NEW JERSEY LAW REVISION COMMISSION

Draft Tentative Report Addressing "Clean Slate" Statute (N.J.S.A. 2C:52-5.3) As Applied to Out-of-State Convictions

November 10, 2025

The New Jersey Law Revision Commission is required to "[c]onduct a continuous examination of the general and permanent statutory law of this State and the judicial decisions construing it" and to propose to the Legislature revisions to the statutes to "remedy defects, reconcile conflicting provisions, clarify confusing language and eliminate redundant provisions." *N.J.S.* 1:12A-8.

This Report is distributed to advise interested persons of the Commission's tentative recommendations and to notify them of the opportunity to submit comments. Comments should be received by the Commission no later than **January 19, 2026**.

The Commission will consider these comments before making its final recommendations to the Legislature. The Commission often substantially revises tentative recommendations as a result of the comments it receives. If you approve of the Report, please inform the Commission so that your approval can be considered along with other comments. Please send comments concerning this Report or direct any related inquiries, to:

Whitney G. Schlimbach, Deputy Director
New Jersey Law Revision Commission
153 Halsey Street, 7th Fl., Box 47016
Newark, New Jersey 07102
973-648-4575
(Fax) 973-648-3123
Email: wgs@njlrc.org
Web site: http://www.njlrc.org

Project Summary

In 2019, New Jersey enacted N.J.S.A. 2C:52-5.3, referred to as the "clean slate" statute, which expanded expungement eligibility beyond what was permitted by New Jersey's other expungement statutes.[1] The clean slate statute allows an expungement application to be filed "after the expiration of a period of ten years from the date of the person's most recent conviction."[2]

In *Matter of K.M.G.*, the Appellate Division addressed, as a "matter of first impression," whether the "most recent conviction" language includes "a conviction from another state."[3] Reversing the trial court, which found based on the statute's plain language, that out-of-state convictions were excluded from the ten-year waiting period, the Appellate Division concluded that interpretation contradicted the "general purpose of the expungement statutes, [as well as] . . . the apparent design of the 'clean slate' statute as an alternative to ordinary expungement."[4]

Relying on the "clean slate" statute's legislative history, as well as New Jersey decisions interpreting similar language in other expungement statutes, the Appellate Division held that the requirement in N.J.S.A. 2C:52-5.3 that an application must be brought ten years after the petitioner's "most recent conviction," whether in New Jersey or out-of-state.[5]

The proposed modifications are set forth in the Appendix and propose adding language to N.J.S.A. 2C:52-5.3 clarifying that "most recent conviction" includes out-of-state convictions as well as New Jersey convictions.

Statute Considered

N.J.S. 2C:52-5.3 provides, in relevant part:

"Clean slate" expungement by petition.

> a. A person, who is not otherwise eligible to present an expungement application pursuant to any other section of chapter 52 of Title 2C of the New Jersey Statutes or other section of law, may present an expungement application to the Superior Court pursuant to this section . . .
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> b. The person, if eligible, may present the expungement application after the expiration of a period of ten years from the date of the person's most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later… [t]he person shall submit the expungement application to the Superior Court in the county in which the person resides or a county in which one or more of the person's convictions were adjudged, which includes a duly verified petition as

[1] N.J. STAT. ANN. § 2C:52-5.3 (West 2025).
[2] N.J. STAT. ANN. § 2C:52-5.3(b).
[3] *In re K.M.G.*, 477 N.J. Super. 167, 169 (App. Div. 2023).
[4] *Id.* at 178-79.
[5] *Id.* at 169-70.

provided in N.J.S.2C:52-7 praying that all the person's convictions, and all records and information pertaining thereto, be expunged.[6]

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Background

In *K.M.G.*, the petitioner was a Virginia resident who sought expungement of a 1988 arrest for forgery and a 1991 conviction for third-degree conspiracy to commit burglary and fourth-degree theft, all of which occurred in New Jersey.[7] Petitioner filed her application in 2021, and the State objected, asserting that she "failed to include an 'out-of-state arrest and/or charge' of unknown disposition."[8]

