



Garden State CLE
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Garden State CLE Presents:



“Clean Slate”

The new expungement statutes

Lesson Plan

Instructor:

Allan Marain, Attorney

Part I -Introduction

- 1. Overview – The effective date of the new statutes and amendments within Chapter 52 of Title 2C is June 15, 2020. The changes to the law demonstrate a major shift in the Legislature’s philosophy toward expungements.**
- 2. Under N.J.S.A. 2C:52-32, the expungement chapter, enacted in 1979, was intended to be construed with the primary objective of providing relief to the reformed offender who has led a life of rectitude and disassociated himself with unlawful activity, but not to create a system whereby persistent violators of the law or those who associate themselves with continuing criminal activity have a regular means of expunging their police and criminal records.**
- 3. Although the public policy has not been amended, the new laws do exactly the opposite and guarantee an expungement for every eligible offense automatically.**
- 4. Among the significant changes are the elimination of marijuana convictions of every kind, reduction in waiting periods, elimination of filing fees, changes in venue requirements and automatic expungements after 10 years for most offenses.**
- 5. These and other changes are addressed during the CLE.**

Part II – Amendments and new statutes

1.) N.J.S.A. 2C:52-1 – Definitions

N.J.S.A. 2C:52-1 - Clarifies that an expungement involves sealing and impounding the records of conviction

The Legislature has not included DNA samples as an eligible record under N.J.S.A. 2C:52-1. But see N.J.S.A. 53:1-20.25 which addresses these expungements

2.) N.J.S.A. 2C:52-2 – Indictable offenses

- a) Petitioner may expunge one crime provided he has no subsequent crimes,**
- b) A prior conviction for a crime is no longer disqualifying unless it was expunged.**
- c) Petition may expunge one crime and 3 d/p offenses.**
- d) Crime spree – a prior conviction for a crime is not a disqualification.**
- e) Marijuana and hash convictions for distribution, possession, possession w/i, school zones and parks are all eligible now.**
- f) Upper court marijuana convictions are deemed to be d/p offenses. D/P marijuana and paraphernalia offenses involving marijuana do not count as offenses.**
- g) There is a general 5-year waiting period to file.**
- h) Fines are now considered to be financial assessments**
- i) Venue is in the Superior Court county where the most recent conviction occurred.**
- j) There will be an automatic civil judgment entered for unpaid financial obligations of sentence.**
- k) Time period for the “public interest/compelling circumstances” expungement is lowered to 4 years.**

3.) N.J.S.A. 2C:52-3 – Petty offenses

- a.) Jurisdiction is now in a court, which will probably be municipal court.**
- b.) Petitioner may expunge as many as 5 d/p and/or petty d/p offenses.**
- c.) Crime spree exception must involve convictions that occurred on the same day (but not necessarily the same court).**
- d.) Upper court marijuanan convictions count as d/p offenses. Municipal court marijuana convictions do not count as offenses.**
- e.) Waiting period for petition is 5 years.**
- f.) Venue is the county where the last offense occurred.**
- g.) Public interest/compelling circumstances waiting period is 3 years**

4.) N.J.S.A. 2C:52-5.2 – Marijuana offenses

- a.) Provides for automatic expungement of marijuana convictions for any number of offenses**

5.) N.J.S.A. 2C:52-5.3 – Clean Slate Automated Procedures

- a.) Petitions may be filed under the new “clean slate” law until the AOC develops an automated procedure.**
- b.) Venue is in the county where the most recent conviction occurred.**
- c.) All crimes that are eligible for expungement by law can be expunged without limitation.**

6.) N.J.S.A. 2C:52-5.4 – Vacating Clean Slate Expungements

a.) The automated process shall be designed to restore a person's convictions and other information contained in the person's criminal history record information files if the person is subsequently convicted of a crime, for which the conviction is not subject to expungement pursuant to subsection b. or c. of [N.J.S.2C:52-2](#). (E.G. Murder, kidnapping, sexual assault, robbery, arson, perjury and others listed in the statute). A prosecutor may submit the restored criminal history record information to the court for consideration at sentencing for the subsequent conviction.

7.) N.J.S.A. 2C:52-10.1 – E-filing of petitions to be required

8.) N.J.S.A. 2C:52-29 – Expungement filing fee eliminated.