

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - N. Jersey; _____ Revised Statutes Annotated

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ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

(a)

DIVISION OF STATE POLICE**Criminal History Record Information Background****Checks for Non-Criminal Justice Purposes;****Authorized and Unauthorized Access and Uses**

Adopted Amendments: N.J.A.C. 13:59-1.1, 1.2, 1.3, 1.4 and 1.8 -

Proposed: June 1, 1992 at 24 N.J.R. 1963(a).

Adopted: July 7, 1992 by Colonel Justin J. Dintino, Superintendent, Division of State Police.

Filed: July 7, 1992 as R.1992 d.308, without change.

Authority: N.J.S.A. 53:1-20.5, 53:1-20.6 and 53:1-20.7 (P.L. 1985, c.69); 28 CFR §§20.1, 20.3, 20.20, 20.21, 20.33, 20.36.

Effective Date: August 3, 1992.

Expiration Date: July 30, 1995.

The Division of State Police afforded all interested persons an opportunity to comment on the adoption of proposed amendments to N.J.A.C. 13:59-1.1, 1.2, 1.3, 1.4 and 1.8. These amendments regard: (1) the furnishing of New Jersey State conviction data and all New Jersey State pending charges to authorized agencies; and (2) the authorized and unauthorized access and uses of criminal history record information. Announcement of the opportunity to comment on the proposed amendments appeared in the New Jersey Register on June 1, 1992 at 24 N.J.R. 1963(a). Secondary publication of the proposed amendments, and a 30-day opportunity to comment thereon, appeared in the Newark Star Ledger, the Trenton Times, the Asbury Park Press and the Camden Courier Post, all newspapers of general circulation.

Summary of Public Comments and Agency Responses:

No comments were received by the Division as a result of the public notice for the proposed rule amendments.

Full text of the adoption follows.

13:59-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Access" means to instruct, communicate with, store data in, gain entry into, retrieve data from, disseminate, or otherwise make use of any computer, computer system or computer network.

"Administration of criminal justice or criminal justice purpose" includes:

1. The detection, apprehension, detention, pretrial and post-trial release, prosecution, adjudication, correction, supervision or rehabilitation of accused persons or criminals offenders;

2. The hiring of persons for employment by criminal justice agencies; and

3. Criminal identification activities, including the accessing of the New Jersey Criminal Justice Information System by criminal justice agencies for the purposes set forth in paragraphs 1 and 2 of this definition.

"Attorney General" includes the Attorney General of New Jersey and, when authorized by the Attorney General to access Criminal History Record Information, his or her Assistants and Deputies.

"Authorized agency" means any agency authorized by a Federal or State statute, rule or regulation, executive order, administrative code or local ordinance to access Criminal History Record Information maintained as part of the computerized data base of the New Jersey Criminal Justice Information System for noncriminal justice purposes, including licensing and/or employment purposes.

"Criminal History Record Information" or "CHRI" means information collected by criminal justice agencies regarding in-

dividuals, and stored in the computerized data base of the New Jersey Criminal Justice Information System, consisting of identifiable descriptions and notations of arrests, indictments, or other formal criminal charges, and any dispositions arising therefrom, including sentencing, correctional supervision and release.

"Criminal justice agency" means:

1. The courts of the State of New Jersey; and

2. A government agency of the State of New Jersey or any subunit thereof which performs functions pertaining to the administration of criminal justice pursuant to a statute, ordinance or regulation, and which allocates a substantial portion of its budget to the administration of criminal justice.

"Fee" means that cost established by law for processing all criminal history record requests for authorized agencies for noncriminal justice purposes, including licensing and/or employment.

"Licensing and/or employment purpose" means any noncriminal justice purpose, including licensing and/or employment, for which applicant fingerprints or name search requests are submitted by authorized agencies as required or permitted by a Federal or State Statute, rule or regulation, executive order, administrative code provision or local ordinance to the State Bureau of Identification for the processing and obtaining of Criminal History Record Information background checks.

"Processing Criminal History Record background checks" means:

1. The process whereby the State Bureau of Identification, at the request of an authorized agency, accesses the criminal history record data base of the New Jersey Criminal Justice Information System to compare a set of classifiable fingerprints or to conduct a name search request to determine if New Jersey Criminal History Record Information exists for the person identified by the authorized agency; and

2. The furnishing by the State Bureau of Identification to an authorized agency of all records of convictions in a New Jersey State court, and all records of pending arrests and/or charges for violations of New Jersey laws which the New Jersey Criminal Justice Information System indicates as having no dispositions, regardless of their age, unless such records have been expunged pursuant to law.

"Public servant" means any officer or employee of State government or of any political subdivision or public body of the State, including any advisor or consultant retained by government to perform a governmental function.

"State Bureau of Identification, (S.B.I.);" means the State Bureau of Identification created by P.L. 1930, c.65 as a bureau within the Division of State Police.

13:59-1.2 Fees

(a)-(c) (No change.)

(d) In addition to the fees specified in (a), (b) and (c) above a nonrefundable fee shall be collected from each applicant to pay for the actual cost of securing and processing Federal criminal record checks for noncriminal justice purposes, where such checks are authorized by law.

13:59-1.3 Separation of fees

All noncriminal justice licensing and/or employment requests from authorized agencies will be subject to the prescribed fees as set forth at N.J.A.C. 13:59-1.2. All such fees shall be deposited in the "Criminal History Record Information Fund" established pursuant to N.J.S.A. 53:1-20.7.

13:59-1.4 Prescribed forms

(a) Requests for Criminal History Record Information by authorized agencies shall be on forms as prescribed by this section.

(b) The prescribed forms shall be used to access Criminal History Record Information for any requests from authorized agencies for noncriminal justice purposes, including licensing and/or employment.

(c)-(d) (No change.)

13:59-1.8 Limitations on access and use of Criminal History Record Information (CHRI)

(a) Access to Criminal History Record Information for non-criminal justice purposes, including licensing and/or employment is restricted to authorized agencies as defined by this chapter. Such

agencies shall limit their use of Criminal History Record Information solely to the authorized purpose for which it was obtained, and Criminal History Record Information furnished by the S.B.I. shall not be disseminated to unauthorized persons within agencies or disseminated outside of the agencies authorized to receive the record.