In 2022, the petitioner filed an amended petition setting forth the circumstances of a 2017 conviction "to a Class 1 misdemeanor 'Concealed Weapon' charge" in Virginia.[9] She pled guilty after being arrested for "Attempt to Purchase a Firearm Without a Permit" and "False History on Criminal History Consent Form."[10] The charges resulted from her statement on a firearms application that she not been convicted of a felony, believing that her 1991 New Jersey conviction "had been automatically expunged."[11]

The trial court granted petitioner's application for expungement, finding that "the Virginia conviction did not constitute a 'most recent conviction' . . . because it was an out-of-state conviction."[12] The court "relied on the presumption that a word or phrase is used in the same sense throughout [a] statute."[13] Therefore, because the other use of the phrase "most recent conviction," relating to the statute's venue provision, necessarily excludes out-of-state convictions,[14] the court concluded that the ten-year waiting period provision also did not include out-of-state convictions.[15]

In support of this interpretation, the court pointed out that the statute permits the ten-year waiting period to begin on "the date on which the petitioner made payment of any 'court-ordered financial assessment,'" which are "limited to penalties related to New Jersey convictions."[16] In addition, the court noted that another use of the term "convictions" in the statute clearly includes

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[6] N.J. STAT. ANN. § 2C:52-5.3 (emphasis added).
[7] *K.M.G.*, 477 N.J. Super at 170.
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id.* at 170-71.
[12] *Id.* at 172.
[13] *Id.*
[14] *Id.* ("the second usage necessarily refers to a New Jersey conviction where it states: 'The person shall submit the expungement application to the Superior Court in the county in which the most recent conviction for a crime or offense was adjudged . . . ' [and t]he court determined that a petitioner could not file for a 'clean slate' expungement in another jurisdiction, so the phrase 'most recent conviction' . . . in that sentence must be referring to a New Jersey conviction").
[15] *Id.*
[16] *Id.*

only New Jersey convictions,[17] and finally, unlike in other expungement statutes, the Legislature did not include language specifying that "out-of-state convictions . . . defin[e] eligibility" for expungement.[18]

Analysis

Although the State did not dispute the trial court's interpretation of the plain language of N.J.S.A. 2C:52-5.3 on appeal, the Appellate Division expressed "disagreement with the [conclusion] . . . that based on a plain meaning interpretation of the 'clean slate' statute, 'conviction' in the phrase 'most recent conviction' is limited to New Jersey convictions."[19]

The Appellate Division began by noting that the "clean slate" statute applies to "disorderly and petty disorderly persons offenses" as well as "crimes," and these terms, as used in New Jersey statutes, "ordinarily include out-of-state offenses."[20] The Court indicated that interpreting the two instances of the phrase "most recent convictions" in N.J.S.A. 2C:52-5.3 differently "at most, . . . creates an inconsistency."[21] However, the Court concluded that, "arguably there is no inconsistency," because the term "conviction" in the waiting period provision is used in its common sense way to include New Jersey *and* out-of-state convictions, while "in the statute's venue provision [the term] is impliedly qualified to mean 'New Jersey conviction'" only.[22]

The Appellate Division further found that the trial court's interpretation of the statutory language did not align with the purpose and legislative history of the "clean slate" statute.[23] The Court explained that "[t]he trial court's reading of the statute failed to consider the Legislature's mandate" that the goal of the expungement statutes is to "provid[e] relief to the reformed offender."[24] Interpreting the waiting period provision to exclude out-of-state convictions "would apply equally and give relief to a petitioner with a lengthy record of out-of-state convictions in the ten years preceding an expungement petition."[25] Reading the "clean slate" statute "to permit the expungement of an unlimited number of convictions of a person who has continued to violate the law is plainly contrary to" the Legislature's intent in enacting the statute.[26]

