



1 - one pound or less of marijuana, or 80 grams or less of hashish  
2 would become an unlawful act. A first violation would be subject  
3 to a written warning, and a second or subsequent violation would be  
4 subject to a civil penalty of \$25 or the performance of community  
5 service in lieu of payment of the penalty. The civil penalty would  
6 be recovered in a summary proceeding in accordance with the  
7 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
8 10 et seq.), before the municipal court having jurisdiction.  
9 Whenever community service was imposed, the value of each hour  
10 of service would be considered to be not less than the State or  
11 federal minimum wage, whichever wage is higher, and the total  
12 value of community service imposed could not exceed \$25.

13 The bill would also regrade, and change the applicable amounts  
14 for, the unlawful possession of marijuana or hashish, which is  
15 currently a crime of the fourth degree (up to 18 months  
16 imprisonment; up to \$10,000 fine; or both) when the act involves  
17 more than 50 grams of marijuana or more than five grams of  
18 hashish, and, when the act involves lesser amounts, a disorderly  
19 persons offense (up to six month imprisonment; up to \$1,000 fine;  
20 or both). See N.J.S.2C:35-10, subsection a., paragraphs (3) and (4).

21 Under the bill, unlawful possession would be:

22 - a disorderly persons offense (up to six month imprisonment; up  
23 to \$1,000 fine; or both) when the act involved more than one pound  
24 of marijuana or more than 80 grams of hashish; and

25 - an unlawful act subject first to a written warning, and thereafter  
26 subject to a civil penalty of \$25, or the performance of community  
27 service in lieu of payment of the penalty, when the act involved one  
28 pound or less of marijuana or 80 grams or less of hashish. Similar  
29 to distribution when graded as an unlawful act, the civil penalty  
30 would be recovered in a summary proceeding in accordance with  
31 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
32 10 et seq.), before the municipal court having jurisdiction.  
33 Whenever community service was imposed, the value of each hour  
34 of service would be considered to be not less than the State or  
35 federal minimum wage, whichever wage is higher, and the total  
36 value of community service imposed could not exceed \$25.

37 Regarding the above described unlawful acts of distribution or  
38 possession subject to a written warning, and thereafter a civil  
39 penalty or community service in lieu of payment of the penalty, the  
40 odor of marijuana or hashish, or burnt marijuana or hashish, would  
41 not constitute reasonable articulable suspicion to initiate a search of  
42 a person to determine a violation. Additionally, a person would not  
43 be subject to arrest, being detained, or otherwise being taken into  
44 custody unless the person had committed another violation of the  
45 law. Also, a person who committed an unlawful act subject to a  
46 written warning, or civil penalty or community service in lieu of  
47 payment of the penalty, could not be deprived of any legal or civil  
48 right, privilege, benefit, or opportunity provided pursuant to any

1 law solely by reason of committing that act, nor would committing  
2 one or more such acts modify any legal or civil right, privilege,  
3 benefit, or opportunity provided pursuant to any law.

4 All local and county law enforcement authorities would,  
5 following the submission process used for the uniform crime  
6 reporting system established by P.L.1966, c.37 (C.52:17B-  
7 5.1 et seq.), submit a quarterly report to the Uniform Crime  
8 Reporting Unit, within the Division of State Police in the  
9 Department of Law and Public Safety, or to another designated  
10 recipient determined by the Attorney General, containing the  
11 number of unlawful acts of distribution or possession subject to a  
12 written warning, or civil penalty or community service in lieu of  
13 payment of the penalty, committed within their respective  
14 jurisdictions, plus the race, ethnicity, gender, and age of each  
15 person committing a violation, and the disposition of each person's  
16 violation. These violations and associated information, along with  
17 a quarterly summary of violations investigated and associated  
18 information collected by the State Police for the same period would  
19 be summarized by county and municipality in an annual report, and  
20 both quarterly summaries and annual reports would be made  
21 available at no cost to the public on the State Police's Internet  
22 website.

23 Using or being under the influence of marijuana or hashish, or  
24 failing to voluntarily deliver such to a law enforcement officer, both  
25 currently disorderly persons offenses (up to six months  
26 imprisonment; up to \$1,000 fine; or both), would no longer be  
27 illegal acts, and thus there would be no legal consequences flowing  
28 from using, being under the influence of, or failing to deliver to law  
29 enforcement, marijuana or hashish. Using or possessing with intent  
30 to use drug paraphernalia to ingest, inhale, or otherwise introduce  
31 marijuana or hashish into the human body would also no longer be  
32 considered an illegal act; under current law, it is graded as a  
33 disorderly persons offense.