(b) If Criminal History Record Information is to be used to disqualify an applicant, the person acting on behalf of the authorized agency making the determination of suitability for licensing and/or employment should provide the applicant with an opportunity to complete and/or challenge the accuracy of any information contained in the Criminal History Record. In this regard, the applicant should be afforded a reasonable period of time to correct and/or complete the record. A person should not be presumed guilty of any pending charge or arrest for which there is no final disposition indicated on the record.

(c) Except in those instances where no Criminal History Record Information is found at the time of the request, the State Bureau of Identification shall prominently display the following on any record accessed for noncriminal justice purposes, including, employment and/or licensing.

Use of this record is governed by Federal and State regulations. Unless fingerprints accompany your inquiry, the State Bureau of Identification cannot guarantee this record relates to the person in whom you have an interest. Use of this record shall be limited solely to the authorized purpose for which it was given and shall not be disseminated to any unauthorized persons. This record shall be destroyed after it has served its intended and authorized purposes. Any person violating Federal or State regulations governing access to Criminal History Record Information may be subject to criminal and/or civil penalties.

If this record is used to disqualify an applicant, the official making the determination of suitability for licensing and/or employment should provide the applicant with an opportunity to complete and/or challenge the accuracy of the information contained in the Criminal History Record. In this regard, the applicant should be afforded a reasonable period of time to correct and/or complete this record. A person is not presumed guilty of any charges or arrests for which there is no final disposition indicated on the record. This record is certified as a true copy of the Criminal History Record Information on file for the assigned State identification number.

(d) Criminal justice agencies, for purposes of the administration of criminal justice, and the Attorney General for any purpose related to the performance of his or her official duties, may access Criminal History Record Information (CHRI), Computerized Criminal History-Automated Name Index (CCH/ANI) or State Crime Information System data (SCIC) from the data base of the New Jersey Criminal Justice Information System.

(e) Except when authorized as a lawful exercise of official duties in conformity with (d) above, or unless officially authorized for noncriminal justice purposes, no public servant shall access or permit any other person to access Criminal History Record Information (CHRI), the Computerized Criminal History-Automated Name Index (CCH/ANI), or State Crime Information Center data (SCIC) stored in the New Jersey Criminal Justice Information System. This prohibition shall include use of any computer, computer system or computer network which may access CHRI, CCH/ANI, and SCIC stored in the New Jersey Criminal Justice Information System. Access by any public servant to CHRI, CCH/ANI and SCIC stored in the New Jersey Criminal Justice Information System shall be in

strict conformity with these rules, the Federal regulations (28 CFR §20.1 et seq.) and any "New Jersey Criminal Justice Information System Users Agreement" entered into by any criminal justice agency and the Division of State Police.

(f) Any criminal justice agency which has executed a "New Jersey Criminal Justice Information System Users Agreement," and which accesses Criminal History Record Information (CHRI), Computerized Criminal History-Automated Name Index (CCH/ANI) or State Crime Information System data (SCIC) stored in the New Jersey Criminal Justice Information System for the performance of administration of criminal justice functions, shall be provided with the full text of these rules by the State Bureau of Identification.

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New Jersey Statutes Annotated

Chapter 1

Article 3

State Bureau of Identification

53:1-12. Bureau continued; superintendent to control; appointment of supervisor and other personnel; equipment; civil service rights; titles established

The State Bureau of Identification created by an act entitled "An act to create a State Bureau of Identification within the Department of State Police and requiring peace officers, persons in charge of certain State institutions and others to make reports respecting criminals to such bureau, and to provide a penalty for violation of the provisions thereof," approved April third, one thousand nine hundred and thirty (L.1930, c. 65, p. 279),¹ is continued. The State Bureau of Identification shall be within the Department of State Police² and under the supervision and control of the Superintendent of State Police. The superintendent shall appoint a supervisor of the State Bureau of Identification, with the rank and pay of a lieutenant in the State Police, and such other personnel, with the equivalent rank and pay of their positions in the State Police, and such civilian personnel as he may deem necessary to carry out the provisions of this article.

The nucleus of such bureau shall be the fingerprints and photographs heretofore on file in the central bureau of identification in the Department of State Police which will be added to as provided by the provisions of this article.

The superintendent shall supply such bureau with the necessary apparatus and materials for collecting, filing, preserving and distributing criminal records.

For the purpose of establishing civil service rights for full-time civilian employees, there are hereby established in the State Bureau of Identification the following titles: Principal clerk, principal clerk-stenographer, senior clerk-stenographer, assistant photographer, senior fingerprint operators, fingerprint operators, senior identification clerk, identification clerks, chemist criminal laboratory.

The present civilian employees of the State Bureau of Identification shall be placed by the Civil Service Commission in the classified service and shall hold and retain their present title, pursuant to the provisions of Title 11, subtitle two, of the Revised Statutes. As amended L.1940, c. 103, p. 241, § 1.

¹ This section and §§ 53:1-13 to 53:1-20.

² Now Division of State Police in Department of Law and Public Safety. See §§ 52:17B-6, 52:17B-5L.

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53:1-13. Fingerprints and other records filed; information furnished by state institutions

The supervisor of the state bureau of identification shall procure and file for record, fingerprints, plates, photographs, pictures, descriptions, measurements and such other information as may be pertinent, of all persons who have been or may hereafter be convicted of an indictable offense within the state, and also of all well known and habitual criminals wheresoever the same may be procured.

The person in charge of any state institution shall furnish any such information to the supervisor of the state bureau of identification upon request of the superintendent of state police.

53:1-14. Record of fingerprints, etc., of persons confined in penal institutions; penal institutions to furnish

The supervisor of the state bureau of identification may procure and file for record, fingerprints, photographs and other identification data of all persons confined in any workhouse, jail, reformatory, penitentiary or other penal institution and shall file for record such other information as he may receive from the law enforcement officers of the state and its subdivisions.

The wardens, jailers or keepers of workhouses, jails, reformatories, penitentiaries or other penal institutions shall furnish the state bureau of identification with fingerprints and photographs of all prisoners who are or may be confined in the respective institutions, and shall also furnish such other information respecting such prisoners as may be requested.