Furthermore, the Court found "nothing in the history of the 'clean slate' statute's enactment" supporting the trial court's understanding of the waiting period provision.[27] The Court

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[17] *Id.* at 172-73 ("'convictions; in the phrase 'a duly verified petition as provided in N.J.S.A. 2C:52-7 praying that all the person's convictions ... be expunged,' . . . 'must be limited to New Jersey convictions'").
[18] *Id.* at 173.
[19] *Id.* at 176 ("[t]he State essentially accepts the trial court's reading as to the plain meaning of the statute . . . but argues that it is not the best indicator of the Legislature's intent").
[20] *Id.* at 176-77.
[21] *Id.* at 177.
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.* at 178.
[26] *Id.*
[27] *Id.* at 182.

cited to various statements released at the time, including "[t]he Governor's Office's press release" which characterized the statute as intended to allow expungement "for those 'who have not committed an offense in ten years.'"[28] Additional statements from legislators, including the bill's sponsor, indicated that the statute was intended "for 'former offenders'" and "would 'bring us a step closer to social equity and social justice for offenders who have not committed a law violation in years.'"[29]

Finally, the Appellate Division discussed decisions by New Jersey courts "fac[ing] a similar dilemma when interpreting prior iterations of the expungement statutes to avoid an absurd result."[30]

In *State v. Josselyn*, the Law Division addressed statutory language permitting an expungement petition "[i]n all cases wherein a criminal conviction has been entered against any person, and no subsequent conviction has been entered against such person."[31] The *Josselyn* Court held that the language "no subsequent conviction included out-of-state convictions," finding that permitting expungement of a New Jersey conviction despite a subsequent out-of-state conviction, was "an 'absurd' result that ran counter to the statute's purpose to give relief to the reformed."[32]

The decision in *State v. Ochoa* involved statutory language that allowed expungement when a petitioner "has not been convicted of any prior or subsequent crime, whether within the State or any other jurisdiction, or of another three disorderly persons or petty disorderly persons offenses."[33] The *Ochoa* petitioner argued that the placement of the phrase "whether within this State or any other jurisdiction" meant that it should only apply to "any prior or subsequent crime," and not disorderly persons offenses.[34] In *Ochoa*, the Appellate Division "declined 'to construe this omission as an affirmative expression of a legislative intent that convictions of disorderly persons and petty disorderly persons in other jurisdictions should be disregarded.'"[35]

The *K.M.G.* Court drew a parallel between the statutory language in *Ochoa* and the "clean slate" statute language, neither of which "specif[ied] that the conviction. . . includes out-of-state convictions," or "that such offenses must have been committed in New Jersey."[36] The Court found that, in both cases, "there . . . is a strong, if not conclusive, textual argument that the disputed

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[28] *Id.*
[29] *Id.*
[30] *Id.* at 179.
[31] *Id.* at 179-80 (citing *State v. Josselyn*, 148 N.J. Super. 538, 539-40 (Law Div. 1977) (quoting N.J. STAT. ANN. § 2A:164-28 (1977), repealed by L.1978, c. 95, §2C:98-2, eff. Sept. 1, 1979)).
[32] *Id.* at 180.
[33] *Id.* (citing *State v. Ochoa*, 314 N.J. Super. 168, 170 (App. Div. 1998) (quoting N.J. STAT. ANN. § 2C:52-3 (1981), amended L.2017, c. 244, § 2, eff. Oct. 1, 2018)).
[34] *Id.* at 181.
[35] *Id.* ("The current version of the statute now makes clear that disorderly persons convictions 'whether within this State or any other jurisdiction' are counted in determining eligibility.").
[36] *Id.*

language nevertheless excludes out-of-state convictions," in addition to a "clear directive that the expungement statutes be construed to give relief to the reformed."[37]