34 Notwithstanding that using or being under the influence of  
35 marijuana or hashish, or using or possessing drug paraphernalia to  
36 use with marijuana or hashish, would no longer be illegal acts, the  
37 smoking of marijuana or hashish, and the use of drug paraphernalia  
38 for these substances, could be prohibited or otherwise regulated on  
39 or in any property by the person or entity that owns or controls that  
40 property, including multifamily housing that is a multiple dwelling  
41 as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), the units of  
42 a condominium, as those terms are defined by section 3 of  
43 P.L.1969, c.257 (C.46:8B-3), or a site in a mobile home park as  
44 defined in section 3 of P.L.1983, c.386 (C.40:55D-102), which site is  
45 leased to the owner of a manufactured home, as defined in that section,  
46 that is installed thereon.

47 Lastly concerning the above described unlawful acts of  
48 distribution or possession of marijuana or hashish, as well as using

1 or being under the influence of such, none of these acts: (1) could  
2 be prohibited or restricted based on any conditions imposed with  
3 respect to court-ordered pretrial release or probation, or with  
4 respect to certified parole release, or (2) could be considered a  
5 violation of the terms of pretrial release, probation, or parole.

6 Reducing the Legal Consequences of Certain Marijuana and  
7 Hashish Offenses

8 No court would have jurisdiction over any charge, including any  
9 charge of delinquency, except to the extent required to dismiss,  
10 withdraw, or terminate the charge, based on a prior small amount  
11 distribution offense involving less than one ounce of marijuana or  
12 less than five grams of hashish, or a prior possession offense  
13 involving 50 grams or less of marijuana or five grams or less of  
14 hashish, acts which would now only be punishable as an unlawful  
15 act subject to a written warning, or civil penalty or community  
16 service in lieu of payment of the penalty, unless a final judgment of  
17 conviction or adjudication of delinquency on the past offense had  
18 been entered on or before the bill's effective date. These non-  
19 prosecutable charges and cases would be expeditiously dismissed,  
20 which could be accomplished by appropriate action by a law  
21 enforcement agency, or on a motion to the court with jurisdiction  
22 over a case, or the court's own motion, based upon guidelines,  
23 administrative directives, and court orders issued by the Attorney  
24 General, the Administrative Director of the Courts, and the  
25 Supreme Court.

26 Any past or future charge, conviction, or adjudication of  
27 delinquency for an even broader array of marijuana and hashish  
28 offenses, as well as future unlawful acts of distribution and  
29 possession, would not be considered whenever the Pretrial Services  
30 Program established by the Administrative Office of the Courts  
31 conducted a risk assessment on a person for the purpose of making  
32 recommendations to a court about an appropriate pretrial release or  
33 pretrial detention decision for that individual in accordance with  
34 sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).  
35 These non-considered offenses would include:

36 - unlawful distribution of, or possessing or having under control  
37 with intent to distribute, less than five pounds of marijuana, or less  
38 than one pound of hashish, in violation of paragraph (11) of subsection  
39 b. of N.J.S.2C:35-5 or, for past violations, paragraph (12) of that  
40 subsection b., a past or future violation of either of those paragraphs  
41 and a violation of subsection a. of section 1 of P.L.1987, c.101  
42 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-  
43 7.1), for distributing, or possessing or having under control with intent  
44 to distribute, on or within 1,000 feet of any school property, or on or  
45 within 500 feet of the real property comprising a public housing  
46 facility, public park, or public building;

47 - obtaining or possessing marijuana in violation of paragraph (3) of  
48 subsection a. of N.J.S.2C:35-10 (past offenses, more than 50 grams;

1 future offenses under the bill, more than one pound), or, for past  
2 offenses, possession of 50 grams or less, or using, being under the  
3 influence of, or failing to voluntarily deliver to a law enforcement  
4 officer, any amount of marijuana or hashish in violation of paragraph  
5 (4) of subsection a., subsection b., or subsection c. of N.J.S.2C:35-10;  
6 or

7 - a past violation involving any of the aforementioned offenses  
8 and using or possessing with intent to use drug paraphernalia with that  
9 marijuana or hashish in violation of N.J.S.2C:36-2.

10 The bill would also establish grounds for post-conviction relief  
11 due to a past conviction or adjudication of delinquency for any of  
12 the above described marijuana or hashish offenses, which would  
13 permit an opportunity to have a sentence reduced or changed as  
14 permitted by the court.

15 New Form of "Virtual" Expungement for Certain Marijuana and  
16 Hashish Offenses

17 Beginning immediately upon the enactment of the bill, any arrest,  
18 charge, conviction, or adjudication of delinquency, and proceedings  
19 related thereto, for any of the above described broad list of marijuana  
20 or hashish offenses that occurred prior to the bill's effective date  
21 would be deemed not to have occurred (other than, generally, with  
22 respect to the consequences of any sentence set forth in a judgment of  
23 conviction), providing such legal relief without need to petition a  
24 court for an expungement order granting such result. While persons  
25 would be able to respond to questions about such past occurrences  
26 accordingly, information about such would still need to be revealed if  
27 seeking employment within the judicial branch or with a law  
28 enforcement or corrections agency, and the record would be subject to  
29 review in accordance with N.J.S.2C:52-15 et seq.