53:1-15. Fingerprinting; forwarding copies

The sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers, shall immediately upon the arrest of any person for an indictable offense, or of any person believed to be wanted for an indictable offense, or believed to be an habitual criminal, or within a reasonable time after the filing of a complaint by a law enforcement officer charging any person with an indictable offense, or upon the arrest of any person for shoplifting pursuant to N.J.S. 2C:20-11, or the conviction of any other person charged with a nonindictable offense where the identity of the person charged is in question, take the fingerprints of such person according to the fingerprint system of identification established by the Superintendent of State Police and on the forms prescribed, and forward without delay two copies or more of the same, together with photographs and such other descriptions as may be required and with a history of the offense committed, to the State Bureau of Identification.

Such sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall also take the fingerprints, descriptions and

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such other information as may be required, of unknown dead persons and forward same to the State Bureau of Identification.

Any person charged in a complaint filed by a law enforcement officer with an indictable offense who has not been arrested, or any person charged in an indictment who has not been arrested, shall submit himself to the identification procedures provided herein either on the date of any court appearance or upon written request of the appropriate law enforcement agency within a reasonable time after the filing of the complaint. Any person who refuses to submit to such identification procedures shall be a disorderly person.

53:1-16. Comparison of all records received

The supervisor of the state bureau of identification shall compare all records received with those already on file in such bureau, and whether or not he finds that the person arrested has a criminal record or is a fugitive from justice, he shall at once inform the requesting agency or arresting officer of such fact.

53:1-17. Supervisor to instruct, assist and co-operate with local police officials

The supervisor of the state bureau of identification shall co-operate with, afford instruction and offer assistance to sheriffs, chiefs of police and other law enforcement officers in the establishment and operation of their local systems of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a complaint of an indictable offense, to assure co-ordination with the system of identification conducted by the state bureau. The superintendent of state police shall arrange for such co-operation, instruction and assistance by the supervisor.

53:1-18. Report of criminal charges or disorderly offenses; duty of clerks of courts

For the purpose of submitting to the Governor and the Legislature a report of statistics on crime conditions in the annual report of the ~~Department~~ Division of State Police, the clerk of every court before which a ~~prisoner~~ unassigned person appears on an indictable offense any criminal charge or disorderly persons offense shall ~~promptly~~ within 30 days report to the State Bureau of Identification the sentence of the court or other disposition of the case.

Amended by L.1967, c. 234, § 1, eff. Jan. 23, 1968.

53:1-19a. Report of statistics on crime conditions; duty of prosecutors

For the purpose of submitting to the Governor and the Legislature a report of statistics on crime conditions in the annual report of the Division of State Police, the prosecutor of every county shall within 30 days report to the State Bureau of Identification, on forms prescribed by the superintendent of State Police, such information as he shall require for the aforesaid purpose.

L.1967, c. 234, § 2, supplementing Title 53, Ch. 1, eff. Jan. 23, 1968.

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53:1-18.1 Fingerprints of persons arrested for narcotic or dangerous drug offenses

Every law enforcement officer designated in section 53:1-15 of the Revised Statutes shall, immediately upon the arrest of any person for any offense against the laws of the United States, or any offense against the laws of this State, relating to narcotic or dangerous drugs, whether the same shall be indictable or otherwise, take the fingerprints of such person and forward copies thereof together with photographs and such other description and information as is required by such section in the case of the arrest of persons for any offense indictable under the laws of this State. Amended by L.1967, c. 298, § 3, eff. Feb. 15, 1968.

53:1-18.2 Reports on narcotic or dangerous drug cases; duty of clerks of court

The clerk of every court of this State in which any person is prosecuted for an offense under the laws of this State relating to narcotic or dangerous drugs, whether the same be indictable or otherwise, shall promptly report to the State Bureau of Identification the sentence of the court or other disposition of the case. Amended by L.1967, c. 298, § 4, eff. Feb. 15, 1968.

53:1-18.3 Compilation of results of reports on narcotic or dangerous drug cases; information for controlled dangerous substances registry

It shall be the duty of the Superintendent of the State Police:

a. To compile and report annually to the Governor and to the Legislature the results of the reports of the arrests of all persons and the disposition of all cases involving offenses relating to narcotic or dangerous drugs, substances or compounds within the preceding year and to furnish quarterly reports of a like nature during the interim periods.

b. To provide on a continuing basis to the Division of Narcotic and Drug Abuse Control of the State Department of Health such information as the director thereof shall require from time to time on forms prescribed by the State Department of Health for use in connection with the registry established by this act.

Amended by L.1967, c. 298, § 5, eff. Feb. 15, 1968; L.1970, c. 227, § 6, eff. Oct. 19, 1970.

53:1-18.5. "Dangerous drugs" defined

As used in this act of which this act is amendatory and supplementary "dangerous drugs, substances or compounds" means and includes any of the following in any form: any depressant, or stimulant or hallucinogenic drug, substance or compound as defined pursuant to section 1 of chapter 314 of the laws of 1966 (C. 24:6C-1) or the New Jersey Controlled Dangerous Substances Act or any other prescription legend drug which is not a narcotic drug within the meaning of chapter 18 of Title 24 of the Revised Statutes or the New Jersey Controlled Dangerous Substances Act, unless obtained from, or on a valid prescription of, and used as prescribed by, a duly licensed physician, veterinarian or dentist.

Added by L.1967, c. 298, § 2, eff. Feb. 15, 1968. Amended by L.1970, c. 227, § 7, eff. Oct. 19, 1970.

53:1-20.1 Criminal records for centralization of information; forms

To the end that there may be a centralization of information with regard to crime in this State, it shall be the duty of the

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county bureau of identification in each county and of the bureau of identification in the Department of the State Police ¹ to obtain and to keep on file all facts pertaining to criminal records, on forms substantially as follows:

File No.	Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Offense				Location				Precinct					
Victim						Address							
Arrest		Arraigned			Disposition			Ball		Amount _____			
		Court								Bondsman _____			
Accused		Residence			Occupation			Age		Nat.			
(Record on Other Side)													
Indicted		Docket No.			Arraigned			Court		Sentence			
Continuances		To Trial			A. D. A. Det. Judge			Plea _____ Verdict _____ Appeals _____		To Prison			

L.1939, c. 78, p. 129, § 1.