Language in Other New Jersey Expungement Statutes

Consistent language is used in other New Jersey expungement statutes to indicate that out-of-state convictions are relevant to expungement eligibility: "whether within this State or any other jurisdiction." This language appears in N.J.S.A. 2C:52-2, which deals with expungement of indictable offenses;[38] N.J.S.A. 2C:52-3, which addresses disorderly persons offenses;[39] and N.J.S.A. 2C:52-4, addressing ordinances.[40]

All three statutes use this qualifying language in relation to the requirement that a petitioner cannot have a conviction(s) other than those presented for expungement. N.J.S.A. 2C:52-2 states that a petitioner is not eligible if they "have any subsequent conviction for another crime, whether within this State or any other jurisdiction."[41] N.J.S.A. 2C:52-3 employs the language similarly, requiring that a petitioner "has not been convicted of any crime, whether within this State or any other jurisdiction."[42] Finally, N.J.S.A. 2C: 52-4 uses the same language when denying eligibility to those "convicted of any prior or subsequent crime."[43]

The clean slate statute, however, specifically permits expungement regardless of other convictions[44] if the petitioner has been offense-free for ten years since the "most recent conviction."[45] Like the clean slate statute, both N.J.S.A. 2C:52-2 and N.J.S.A. 2C:52-3 include a waiting period triggered by the petitioner's "most recent conviction," but neither statute specifies that the "most recent conviction" includes convictions from "within this State or any other jurisdiction."[46]

There are two currently pending bills that propose eliminating this specific language from N.J.S.A. 2C:52-2, -3, and -4.[47] The Statements accompanying the bills indicate that the amendment "eliminates a barrier to expungement posed by out-of-state or federal convictions[, because u]nder

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[37] *Id.* at 181-82.
[38] N.J. STAT. ANN. § 2C:52-2 (West 2025).
[39] N.J. STAT. ANN. § 2C:52-3 (West 2025).
[40] N.J. STAT. ANN. § 2C:52-4 (West 2025).
[41] N.J. STAT. ANN. § 2C:52-2(a).
[42] N.J. STAT. ANN. § 2C:52-3(a)-(b).
[43] N.J. STAT. ANN. § 2C:52-4 ("who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction").
[44] N.J. STAT. ANN. § 2C:52-5.3(a) (permitting petitions from those "who [are] not otherwise eligible to present an expungement application pursuant to any other section of chapter 52," "unless the person has a conviction for a crime which is not subject to expungement pursuant to subsection b. or c. of N.J.S. 2C:52-2").
[45] N.J. STAT. ANN. § 2C:52-5.3(b).
[46] N.J. STAT. ANN. § 2C:52-2(a) ("The person, if eligible, may present the expungement application after the expiration of a period of five years from the date of the person's most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later."); N.J. STAT. ANN. § 2C:52-3(b) (employing identical language).
[47] A.B. 4749, 221st Leg., 2024 Sess. (Sept. 19, 2024) and S.B. 3846, 221st Leg., 2024 Sess. (Oct. 28, 2024) (proposing amendments to several expungement statutes, including the clean slate statute); *see also infra* at pp.9 & 11-12.

current law, when calculating a person's eligibility for an expungement, out-of-state and federal convictions are counted against the total number of convictions a person may have on their record."[48] The Statements explain that, because "there is no expungement available for federal convictions and expungement laws vary from state to state," the amendment ensures "that eligibility is determined only under the laws of this State."[49]

The proposed amendments do not explicitly alter the requirement that an expungement petition cannot be brought for a certain number of years after the petitioner's "most recent conviction." As noted in the Statements, the amendments are intended to prevent out-of-state and federal convictions from disqualifying an individual from expungement *entirely*,[50] not to disallow non-New Jersey convictions from retriggering the statutory waiting period.[51]

Therefore, the proposed bills do not directly implicate the issue addressed by the *K.M.G.* Court or the statutory clarification proposed herein.

