

Garden State CLE presents:

# **October Surprise!**



## **Updates and Changes to New Jersey's Expungement Laws beginning in October 2018**

### **Lesson Plan**

**Instructor – Robert Ramsey**

# **I. Amendments to the statutes – Introduction**

**The text of the statutes subject to amendment effective October 1, 2018 are all included in this lesson plan. The amendments were made to reflect the Legislature’s continuing desire to deemphasize money as an obstacle in the criminal justice system (See NJSA 2A:162-15, et seq. Criminal Justice Reform), shorten awaiting periods, expand eligible persons and to abrogate the case law related to crime spree expungements. The following statutes have been amended effective October 1, 2018:**

**NJSA 2C:52-2 Indictable offenses**

**NJSA 2C:52-3 Disorderly persons’ offenders**

**NJSA 2C:52-5 Young drug offenders**

**NJSA 2C:52-8 Statement in petition**

**NJSA 2C:52-14 Grounds of relief**

**NJSA 2C:52-15 Records to be removed**

**NJSA 2C:52-18 Reports to VCCO**



## Topic Index: Changes to statutes

- a.) **One of more criminal convictions**
- b.) **Time periods reduced**
- c.) **Expansion & clarification of the concept a “fine”**
- d.) **Conditional expungement pending fine payment**
- e.) **Nullification of expungement**
- f.) **Sale, distribution of possession with intent – Marijuana & Hash**
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- h.) **Definition of fine expanded same as in criminal cases**
- i.) **Crime Spree exception**
- j.) **Diversions from the criminal justice system**





## **II. Changes to the statutes**

### **a.) One of more criminal convictions**

**Concerning the expungement of one or more criminal convictions, the statute sets forth the following categories of eligible persons:**

- 1. a person who has been convicted of one crime, and does not otherwise have any prior or subsequent conviction for another crime;**
- 2. a person who has been convicted of one crime and fewer than four disorderly persons or petty disorderly persons offenses, and does not otherwise have any prior or 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;**

**3. 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 prior or subsequent conviction for another crime or offense in addition to those convictions included in the person's expungement application; or**

**4. 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 (This change is intended to overturn *In re Expunement of J.S.*, 223 N.J. 54 (2015)); or**

**5. 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 person's expungement application.**





## **b.) Time periods reduced**

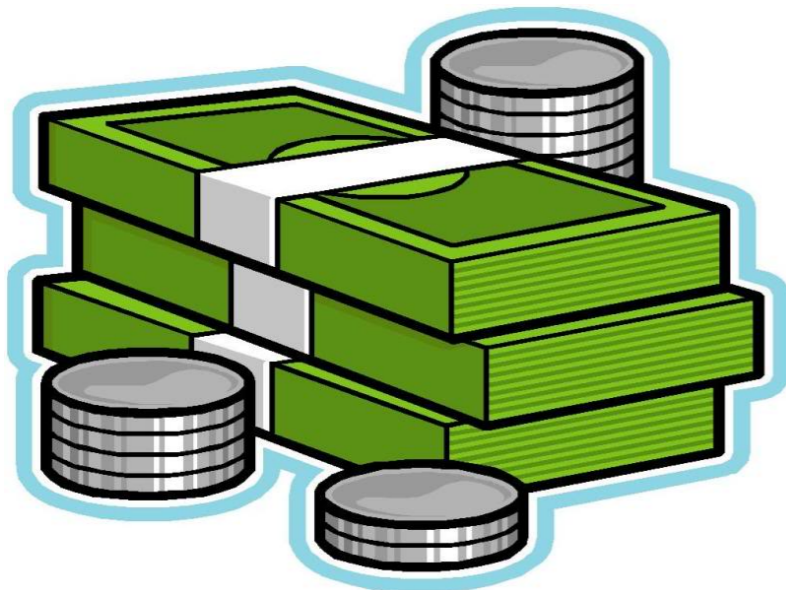
**If a person with one or more criminal convictions is eligible as described above for expungement relief, the expungement application may generally proceed so long as one of the following time period requirements is met:**

- 1. six years have passed with respect to all aspects of satisfying the most recent conviction (six years from the date of conviction, payment of fine, satisfactory completion of probation or parole, and release from incarceration);**
- 2. 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 six-year time requirement is otherwise met.**
- 3. the fine is satisfied, but six years have not passed since doing so, and the six-year time requirement is otherwise met; or**
- 4. at least five but less than six years have passed with respect to all aspects of satisfying the conviction (this expedited expungement would also require, as it does under current law, the person to show that it is in the public interest to permit such expungement).**