¹ Now Division of State Police in Department of Law and Public Safety. See §§ 52:17B-6, 52:17B-5L.

53:1-20.2 Duty of law enforcement officers and public officers and employees to supply information; County Bureau of Identification defined

To the end that the county bureaus of identification in each of the counties of this State and the bureau of identification of the Department of the State Police ¹ may have available the requisite information for the keeping of such records, it shall be the duty of sheriffs, members of the State Police, county detectives, chiefs of police and other law enforcement officers, immediately upon the receipt of a complaint that an indictable offense has been committed, to forward to the county bureau of identification and the bureau of identification of the State Police Department all of such information which can at that time be obtained, on forms to be provided for that purpose by the head of the office in which such county bureau of identification is established.

It shall also be the duty of such officers, from time to time, upon receipt of additional information, to forward the same to the county bureau of identification and to the bureau of identi-

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fication of the State Police Department, on forms to be provided for that purpose by the head of the office in which such county bureau of identification is established.

It shall also be the duty of the prosecutor of the pleas, the county clerks, and the probation office in the various counties of this State to supply to the county bureau of identification and to the bureau of identification in the Department of State Police all information on record in their respective offices which may be necessary to complete the records in the prescribed form, as set forth in section one hereof.

The duties herein prescribed to be performed by the public officers and employees herein referred to shall be additional to the duties now prescribed by law to be performed by such public officers and employees.

The words "The County Bureau of Identification," as used in this act, shall be taken to mean the bureau of identification as now established in the office of the sheriff or in the office of the prosecutors of the pleas in the respective counties in this State. L.1939, c. 78, p. 131, § 2.

¹ Now Division of State Police in Department of Law and Public Safety.

53:1-20.3. Release of prisoners from penal or other institutions; notice to bureau; photographs

It shall be the duty of the wardens of the county jail in the various counties, of the wardens of the county penitentiaries and workhouses in the various counties of the State and of the Principal Keeper of the State Prison and of the wardens or superintendents of the other State institutions to which prisoners are or may be committed upon the release of any prisoner in their respective charges to notify the Bureau of Identification of the county from which that prisoner was committed and the Bureau of Identification of the State Police of the fact of such prisoner's release and the date of such release.

In the case of any such prisoner who was committed for a term of 5 years or more, it shall also be the duty of the Principal Keeper of the State Prison to forward to the Bureau of Identification of the county from which the prisoner was committed and to the Bureau of Identification of the State Police, at the time of giving the said notification, a photograph of the said prisoner taken within the 30-day period immediately preceding his release.

Amended by L.1956, c. 45, p. 93, § 1.

53:1-20.4 Department originally arresting prisoner to be notified of his release

It shall be the duty of the County Bureau of Identification in the several counties of the State immediately upon receipt of such information concerning the release of a prisoner to notify the head of the police department or other law enforcement department which made the original arrest of said prisoner that the said prisoner has been released and the date of his release. L. 1940, c. 65, § 2.

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CHAPTER 52

EXPUNGEMENT OF RECORDS

Section

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2C:36A-1. Conditional discharge for certain first offenses; expunging of records

a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c. 226 (C. 24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this title or, subsequent to the effective date of this title, under any law of the United States, this State or any other state relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this title, the court upon notice to the prosecutor and subject to subsection c. of this section, may on motion of the defendant or the court:

(1) Suspend further proceedings and with the consent of the person after reference to the State Bureau of Identification criminal history record information files, place him under supervisory treatment upon such reasonable terms and conditions as it may require; or

(2) After plea of guilty or finding of guilty, and without entering a judgment of conviction, and with the consent of the person after proper reference to the State Bureau of Identification criminal history record information files, place him on supervisory treatment upon reasonable terms and conditions as it may require, or as otherwise provided by law.

b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of three years. If a person is placed under supervisory treatment under this section after a plea of guilty or finding of guilt, the court as a term and condition of supervisory treatment shall suspend the person's driving privileges for a period to be fixed by the court at not less than six months or more than two years. In the case of a person who at the time of placement under supervisory treatment under this section is less than 17 years of age, the period of suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the person is placed on supervisory treatment and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years.

If the driving privilege of a person is under revocation, suspension, or postponement for a violation of this title or Title 39 of the Revised Statutes at the time of the person's placement on supervisory treatment under this section, the revocation, suspension or postponement period imposed herein shall commence as of the date of the termination of the existing revocation, suspension or postponement. The court which places a person on supervisory treatment under this section shall collect and forward the person's driver's license to the Division of Motor Vehicles and file an appropriate report with the division in accordance with the procedure set forth in N.J.S. 2C:35-16. The court shall also inform the person of the penalties for operating a motor vehicle during the period of license suspension or postponement as required in N.J.S. 2C:35-16.

Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilty or finding of guilty, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court to the State Bureau of Identification criminal history record information files. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this section shall not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under section 29 of P.L.1970, c. 226 (C. 24:21-29), chapter 35 or 36 of this title or any law of this State.

c. Proceedings under this section shall not be available to any defendant unless the court in its discretion concludes that:

Last additions in text indicated by underline; deletions by ~~strikeouts~~

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(1) The defendant's continued presence in the community, or in a civil treatment center or program, will not pose a danger to the community; or

(2) That the terms and conditions of supervisory treatment will be adequate to protect the public and will benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest; and

(3) The person has not previously received supervisory treatment under section 27 of P.L.1970, c. 226 (C. 24:21-27), N.J.S. 2C:43-12, or the provisions of this chapter.

d. A person seeking conditional discharge pursuant to this section shall pay to the court a fee of ~~\$45.00~~ \$75.00. The court shall forward all money collected under this subsection to the treasurer of the county in which the court is located. This money shall be used to defray the cost of juror compensation within that county. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey. Of the moneys collected under this subsection, \$30.00 of each fee shall be deposited in the temporary reserve fund created by section 25 of P.L.1993, c. 275¹. After December 31, 1994, the \$75.00 fee shall be paid to the court, for use by the State.