Automatic Expungement Process and Task Force

During the October 2025 Commission meeting, the issue of whether the clean slate statute provides for automatic expungement for eligible individuals was raised.[52] Pursuant to N.J.S.A. 2C:52-5.4,[53] the State was tasked with creating "an automated process" by which convictions and related materials are sealed or expunged as set forth in the clean slate statute.[54] In furtherance of establishing the automated system, the statute created "a task force for the purpose of examining,

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[48] Statement to A.B. 4749, 221st Leg., 2024 Sess., at 37 ("Fourth, the bill eliminates a barrier to expungement posed by out-of-state or federal convictions. Under current law, when calculating a person's eligibility for an expungement, out-of-state and federal convictions are counted against the total number of convictions a person may have on their record. However, at present, there is no expungement available for federal convictions, and expungement laws vary from state to state. Therefore, the bill amends the statutes so that eligibility is determined only under the laws of this State.").

[49] *Id.*

[50] Unlike the clean slate statute, the other New Jersey expungement statutes disqualify petitioners from *ever* expunging an otherwise eligible conviction if the petitioner has another, or multiple other, convictions, and currently out-of-state convictions can trigger this ineligibility. *See e.g.* N.J. STAT. ANN. § 2C:52-2 (allowing expungement of one criminal conviction only if the petitioner has no subsequent criminal convictions, or "no more than three disorderly persons . . . offenses" and imposing additional requirements for expunging multiple convictions); N.J. STAT. ANN. § 2C:52-3 (allowing expungement of one or more disorderly persons offenses only if the petitioner has not been convicted of any crime or any subsequent disorderly persons convictions); N.J. STAT. ANN. § 2C:52-4 (permitting expungement of convictions of municipal ordinance violations only if the petitioner has no other criminal convictions or no more than two disorderly person convictions).

[51] N.J. STAT. ANN. § 2C:52-2(a) (imposing a five-year waiting period from the petitioner's "most recent conviction"); N.J. STAT. ANN. § 2C:52-3(b) (same).

[52] N.J. Law Revision Comm'n, *Minutes NJLRC Meeting*, at *8, October 16, 2025, www. njlrc.org (last visited Nov. 6, 2025) [hereinafter "October 2025 Minutes"].

[53] N.J. STAT. ANN. § 2C:52-5.4 (West 2025) ("Automated 'clean slate' process; task force").

[54] N.J. STAT. ANN. § 2C:52-5.4(a)(1) ("[t]he State shall develop and implement an automated process, . . . by which all convictions, and all records and information pertaining thereto, shall be rendered inaccessible to the public, through sealing, expungement, or some equivalent process, for any person who [qualifies for expungement pursuant to the clean slate statute]").

evaluating, and making recommendations regarding the development and implementation of the automated process."[55]

The Clean Slate Task Force issued a Report and Recommendations in April 2022.[56] Briefly, the Report recommends that the Judiciary identify eligible petitions, exchange information with prosecutors and the New Jersey State Police regarding the identified cases, including a petitioner's in and out-of-state criminal record,[57] and work together to develop the automated process for evaluating eligibility for expungements.[58]

The Report also provides a description of the current (as of 2022) process for petitioning for expungement.[59] Petitions are filed via the "eCourts Expungement System" (Expungement System), which links the case number to information contained in the Judiciary's Master Data Management database, "which has already compiled all known judiciary party records together."[60] The system provides the compiled "list of possible cases" to prosecutors, New Jersey State Police (NJSP) and the applicant for confirmation of the correct cases.[61]

Following its review of the petition and compiled information, the NJSP provides an Opinion Letter, which "reviews the court case history, the New Jersey Computerized Criminal History, and out of state records, for specific charges that may render an application ineligible to receive an expungement."[62] The petition and Opinion Letter are then forwarded to prosecutors, who will enter any objection to the petition into the Expungement System.[63] The decision to approve or deny the petition is provided electronically to prosecutors, NJSP and local law enforcement, who then "manually seal[] the data from source systems" and notify the system that expungement is complete.[64]

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[55] N.J. STAT. ANN. § 2C:52-5.4(b).