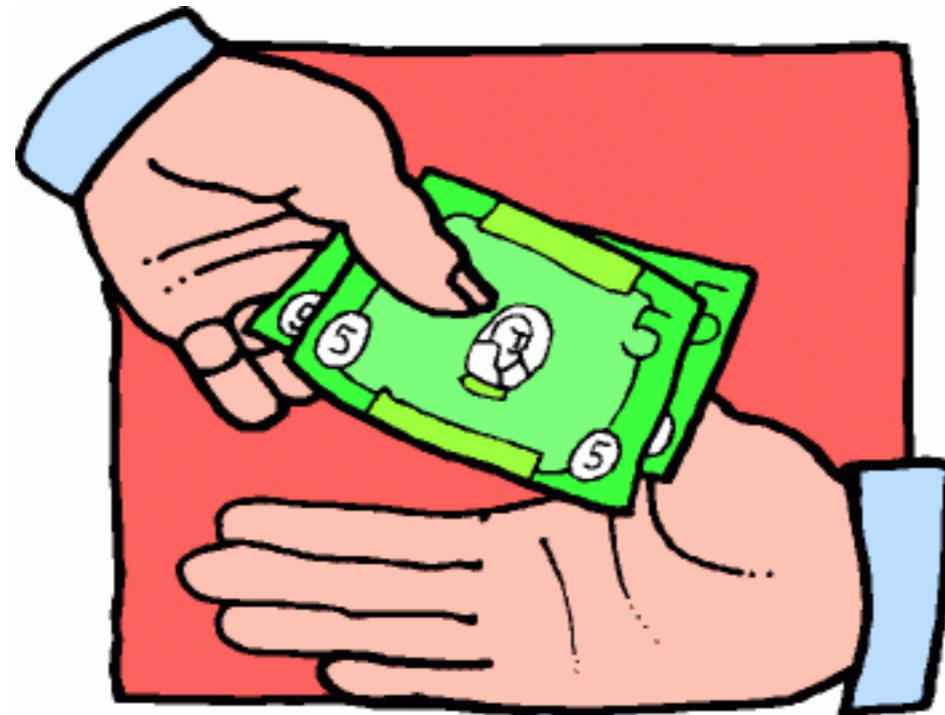
## **c.) Expansion & clarification of the concept a “fine”**

**As expressed in the statute, the term “fine,” in reference to measuring any applicable time period requirement for determining the satisfaction thereof, 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 applicable law.**



## **d.) Conditional expungement pending fine payment**

**Whenever the court granted expungement relief to a person with an outstanding fine, the court may, utilizing the comprehensive enforcement program (NJSA 2B:19-1 *et seq.*), provide for the continued collection of any amount owed that is necessary to satisfy the fine or for the entry of civil judgment for the outstanding amount. Once the person's records and information has been expunged, information regarding the nature of such financial assessments or their derivation from expunged criminal convictions may not be disclosed to the public. Any record of a civil judgment would be entered in the name of the State Treasurer, and administered by the State Treasurer in cooperation with the comprehensive enforcement program without disclosure of any information related to the underlying criminal nature of the assessments.**



## **e.) Nullification of expungement**

**The court, after providing appropriate due process, can nullify an expungement granted to a person with an outstanding fine 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 amounts that remain due. In the event of nullification, the court can restore the previous expungement granted after the person complies with the payment plan or otherwise cooperates with the comprehensive enforcement program to facilitate the collection of any outstanding amounts owed.**



## **f.) Sale, distribution of possession with intent – Marijuana & Hash**

**With respect to criminal convictions for the sale, distribution, or possession with intent to sell marijuana or hashish, the statute amends the expungement law to establish general expungement eligibility for low-level offenders consistent with how such an offenders' crimes are graded under the State's Criminal Code. This consistency would also apply to a young low-level offender (younger than 22 years old) who is granted special eligibility to make an expungement application after one year from the date of the conviction, termination of probation or parole, or discharge from custody, whichever date is later in time. Eligibility will be extended to all such convicted offenders when the crime is graded as a crime of the fourth degree, based on the amount of the drug as follows:**

- 1. less than one ounce of marijuana (the current law provides eligibility for a smaller amount, 25 grams (0.89 ounce) or less); or**
- 2. less than five grams (less than 0.17 ounce) of hashish (the current law provides eligibility for a slightly higher amount of five grams (0.17 ounce) or less).**