L.1987, c. 106, § 3, operative July 9, 1987. Amended by L.1988, c. 44, § 12, eff. June 28, 1988; L.1993, c. 275, § 14, eff. Jan. 5, 1994.

¹ Temporary and executed.

2C:52-1. Definition of Expungement

a. Except as otherwise provided in this chapter, expungement shall mean the extraction and 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.
L.1979, c. 178, § 108, eff. Sept. 1, 1979.

2C:52-2. Indictable Offenses

a. In all cases, except as herein provided, wherein a person has been convicted of a crime under the laws of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and has not been adjudged a disorderly person or petty disorderly person on more than two occasions may, after the expiration of a period of 10 years from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

Although subsequent convictions for no more than two disorderly or petty disorderly offenses shall not be an absolute bar to relief, the nature of those conviction or convictions and the circumstances surrounding them shall be considered by the court and may be a basis for denial of relief if they or either of them constitute a continuation of the type of unlawful activity embodied in the criminal conviction for which expungement is sought.

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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: Section 2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in section 2C:11-5; section 2C:13-1 (Kidnapping); sections 2C:14-2 (Aggravated Sexual Assault); section 2C:15-1 (Robbery); section 2C:17-1 (Arson and Related Offenses); section 2C:28-1 (Perjury); section 2C:28-2 (False Swearing) and conspiracies or attempts to commit such crimes.

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 relate to:

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

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was 5 grams or less.

L.1979, c. 178, § 109, eff. Sept. 1, 1979.

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

Any person convicted of a disorderly persons offense or petty disorderly persons offense under the law of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, or of another three disorderly persons or petty disorderly persons offenses, may, after the expiration of a period of 5 years from the date of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 hereof to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

L.1979, c. 178, § 110, eff. Sept. 1, 1979. Amended by L.1981, c. 290, § 43, eff. Sept. 24, 1981.

2C:52-4. Ordinances

In all cases wherein a person has been found guilty of violating a municipal ordinance of any governmental entity of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and who has not been adjudged a disorderly person or petty disorderly person on more than two occasions, may, after the expiration of a period of 2 years from the date of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 herein to the Superior Court in the county in which the violation occurred praying that such conviction and all records and information pertaining thereto be expunged.

L.1979, c. 178, § 111, eff. Sept. 1, 1979.

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2C:52-4.1. Juvenile delinquent; expungement of adjudications and charges

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

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

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

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

For purposes of expungement, any act which resulted in a juvenile being adjudged a delinquent shall be classified as if that act had been committed by an adult.

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

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

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

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

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

(5) He has never had adult criminal charges dismissed following completion of a supervisory treatment or other diversion program.

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

L.1980, c. 163, § 1. Amended by L.1981, c. 290, § 44, eff. Sept. 24, 1981.

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

Notwithstanding the provisions of sections 2C:52-2 and 2C:52-3, after a period of not less than 1 year following conviction, termination of probation or parole or discharge from custody, whichever is later, any person convicted of an offense under Title 24 of the New Jersey Statutes for the possession or use of a controlled dangerous substance, convicted of violating P.L.1955, c. 277, § 3 (C. 2A:170-77.5), or convicted of violating P.L.1962, c. 113, § 1 (C. 2A:170-77.8), 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 Title 24 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) Marijuana, where the total amount sold, distributed or possessed with intent to sell was 25 grams or less, or
- (2) Hashish, where the total amount sold, distributed or possessed with intent to sell was 5 grams or less.

L.1979, c. 178, § 112, eff. Sept. 1, 1979.

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

a. In all cases, except as herein provided, wherein 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 against whom proceedings were dismissed, or who was acquitted, or who was discharged without a conviction or finding of guilt, may at any time following the disposition of proceedings, present a duly verified petition as provided in section 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.

b. Any person who has had charges dismissed against him pursuant to P.L.1970, c. 226, § 27 (C. 24:21-27) or pursuant to a program of supervisory treatment, shall be barred from the relief provided in this section until 6 months after the entry of the order of dismissal.

c. 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.

L.1979, c. 178, § 113, eff. Sept. 1, 1979.

2C:52-7. Petition for Expungement

Every petition for expungement filed pursuant to this chapter shall be verified and include:

- a. Petitioner's date of birth.
- b. Petitioner's date of arrest.
- c. The statute or statutes and offense or offenses for which petitioner was arrested and of which petitioner was convicted.
- d. The original indictment, summons or complaint number.
- e. Petitioner's date of conviction, or date of disposition of the matter if no conviction resulted.
- f. The court's disposition of the matter and the punishment imposed, if any.

L.1979, c. 178, § 114, eff. Sept. 1, 1979.

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.

b. In those instances where the petitioner is seeking the expungement of a criminal conviction, a statement with affidavit or verification that he has never been granted expungement, sealing or similar relief regarding a criminal conviction 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. L.1979, c. 178, § 115, eff. Sept. 1, 1979.

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2C:52-9. Order Fixing Time for Hearing

Upon the filing of a petition for relief pursuant to this chapter, the court shall, by order, fix a time not less than 35 nor more than 60 days thereafter for hearing of the matter.

L.1979, c. 178, § 116, eff. Sept. 1, 1979.

2C:52-10. Service of Petition and Documents

A copy of each petition, together with a copy of all supporting documents, shall be served pursuant to the rules of court upon the Superintendent of State Police; the Attorney General; the county prosecutor of the county wherein the court is located; the chief of police or other executive head of the police department of the municipality wherein the offense was committed; the chief law enforcement officer of any other law enforcement agency of this State which participated in the arrest of the individual; the superintendent or warden of any institution in which the petitioner was confined; and, if a disposition was made by a municipal court, upon the magistrate of that court. Service shall be made within 5 days from the date of the order setting the date for the hearing upon the matter.

L.1979, c. 178, § 117, eff. Sept. 1, 1979.

2C:52-11. Order Expungement Where No Objection Prior to Hearing

If, prior to the hearing, there is no objection from those law enforcement agencies notified or from those offices or agencies which are required to be served under 2C:52-10, and no reason, as provided in section 2C:52-14, appears to the contrary, the court may, without a hearing, grant an order directing the clerk of the court and all relevant criminal justice and law enforcement agencies to expunge records of said disposition including evidence of arrest, detention, conviction and proceedings related thereto.

