expunge more than one  
37 conviction in certain cases where the multiple convictions were a  
38 result of a single act, or of multiple acts committed during a one-  
39 time “spree.”

40 Currently, N.J.S.2C:52-2 provides that, after a period of 10  
41 years, a person is eligible to expunge the records of a criminal  
42 conviction if he “has not been convicted of any prior or subsequent  
43 crime” and has not been adjudged a disorderly person or petty  
44 disorderly person on more than two occasions.

45 In two consolidated cases, In the Matter of the Expungement  
46 Petition of J.S. (A-84-13) and In the Matter of the Expungement of  
47 the Criminal Records of G.P.B. (A-2-14), 2015 N.J. LEXIS 821,

1 decided on August 10, 2015, the New Jersey Supreme Court ruled  
2 that the “prior or subsequent crime” language barred expungement  
3 of multiple convictions that were related and close in time. In one  
4 case, the defendant had sold small amounts of marijuana on two  
5 occasions, five days apart. In the other, the defendant had  
6 attempted to bribe several public officials over a 24-hour period.  
7 Both defendants argued that because their multiple crimes were so  
8 close in time and were related, that they should be treated as if they  
9 were a single crime. The Supreme Court disagreed, ruled that the  
10 “prior or subsequent crime” language barred expungements of these  
11 multiple convictions.

12 This bill would allow the expungement of multiple convictions  
13 under such circumstances. Under the bill, a person would be  
14 eligible for expungement if the convictions arose from one act or  
15 multiple acts committed within a comparatively short time and set  
16 out in a single judgment of conviction or in multiple judgments of  
17 conviction entered on the same day. The bill would apply to the  
18 expungement of crimes, disorderly persons offenses, petty  
19 disorderly persons offenses, and municipal ordinances.