

# SENATE, No. 434

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**  
**Senator RONALD L. RICE**  
**District 28 (Essex)**

### **SYNOPSIS**

Permits the sealing of certain criminal records.

### **CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning sealing records and supplementing chapter 52  
2 of Title 2C of the New Jersey Statutes.

3

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

6

7 1. a. (1) Except as otherwise provided, "sealed" shall mean that  
8 all index references shall be marked "not available" or "no record"  
9 and law enforcement officers and departments shall reply and the  
10 person may reply to any inquiry that there is no record with respect  
11 to such person, except that records may be maintained for purposes  
12 of reestablishing a record of offenses in the event of a subsequent  
13 violation.

14 (2) Sealed records shall include complaints, warrants, arrests,  
15 commitments, processing records, fingerprints, photographs, index  
16 cards, "rap sheets," judicial docket records, correctional, probation  
17 and parole records.

18 b. (1) Notwithstanding any other provision of law, any person  
19 convicted of a crime of the third degree or a crime of the fourth  
20 degree under the laws of this State, who for a period of five years  
21 from the date of his last conviction, payment of fine, satisfactory  
22 completion of probation or release from incarceration, whichever is  
23 later, has not been convicted of any subsequent crime whether in  
24 this State or any other jurisdiction, or of any other disorderly  
25 persons or petty disorderly persons offenses, and no charges are  
26 currently pending, may present a duly verified petition to the  
27 Superior Court in the county or counties in which each conviction  
28 was entered seeking to have each conviction involving a disorderly  
29 persons offense, a petty disorderly persons offense, a crime of the  
30 third degree or a crime of the fourth degree, and all records and  
31 information related thereto sealed.

32 (2) Any person convicted of a disorderly persons offense or a  
33 petty disorderly persons offense under the laws of this State, who  
34 for a period of three years from the date of his last conviction,  
35 payment of fine, satisfactory completion of probation or release  
36 from incarceration, whichever is later, has not been convicted of  
37 any subsequent crime whether in this State or any other jurisdiction,  
38 or of any other disorderly persons or petty disorderly persons  
39 offenses, and no charges are currently pending, may present a duly  
40 verified petition to the Superior Court in the county or counties in  
41 which each conviction was entered seeking to have each conviction  
42 involving a disorderly persons offense or a petty disorderly persons  
43 offense and all records and information related thereto sealed.

44 (3) A person found guilty of violating a municipal ordinance of  
45 any governmental entity of this State who for a period of one year  
46 from the date of his last conviction, payment of fine, satisfactory  
47 completion of probation or release from incarceration, whichever is  
48 later, has not been convicted of any subsequent crime whether in

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1 this State or any other jurisdiction, or of any other disorderly  
2 persons or petty disorderly persons offenses or violations of a  
3 municipal ordinance, and no charges are currently pending, may  
4 present a duly verified petition to the Superior Court in the county  
5 or counties in which each conviction was entered seeking to have  
6 each conviction involving a municipal ordinance violation, and all  
7 records and information related thereto sealed.

8 c. Petition for seal. Every petition for a seal filed pursuant to  
9 this act shall be verified and include:

10 (1) Petitioner's date of birth.

11 (2) Petitioner's dates of arrest.

12 (3) The statute or statutes and offense or offenses for which  
13 petitioner was arrested and of which petitioner was convicted.

14 (4) The original indictment, summons or complaint number.

15 (5) Petitioner's date or dates of conviction, or date of disposition  
16 of the matter if no conviction resulted.

17 (6) The court's disposition of the matter and the punishment  
18 imposed, if any.

19 d. There shall be attached to a petition for a seal a statement  
20 with the affidavit or verification that there are no disorderly  
21 persons, petty disorderly persons, criminal charges or municipal  
22 ordinance violations pending against the petitioner at the time of  
23 filing of the petition for a seal.

24 e. Upon the filing of a petition for relief pursuant to this act, the  
25 court shall, by order, fix a time for hearing of the matter.

26 f. A copy of each petition, together with a copy of all supporting  
27 documents, shall be served pursuant to the rules of court upon the  
28 county prosecutor of the county wherein the court is located; the  
29 chief of police or other executive head of the police department of  
30 the municipality wherein the offense was committed; the chief law  
31 enforcement officer of any other law enforcement agency of this  
32 State which participated in the arrest of the individual; the  
33 superintendent or warden of any institution in which the petitioner  
34 was confined; and, if a disposition was made by a municipal court,  
35 upon the judge of that court.