[56] Recommendations for an Automated Clean Slate Expungement Process, The Clean Slate Task Force Report, April 28, 2022, available at https://hdl.handle.net/10929/108690 (last visited Nov. 6, 2025).

[57] *Id.* at 5 ("**Recommendation 4**. NJSP should build an automated process to compare the case data provided by the Judiciary with the NJ criminal history record, and out of state history to which law enforcement has access.") (emphasis added).

[58] *Id.* at 4-5.

[59] *Id*. at 6-7.

[60] *Id.* at 6 ("The MDM leverages probabilistic matching algorithms to link party records, allowing the Judiciary to provide lists of all eligible cases across multiple divisions (Municipal, Criminal and Family / Juvenile) stretching back 40 years.").

[61] *Id.* ("As part of the petition-based process, the petitioner provides the e-filing system with a case number. The system links the party identification number from the case and connects to the Judiciary's Master Data Management (MDM) database, which has already compiled all known judiciary party records together into an enterprise party ID (EID).").

[62] *Id.* ("**Recommendation 5.** NJSP should work with assistant prosecutors to build within their systems an automated expungement eligibility screening process to replace the NJSP Opinion Letter. This could be used for both petition-based and petition-less expungements and would result in an automated workflow that gathers necessary information as to whether to disqualify or object to a petition and pass that to the assistant prosecutor for review with recommendations.") (emphasis added).

[63] *Id.*

[64] *Id.* ("Once a judge approves or denies an expungement application . . . [a]ssistant prosecutors, NJSP, and local law enforcement . . . can log into the eCourts system and review the pertinent tasks that are pending. After manually sealing

As mentioned *supra*, there are two relevant pending bills that address New Jersey's expungement statutes.[65] With respect to N.J.S.A. 2C:52-5.4, the bills propose adding a provision that "reconstitute[s] and reconvene[s]" the Clean Slate Task Force "for the purpose of providing updated findings and recommendations . . . in light of changes and developments in expungement laws and procedures."[66] The Statements to these bills indicate that "the automatic system is not yet operational."[67]

Federal and Foreign Criminal Convictions and Civil Violations

Another issue raised during the October Commission meeting was whether the waiting period in the clean slate statute would be triggered by federal or international convictions or civil violations.[68]

Federal Convictions

Although Staff has not located any cases directly holding that federal convictions trigger the statutory waiting period, there are decisions which treat federal convictions similarly to out-of-state convictions when considering expungement eligibility.

For instance, in *State v. Tully*,[69] the Appellate Division addressed the impact of a federal conviction on a petition to expunge a disorderly persons conviction pursuant to the then-current statute, N.J.S.A. 2A:169-11[70]. In 1976, the *Tully* petitioner sought expungement of a 1966 disorderly persons conviction despite being convicted of a federal narcotics crime in 1974.[71] The *Tully* Court held that, although the petitioner had been offense-free during the five years following his disorderly persons conviction, his subsequent federal conviction retriggered the five-year waiting period in the statute.[72]

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the data from source systems, they return to the eCourts system to mark the tasks completed. Once all the notification tasks are resolved for the final order, it is marked as expunged in eCourts. NJSP is responsible for sealing the NJ Computerized Criminal History (CCH) and maintaining the NJ CCH records including court disposition information as received by NJSP from the Judiciary. All entities are responsible for expunging their own records and maintaining those records for future use.").

[65] A.B. 4749, 221st Leg., 2024 Sess. (Sept. 19, 2024) and S.B. 3846, 221st Leg., 2024 Sess. (Oct. 28, 2024); *see also supra* note 47.

[66] *Id.*

[67] Statement to A.B. 4749, 221st Leg., 2024 Sess., at 38; *see also supra* note 48.