L.1979, c. 178 § 118, eff. Sept. 1, 1979.

2C:52-12. Denial of Relief Although No Objection Entered

In the event that none of the persons or agencies required to be noticed under 2C:52-10 has entered any objection to the relief being sought, the court may nevertheless deny the relief sought if it concludes that petitioner is not entitled to relief for the reasons provided in section 2C:52-14.

L.1979, c. 178, § 119, eff. Sept. 1, 1979.

2C:52-13. When Hearing on Petition for Expungement Shall Not Be Held

No petition for relief made pursuant to this section shall be heard by any court if the petitioner, at the time of filing or date of hearing, has a charge or charges pending against him which allege the commission of a crime, disorderly persons offense or petty disorderly persons offense. Such petition shall not be heard until such times as all pending criminal and or disorderly persons charges are adjudicated to finality.

L.1979, c. 178, § 120, eff. Sept. 1, 1979.

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 2C:52-10 and the burden of asserting such grounds shall be on the objector.

c. In connection with a petition under section 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.

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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 section 2C:52-6.

f. The person seeking the relief of expungement of a conviction for a disorderly persons, petty disorderly persons, or criminal offense has prior to or subsequent to said conviction been granted the dismissal of criminal charges following completion of a supervisory treatment or other diversion program.

L.1979, c. 178, § 121, eff. Sept. 1, 1979.

2C:52-15. Records to Be Removed; Control

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, insure 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.

L.1979, c. 178, § 122, eff. Sept. 1, 1979.

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**2C:52-16. Expunged Record Including Names of Persons
Other Than Petitioner**

Any record or file which is maintained by a judicial or law enforcement agency, or agency in the criminal justice system, which is the subject of an order of expungement which includes the name or names of persons other than that of the petitioner need not be isolated from the general files of the agency retaining same if the other persons named in said record or file have not been granted an order of expungement of said record, provided that a copy of the record shall be given to the person designated in 2C:52-15 and the original shall remain in the agency's general files with the petitioner's name and other personal identifiers obliterated and deleted.

L.1979, c. 178, § 123, eff. Sept. 1, 1979.

**2C:52-17. Use of Expunged Records by Agencies on Pending
Petition for Expungement**

Expunged records may be used by the agencies that possess same to ascertain whether a person has had prior conviction expunged, or sealed under prior law, when the agency possessing the record is noticed of a pending petition for the expungement of a conviction. Any such agency may supply information to the court wherein the motion is pending and to the other parties who are entitled to notice pursuant to 2C:52-10.

L.1979, c. 178, § 124, eff. Sept. 1, 1979.

**2C:52-18. Supplying Information to Violent Crimes
Compensation Board**

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

L.1979, c. 178, § 125, eff. Sept. 1, 1979.

**2C:52-19. Order of Superior Court Permitting Inspection
of Records or Release of Information; Limitations**

Inspection of the files and records, or release of the information contained therein, which are the subject of an order of expungement, or sealing under prior law, may be permitted by the Superior Court upon motion for good cause shown and compelling need based on specific facts. The motion or any order granted pursuant thereto shall specify the person or persons to whom the records and information are to be shown and the

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purpose for which they are to be utilized. Leave to inspect shall be granted by the court only in those instances where the subject matter of the records of arrest or conviction is the object of litigation or judicial proceedings. Such records may not be inspected or utilized in any subsequent civil or criminal proceeding for the purposes of impeachment or otherwise but may be used for purposes of sentencing on a subsequent offense after guilt has been established.

L.1979, c. 178, § 126, eff. Sept. 1, 1979.

2C:52-20. Use of Expunged Records in Conjunction with Supervisory Treatment or Diversion Programs

Expunged records may be used by any judge in determining whether to grant or deny the person's application for acceptance into a supervisory treatment or diversion program for subsequent charges. Any expunged records which are possessed by any law enforcement agency may be supplied to the Attorney General, any county prosecutor or judge of this State when same are requested and are to be used for the purpose of determining whether or not to accept a person into a supervisory treatment or diversion program for subsequent charges.

L.1979, c. 178, § 127, eff. Sept. 1, 1979.

2C:52-21. Use of Expunged Records in Conjunction with Setting Bail, Presentence Report or Sentencing

Expunged records, or sealed records under prior law, of prior arrests or convictions shall be provided to any judge, county prosecutor, probation department or the Attorney General when same are requested for use in conjunction with a bail hearing or for the preparation of a presentence report or for purpose of sentencing.

L.1979, c. 178, § 128, eff. Sept. 1, 1979.

2C:52-22. Use of Expunged Records by Parole Board

Expunged records, or sealed records under prior law, of prior disorderly persons, petty disorderly persons and criminal convictions shall be provided to the Parole Board when same are requested for the purpose of evaluating the granting of parole to the person who is the subject of said records. Such sealed or expunged records may be used by the Parole Board in the same manner and given the same weight in its considerations as if the records had not been expunged or sealed.

L.1979, c. 178, § 129, eff. Sept. 1, 1979.

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2C:52-23. Use of Expunged Records by Department of Corrections

Expunged records, and records sealed under prior law, shall be provided to the Department of Corrections for its use solely in the classification, evaluation and assignment to correctional and penal institutions of persons placed in its custody.

L.1979, c. 178, § 130, eff. Sept. 1, 1979.

2C:52-24. County Prosecutor's Obligation to Ascertain Propriety of Petition

Notwithstanding the notice requirements provided herein, it shall be the obligation of the county prosecutor of the county wherein any petition for expungement is filed to verify the accuracy of the allegations contained in the petition for expungement and to bring to the court's attention any facts which may be a bar to, or which may make inappropriate the granting of, such relief. If no disabling, adverse or relevant information is ascertained other than that as included in the petitioner's affidavit, such facts shall be communicated by the prosecutor to the hearing judge.

L.1979, c. 178, § 131, eff. Sept. 1, 1979.

2C:52-25. Retroactive Application

This chapter shall apply to arrests and convictions which occurred prior to, and which occur subsequent to, the effective date of this act.