**The new amounts set forth in the statute are derived from the amounts used to grade the crime as a crime of the fourth degree under the State's Criminal Code. As such, this will create a legal consistency between expungement law eligibility and grading under the Criminal Code, such that any fourth degree crime involving the sale, distribution, or possession with intent to sell marijuana or hashish would be generally eligible for expungement, and in the case of a young offender, the special eligibility for expungement after a one-year time period would consistently apply. This is not currently the case, because the amounts set forth in the expungement law are different than the amounts used to grade the crime.**

## **g.) D/P & petty D/P convictions – One or more**

**Concerning a person with one or more convictions for disorderly persons or petty disorderly persons' offenses (but no criminal convictions), the statute sets forth eligibility as follows:**

- 1. a person who has been convicted on the same or separate occasions of no more than four disorderly persons offenses, no more than four petty disorderly persons offenses, or a combination of no more than four 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 four;**
- 2. 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**



- 3. 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). This amendment is intended to overturn *In re Expunement of J.S.*, 223 N.J. 54 (2015).**
  
- 4. If a person with one or more convictions for disorderly persons or petty disorderly persons’ offenses is eligible as described above for expungement relief, the expungement application may 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 conviction;**
  
  - the fine is satisfied, but five years have not passed since doing so, and the five-year time requirement is otherwise met; or**
  
- 5. at least three but less than five years have passed with respect to all aspects of satisfying the conviction (this expedited expungement would also require, as it does under current law, the person to show that it is in the public interest to permit such expungement, similar to the expedited “public interest” expungement process for criminal convictions).**



## **h.) Definition of fine expanded same as in criminal cases**

**As is the case with an expungement involving one or more criminal convictions, the amendments provide that the term “fine,” in reference to measuring any applicable time period requirement for determining the satisfaction thereof, 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 applicable law.**



## **i. Crime Spree Exception**

**The ability to obtain an expungement for convictions based upon a crime spree was the subject of debate for decades. One pre-code case, *In re Fontana*, 146 NJ Super. 264 (App. Div. 1976) permitted such an expungement. A later case, *State v. Ross*, 400 NJ Super. 117 (App. Div. 2008) held that such an outcome was barred by the expungement statute. This holding was affirmed by the Supreme Court in *In re Expungement Application of J.S.*, 223 NJ 54 (2015). The October 1, 2018 amendments abrogate this decision.**

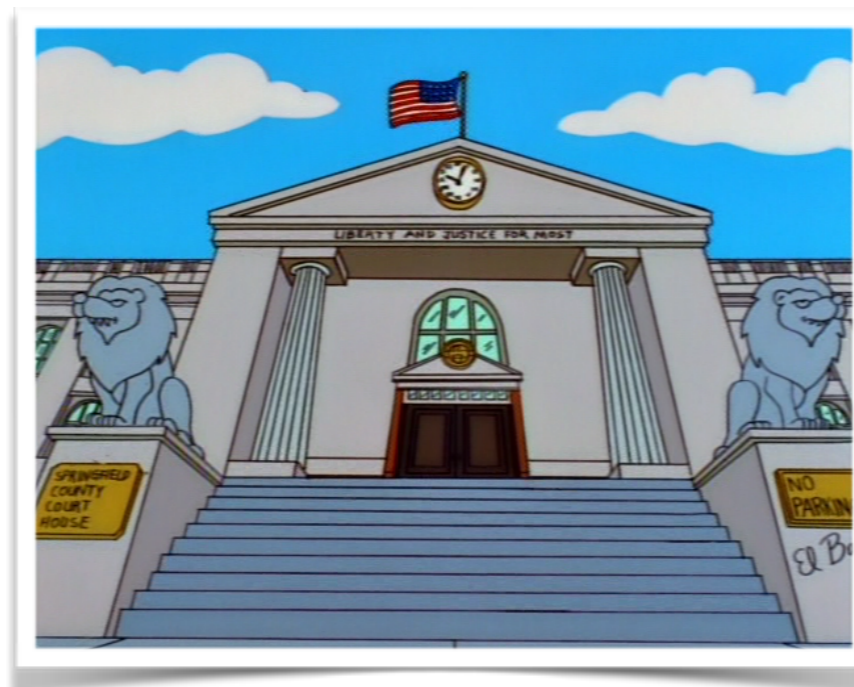
**The statute now provides a one-time limit on a person receiving an expungement involving any criminal conviction (continuing the current law’s one-time limit), as well as a one-time limit for receiving an expungement of multiple convictions pertaining to multiple disorderly persons or petty disorderly persons offenses, which convictions were entered the same day or which convictions constituted a “crime spree.”**