36 g. If, prior to the hearing, there is no objection from those law  
37 enforcement agencies notified or from those offices or agencies  
38 which are required to be served, and no reason appears to the  
39 contrary, the court may, without a hearing, grant an order directing  
40 the clerk of the court and all relevant criminal justice and law  
41 enforcement agencies to seal records of said disposition including  
42 evidence of arrest, detention, conviction and proceedings related  
43 thereto.

44 h. In the event that none of the persons or agencies required to  
45 be noticed has entered any objection to the relief being sought, the  
46 court may nevertheless deny the relief sought if it concludes that  
47 petitioner is not entitled to relief for the reasons provided in this act.

48 i. A petition for expungement filed pursuant to this chapter shall

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1 be denied when any statutory prerequisite, including any provision  
2 of this act, is not fulfilled or there is any other statutory basis for  
3 denying relief.

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

11 k. Expungement of records sealed pursuant to the provisions of  
12 this section shall be governed by the applicable provisions of  
13 chapter 52 of Title 2C of the New Jersey Statutes.

14

15 2. Prior to the entry of an order to seal records as provided  
16 herein, the court shall inform the person orally and in writing that  
17 any conviction of a crime or offense within a five year period  
18 subsequent to the sealing shall have the effect of nullifying the  
19 sealing order, and can result in the imposition of double penalties  
20 for the subsequent offense. The petitioner shall be required to  
21 acknowledge receipt of this information.

22

23 3. This act shall take effect immediately.

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STATEMENT

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28 This bill would permit the sealing of criminal records in certain  
29 circumstances. Under the bill, sealing records means that all index  
30 references shall be marked "not available" or "no record" and law  
31 enforcement officers and departments shall reply and the person  
32 may reply to any inquiry that there is no record with respect to such  
33 person, except that records may be maintained for purposes of  
34 reestablishing a record of offenses in the event of a subsequent  
35 violation. Sealed records shall include complaints, warrants,  
36 arrests, commitments, processing records, fingerprints,  
37 photographs, index cards, "rap sheets," judicial docket records,  
38 correctional, probation and parole records.

39 The bill provides that any person convicted of a crime of the  
40 third degree or a crime of the fourth degree, under the laws of this  
41 State, who for a period of five years from the date of his last  
42 conviction, payment of fine, satisfactory completion of probation or  
43 release from incarceration, whichever is later, has not been  
44 convicted of any subsequent crime whether in this State or any  
45 other jurisdiction, or of any other disorderly persons or petty  
46 disorderly persons offenses, and no charges are currently pending,  
47 may present a duly verified petition to the Superior Court in the  
48 county or counties in which each conviction was entered seeking to

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1 have each conviction involving a disorderly persons offense, a petty  
2 disorderly persons offense, a crime of the third degree or a crime of  
3 the fourth degree, and all records and information related thereto  
4 sealed. Petitions may be made after a period of three years for  
5 disorderly persons offenses and petty disorderly persons offense;  
6 and following a one year period for municipal ordinance violations.

7 Notice of the petition shall be provided to the county prosecutor  
8 of the county wherein the court is located; the chief of police or  
9 other executive head of the police department of the municipality  
10 wherein the offense was committed; the chief law enforcement  
11 officer of any other law enforcement agency of this State which  
12 participated in the arrest of the individual; the superintendent or  
13 warden of any institution in which the petitioner was confined; and,  
14 if a disposition was made by a municipal court, upon the judge of  
15 that court.

16 Under the bill, prior to the entry of an order to seal records, the  
17 court shall inform the person orally and in writing that any  
18 conviction of a crime or offense within a five year period  
19 subsequent to the sealing shall have the effect of nullifying the  
20 sealing order; and can result in the imposition of double penalties  
21 for the subsequent offense.

22 The sponsor recognizes that sealing records does not have the  
23 effect of expungement, nor does the bill alter the requirements of  
24 the expungement statute. It is the sponsors' intent to provide  
25 offenders who have maintained a clean record for a significant  
26 period of time following their release from supervision the ability to  
27 seek employment opportunities without the need to make reference  
28 to past criminal involvement in certain instances.

29 Substantially similar provisions are available to juvenile  
30 offenders under the code of Juvenile Justice, N.J.S.A.2A:4A-62.