L.1979, c. 178, § 132, eff. Sept. 1, 1979.

2C:52-26. Vacating of Orders of Sealing; Time; Basis

If, within 5 years of the entry of an expungement order, any party to whom notice is required to be given pursuant to section 2C:52-10 notifies the court which issued the order that at the time of the petition or hearing there were criminal, disorderly persons or petty disorderly persons charges pending against the person to whom the court granted such order, which charges were not revealed to the court at the time of hearing of the original motion or that there was some other statutory disqualification, said court shall vacate the expungement order in question and reconsider the original motion in conjunction with the previously undisclosed information.

L.1979, c. 178, § 133, eff. Sept. 1, 1979.

2C:52-27. Effect of expungement

Unless otherwise provided by law, if an order of expungement is granted, the arrest, conviction and any proceedings related thereto shall be deemed not to have occurred, and the peti-

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tioner may answer any questions relating to their occurrence accordingly, except as follows:

a. The fact of an expungement, sealing or similar relief shall be disclosed as provided in section 2C:52-8b.

b. The fact of an expungement of prior charges which were dismissed because of the person's acceptance into and successful completion of a supervisory treatment or other diversion program shall be disclosed by said person to any judge who is determining the propriety of accepting said person into a supervisory treatment or other diversion program for subsequent criminal charges; and

c. Information divulged on expunged records shall be revealed by a petitioner seeking employment within the judicial branch or with a law enforcement or corrections agency and such information shall continue to provide a disability as otherwise provided by law.

L.1979, c. 178, § 134, eff. Sept. 1, 1979. Amended by L.1981, c. 290, § 45, eff. Sept. 24, 1981.

2C:52-28. Motor Vehicle Offenses

Nothing contained in this chapter shall apply to arrests or conviction for motor vehicle offenses contained in Title 39.

L.1979, c. 178, § 135, eff. Sept. 1, 1979.

2C:52-29. Fee

Any person who files an application pursuant to this chapter shall pay to the State Treasurer a fee of \$30.00 to defer administrative costs in processing an application hereunder.

L.1979, c. 178, § 136, eff. Sept. 1, 1979.

2C:52-30. Disclosure of Expungement Order

Except as otherwise provided in this chapter, any person who reveals to another the existence of an arrest, conviction or related legal proceeding with knowledge that the records and information pertaining thereto have been expunged or sealed is

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a disorderly person. Notwithstanding the provisions of section 2C:43-3, the maximum fine which can be imposed for violation of this section is \$200.00.

L.1979, c. 178, § 137, eff. Sept. 1, 1979.

2C:52-31. Limitation

Nothing provided in this chapter shall be interpreted to permit the expungement of records contained in the Controlled Dangerous Substances Registry created pursuant to P.L.1970, c. 227 (C. 26:2G-17 et seq.), or the registry created by the Administrative Office of the Courts pursuant to section 2C:43-21. L.1979, c. 178, § 138, eff. Sept. 1, 1979.

2C:52-32. Construction

This chapter shall be construed with the primary objective of providing relief to the one-time offender who has led a life of rectitude and disassociated himself with unlawful activity, but not to create a system whereby periodic violators of the law or those who associate themselves with criminal activity have a regular means of expunging their police and criminal records. L.1979, c. 178, § 139, eff. Sept. 1, 1979.

* * *

24:21-27. Conditional discharge for certain first offenses; expunging of records

a. Whenever any person who has not previously been convicted of any offense under the provisions of this act or, subsequent to the effective date of this act, under any law of the United States, this State or of any other state, relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, is charged with or convicted of any offense under section 20 (C. 24:21-20), the court, upon notice to the prosecutor and subject to subsection c. of this section 20, may on motion of the defendant or the court:

(1) Suspend further proceedings and with the consent of such person after reference to the Controlled Dangerous Substances Registry, as established and defined in the Controlled Dangerous Substances Registry Act of 1970,¹ place him under supervisory treatment upon such reasonable terms and conditions as it may require; or

(2) After plea of guilty or finding of guilt, and without entering a judgment of conviction, and with the consent of such person after proper reference to the Controlled Dangerous Substances Registry as established and defined in the Controlled Dangerous Substances Registry Act of 1970, place him on supervisory treatment upon such reasonable terms and conditions as it may require, or as otherwise provided by law.

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b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of 3 years. Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilty or finding of guilty, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court pursuant to the Controlled Dangerous Substances Registry Act. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this section shall not be deemed a conviction for the purposes of determining whether a second or subsequent offense has occurred under section 29 (C. 24:21-29) of this act or any law of this State.

c. Proceedings under this section shall not be available to any defendant unless the court in its discretion concludes that:

(1) The defendant's continued presence in the community, or in a civil treatment center or program, will not pose a danger to the community; or

(2) That the terms and conditions of supervisory treatment will be adequate to protect the public and will benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest.

L.1970, c. 226, § 27. Amended by L.1971, c. 3, § 11; L.1979, c. 86, § 10, eff. May 15, 1979; L.1980, c. 105, § 4, eff. Sept. 11, 1980.

¹ Sections 26:2G-17 to 26:2G-20.

* * *

CHAPTER 1A. EXAMINATION AND COPIES OF PUBLIC RECORDS [NEW]

See.

47:1A-1. Legislative findings.

47:1A-2. Public records; right of inspection; copies; fees.

47:1A-3. Records of investigations in progress.

47:1A-4. Proceedings to enforce right to inspect or copy.

47:1A-1. Legislative findings

The Legislature finds and declares it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State, with certain exceptions, for the protection of the public interest. L.1963, c. 78, § 1.