## **j.) Diversion from the criminal justice system**

**Finally, the statute would remove a bar on expungement eligibility for any person with one or more convictions for crimes, disorderly persons offenses, or petty disorderly persons offenses, who, prior or subsequent to the conviction or convictions for which expungement is sought had criminal charges dismissed following the completion of a supervisory treatment or other diversion program. The dismissal of criminal charges in such manner would no longer be an automatic bar to the person seeking and obtaining the relief of expungement. However, even if the person is successful in expunging any convictions, the expunged records would remain available for subsequent review for purposes of determining whether to grant or deny the person another entry into a supervisory treatment or diversion program for new charges.**

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## Statutes subject to amendment

### **NJSA 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 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 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 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.<sup>1</sup> 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 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 six 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 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 years have expired in accordance with the time requirements when the court finds:**

**(1) the fine is satisfied but less than six years have expired from the date of satisfaction , and the time requirement of six 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 but less than six 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. 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 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.**

**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 shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.**



## **2C:52-3. Disorderly persons or petty disorderly persons offenses**

**Disorderly persons offenses and petty disorderly persons offenses.**

**a. 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. 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 disorderly persons offenses, no more than four petty disorderly persons offenses, or a combination of no more than four 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;**  
**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.<sup>1</sup> 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. The petition for each conviction appended to an application shall comply with the requirements of [N.J.S.2C:52-1 et seq.](#)**

**Notwithstanding the provisions of the five-year time requirement, an application may be filed and presented, 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 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.**



## 2C:52-5. Expungement of records of young drug offenders

**Expungement of Records of Young Drug Offenders.** Notwithstanding the provisions of [N.J.S.2C:52-2](#) and [N.J.S.2C:52-3](#), after a period of not less than one year following conviction, termination of probation or parole or discharge from custody, whichever is later, any person convicted of an offense under chapter 35 or 36 of this title for the possession or use of a controlled dangerous substance, convicted of violating P.L.1955, c. 277, § 3 ([C.2A:170-77.5](#)),<sup>1</sup> or convicted of violating P.L.1962, c. 113, § 1 ([C.2A:170-77.8](#)),<sup>2</sup> and who at the time of the offense was 21 years of age or younger, may apply to the Superior Court in the county wherein the matter was disposed of for the expungement of such person's conviction and all records pertaining thereto. The relief of expungement under this section shall be granted only if said person has not, prior to the time of hearing, violated any of the conditions of his probation or parole, albeit subsequent to discharge from probation or parole, has not been convicted of any previous or subsequent criminal act or any subsequent or previous violation of chapter 35 or 36 of this title or of P.L.1955, c. 277, § 3 ([C.2A:170-77.5](#)) or of P.L.1962, c. 113, § 1 ([C.2A:170-77.8](#)), or who has not had a prior or subsequent criminal matter dismissed because of acceptance into a supervisory treatment or other diversion program.

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

- (1) Marihuana, where the total sold, distributed or possessed with intent to sell was less than one ounce, or
- (2) Hashish, where the total amount sold, distributed or possessed with intent to sell was less than five grams.



## **2C:52-8. Statements to accompany petition**

**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.**
- 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, 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.](#)).<sup>1</sup>**
- 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.**



## **2C:52-14. Grounds for denial of relief**

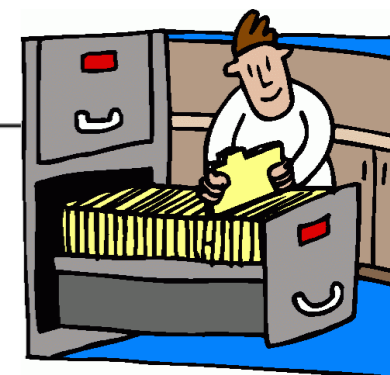
**A petition for expungement filed pursuant to this chapter shall be denied when:**

- 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](#).**
- f. (Deleted by amendment, [P.L.2017, c. 244](#))**

## **2C:52-15. Records to be removed; control; retention of certain records as confidential, restricted-access records**

**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.**



## **2C:52-18. Supplying information to Violent Crimes Compensation Office**

**Information contained in expunged records may be supplied to the Violent Crimes Compensation Office, in conjunction with any claim which has been filed with said office.**

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Garden State CLE presents:

# **October Surprise!**



## **Updates and Changes to New Jersey's Expungement Laws beginning in October 2018**

### **Lesson Plan**

**Instructor – Robert Ramsey**