30 Sealing of Records Associated With Unlawful Acts of Marijuana  
31 and Hashish Distribution or Possession

32 Once the Administrative Office of the Courts develops and  
33 maintains its system for sealing records related to various marijuana  
34 and hashish distribution, possession, and drug paraphernalia offenses  
35 pursuant to section 6 of P.L.2019, c.269 (C.2C:52-5.2), then all  
36 records relating to unlawful acts of marijuana or hashish distribution as  
37 described above, for which a civil penalty or community service in  
38 lieu of payment of the penalty was imposed, would, upon  
39 disposition of the case and any proceedings related thereto, be  
40 sealed based upon a court order of nondisclosure to the public of  
41 such records.

42 Reforms Applicable to All Expungements and Sealed Records  
43 Penalties for Wrongful Dissemination of Expunged Records or  
44 Information

45 The bill would increase the maximum fine, from \$200 to \$2,000,  
46 which could be imposed on a person who reveals to another the  
47 existence of an arrest, conviction, unlawful act violation, or related  
48 legal proceeding with knowledge that the record or information has

1 been expunged or sealed. A person could also be subject to a term  
2 of imprisonment of up to six months because such an act is  
3 categorized as a disorderly persons offense. See N.J.S.2C:52-30.

4 In addition, the bill provides that any person or entity regularly  
5 engaged in the business of collecting, assembling, evaluating or  
6 disseminating records on individuals for a fee is required to  
7 regularly update their records to ensure accuracy, promptly delete a  
8 record that has been expunged or sealed, provide clients with the  
9 date collected and explain to clients that records are valid only as of  
10 the date collected. Any such regularly-engaged person or entity  
11 who disseminates a record that has been expunged or sealed, and  
12 knows or should have known at the time of dissemination that the  
13 record has been expunged or sealed, would be liable to the  
14 individual who is the subject of the record for damages totaling  
15 \$5,000 or the actual damages caused by the violation, whichever is  
16 greater, plus costs and attorney fees.

17 Promoting Awareness of the Expungement Process

18 The Administrative Director of the Courts would develop and  
19 maintain:

20 - information, to be provided to a person upon request, about the  
21 expungement process and legal services programs Statewide and in  
22 each county which may be available to assist the person with an  
23 expedited expungement, pursuant to section 5 of P.L.2019, c.269  
24 (C.2C:52-5.1), for the various marijuana and hashish distribution,  
25 possession, and drug paraphernalia offenses described above under the  
26 statement subheading for Reducing the Legal Consequences of  
27 Certain Marijuana and Hashish Offenses, or a "clean slate"  
28 expungement, which generally addresses a person's entire criminal  
29 record, pursuant to section 7 of P.L.2019, c.269 (C.2C:52-5.3); and

30 - develop a multilingual public awareness campaign to promote  
31 awareness of the expungement process, as well as information on  
32 State, local, nonprofit and other private job training programs in  
33 consultation with the Department of Labor and Workforce  
34 Development, with a focus on assisting those persons eligible for an  
35 expedited expungement or "clean slate" expungement.

36 Civil Justice Reforms

37 In addition to the above described criminal justice relief largely  
38 focused on marijuana and hashish offenses and promoting  
39 awareness of the expungement process for clearing records, the bill  
40 would provide an array of civil protections against discrimination  
41 targeting persons with an arrest, charge, conviction, or adjudication  
42 of delinquency involving any of the aforementioned marijuana and  
43 hashish distribution, possession, and drug paraphernalia offenses  
44 described above under the statement subheading for Reducing the  
45 Legal Consequences of Certain Marijuana and Hashish Offenses, or  
46 targeting persons with a civil penalty or community service  
47 imposed in lieu of payment of the penalty for committing an  
48 unlawful act of distribution or possession with marijuana or

1 hashish. These protections would include monetary penalties,  
2 enforceable by the State, against employers regarding employment  
3 actions or persons involved with mortgage lending activities, as  
4 well as a private cause of action for discrimination in public or  
5 private housing, real property, or any place of public  
6 accommodation.

7 Lastly, the bill would make confidential, and no longer a  
8 government record subject to public inspection under P.L.1963,  
9 c.73 (C.47:1A-1 et seq.), the portion of any criminal record  
10 concerning a person's detection, apprehension, arrest, detention,  
11 trial or disposition for any of the aforementioned offenses, or any  
12 record concerning a person's commission of any of the  
13 aforementioned unlawful acts subject to a civil penalty, or  
14 community service imposed in lieu of payment of the penalty.