47:1A-2. Public records; right of inspection; copies; fees

Except as otherwise provided in this act or by any other statute, resolution of either or both houses of the Legislature, executive order of the Governor, rule of court, any Federal law, regulation or order, or by any regulation promulgated under the authority of any statute or executive order of

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the Governor, all records which are required by law to be made, maintained or kept on file by any board, body, agency, department, commission or official of the State or of any political subdivision thereof or by any public board, body, commission or authority created pursuant to law by the State or any of its political subdivisions, or by any official acting for or on behalf thereof (each of which is hereinafter referred to as the "custodian" thereof) shall, for the purposes of this act, be deemed to be public records. Every citizen of this State, during the regular business hours maintained by the custodian of any such records, shall have the right to inspect such records. Every citizen of this State shall also have the right, during such regular business hours and under the supervision of a representative of the custodian, to copy such records by hand, and shall also have the right to purchase copies of such records. Copies of records shall be made available upon the payment of such price as shall be established by law. If a price has not been established by law for copies of any records, the custodian of such records shall make and supply copies of such records upon the payment of the following fees which shall be based upon the total number of pages or parts thereof to be purchased without regard to the number of records being copied:

- First page to tenth page \$0.50 per page,
- Eleventh page to twentieth page 0.25 per page,
- All pages over 20 0.10 per page,

If the custodian of any such records shall find that there is no risk of damage or mutilation of such records and that it would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein, he may permit any citizen who is seeking to copy more than 100 pages of records to use his own photographic process, approved by the custodian, upon the payment of a reasonable fee, considering the equipment and the time involved, to be fixed by the custodian of not less than \$5.00 or more than \$25.00 per day. L.1963, c. 73, § 2.

47:1A-3. Records of investigations in progress

Notwithstanding the provisions of this act, where it shall appear that the record or records which are sought to be examined shall pertain to an investigation in progress by any such body, agency, commission, board, authority or official, the right of examination herein provided for may be denied if the inspection, copying or publication of such record or records shall be inimical to the public interest; provided, however, that this provision shall not be construed to prohibit any such body, agency, commission, board, authority or official from opening such record or records for public examination if not otherwise prohibited by law. L.1963, c. 73, § 3.

47:1A-4. Proceedings to enforce right to inspect or copy; award of costs and attorney's fee

Any such citizen of this State who has been or shall have been denied for any reason the right to inspect, copy or obtain a copy of any such record as provided in this act may apply to the Superior Court of New Jersey by a proceeding in lieu of prerogative writ for an order requiring the custodian of the record to afford inspection, the right to copy or to obtain a copy thereof, as provided in this act. A plaintiff in whose favor such an order issues shall be entitled to taxed costs and may be awarded a reasonable attorney's fee not to exceed \$500.00. A defendant who prevails in preventing the issuance of such an order shall be entitled to taxed costs.

L.1963, c. 73, § 4. Amended by L.1981, c. 338, § 1, eff. Dec. 16, 1981.

* * *

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT
TRENTON

EXECUTIVE ORDER NO.

By The Governor

WHEREAS, the Constitutions of the State of New Jersey and the United States of America have declared safeguards for individual privacy and the protection of the public safety as set forth in Article IV; and

WHEREAS, criminal justice agencies in their daily operations relating to the protection of citizens and property request information to be collected on offenders; and

WHEREAS, an individual's privacy is directly affected by the collection, maintenance, use and dissemination of criminal history information; and

WHEREAS, the increasing use of computers and sophisticated communications and technology magnify the potential risks associated with the protection of individual rights or privacy; and

WHEREAS, an individual's opportunities to secure employment, insurance, credit, his right to due process and other legal protections are affected by criminal record information systems, both automated and non-automated; and

WHEREAS, in order to preserve the rights of individual citizens and with due regard for the public safety in a free society, action is necessary to establish and insure procedures to govern information systems, including those containing criminal history records on individuals; and

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WHEREAS, the United States Department of Justice, under the authority of the Attorney General and the Law Enforcement Assistance Administration, issued regulations governing access to and dissemination of criminal history record information and require a State Plan to implement such regulations; and

WHEREAS, a variety of acts by the State are necessary and proper to realize the objectives of the foregoing federal regulation and other relevant policies promulgated by the Law Enforcement Assistance Administration; and

WHEREAS, the State Law Enforcement Planning Agency, created by Executive Order No. 45 on the thirteenth day of August, 1968, has been designated as the State Planning Agency for the State of New Jersey; and

WHEREAS, it is the policy of the executive branch of government to encourage, by positive measures, maximum administrative support and management of the procedures outlined in the required plan and approved by the Governor; and

In further commitment on behalf of the Governor to the principal of strengthening the criminal justice information system in New Jersey and to insure the citizens' right to privacy.

NOW, THEREFORE, I, BRENDAN T. BYRNE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of New Jersey, do hereby issue, the following Executive Order:

There is hereby created, within the Office of the Governor, and reporting directly to the Governor, the Criminal Justice Privacy and Security Council (Council).

The Council is hereby designated as the entity within State government responsible for reviewing requests for access to criminal history information by non-criminal justice agencies or individuals, reviewing preliminary appeals related to individual challenges to criminal history records of said individuals, and

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conducting initial reviews for access to sealed criminal history records, except such records sealed by the Court. The composition will be determined by the Governor upon the recommendation of the Attorney General.

All Council members who are appointed by the Governor because of the position they occupy with a state agency or local unit of government, shall be members of this Council so long as they hold that office. Private citizens, if any, shall be appointed by the following terms (1 member) one year; (two members) two years and (two members) three years.

The Council shall conduct regular monthly meetings, and any other sessions at the discretion of the Chairman. Records shall be kept of all meetings.

The Council shall be directed by an Executive Director who shall be an Ex-officio member and Chairman of the Council. The Executive Director shall be directly responsible to, and appointed by, the Governor. The Executive Director is hereby empowered to take all necessary and proper actions to implement all provisions of the aforesaid state plan and federal regulations upon approval by the Governor. The Executive Director is hereby designated as the appointing authority for civil service commission purposes.

The Executive Director and the Civil Service Commission shall take the necessary actions to place all positions of the Agency under Civil Service coverage, effective July 1, 1976, with the following exceptions: (1) part-time professional personnel, (2) student interns, and (3) janitors.

All members of the Council shall be citizens of the State and be appointed by the Governor. Members of the Council shall serve at the will and the pleasure of the Governor. All members shall serve without pay, but may be reimbursed for actual and necessary travel expenses for travel to and from Council meetings and when performing other functions in furthering the work of the Council, said expenditures to be in line with the travel rules and regulations adopted by this State.