[68] October 2025 Minutes, *supra* note 52, at *7.

[69] *State v. Tully*, 150 N.J. Super. 516 (App. Div. 1977).

[70] N.J. STAT. ANN. § 2A:169-11 (repealed by L.1978, c. 95, § 2C:98-2, eff. Sept. 1, 1979) ("In all cases wherein a person has been adjudged a disorderly person whereon sentence was suspended or a fine imposed and no subsequent criminal or disorderly person conviction has been entered against such person, it shall be lawful after the lapse of 5 years from the date of such conviction for the person so adjudged a disorderly person to present a duly verified petition to the County Court of the county in which the conviction was entered, setting forth all the facts in the matter and praying for the relief provided for in this act") (emphasis added).

[71] *Tully*, 150 N.J. Super. at 517.

[72] *Id.* at 518.

In addition, in *Application of N.A.*,[73] the Appellate Division held that the petitioner's federal conviction, which occurred after the conviction for which he requested expungement, was a "subsequent 'crime,'" disqualifying him from expungement under N.J.S.A. 2C:52-2.[74] The issue before the *N.A.* Court was whether the specific federal crime was equivalent to a "crime" under New Jersey law, not whether a *federal* crime would fall within the statutory language barring expungement.[75]

Civil Violations and Penalties

There is very limited case law regarding the impact of a civil violation or penalty on a criminal expungement petition. Although not directly on point, the *In re P.H.* case addressed whether expungement is available when the ultimate resolution of a criminal case is an admission to a civil violation.[76] The *P.H.* Court's analysis draws a sharp distinction between civil violations and criminal (and quasi-criminal) violations eligible for expungement under New Jersey's statutes.[77]

The *P.H.* petitioner was arrested and charged with animal cruelty after the death of his dog, and ultimately the case was resolved by the petitioner's admission to a civil violation and dismissal of the criminal charges.[78] The petitioner "filed a petition for expungement of all criminal records, specifically seeking to expunge 'evidence of the . . . complaint; of any evidence of arrest for same; and of any evidence of detention for same'" and the State opposed.[79] The trial court granted the petition, "determin[ing] the records relating to the civil penalty were 'not going away.'"[80]

The State argued that the petitioner was not eligible for expungement under N.J.S.A. 2C:52-6(a), which permits expungement of records when the "proceedings were dismissed, or [the petitioner] was acquitted, or . . . discharged without a conviction or finding of guilt."[81] Since the underlying facts of the criminal complaint and the civil admission were the same, "[t]he State assert[ed] . . . there is only one record, therefore, the disposition of [the petitioner's] arrest was not

[73] *Application of N.A.*, 218 N.J. Super. 547, 548–49 (App. Div. 1987) ("[petitioner] pled guilty on April 26, 1985, to a federal charge of causing a bank to fail to file a currency transaction report in violation of 31 U.S.C.A. § 5313(a)").
[74] N.J. STAT. ANN. § 2C:52-2(a) (1987) ("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, . . . may, . . . present a duly verified petition . . . praying that such conviction and all records and information pertaining thereto be expunged.") (emphasis added).
[75] *N.A.*, 218 N.J. Super. at 549 ("the expungement statute should be read . . . to contemplate a subsequent crime as an offense entailing possible imprisonment for more than six months[, and o]n this basis we conclude that petitioner's federal misdemeanor conviction bars his claim for relief").
[76] *In re P.H.*, 436 N.J. Super. 427, 435 (App. Div. 2014).
[77] *Id.*
[78] *Id.* at 430-32.
[79] *Id.* at 432.
[80] *Id.*
[81] *Id.* at 433 (quoting N.J. STAT. ANN. § 2C:52-6(a) (West 2025)).

a dismissal, but a guilty finding of an amended charge that carried a civil penalty," for which expungement is not available.[82]

The *P.H.* Court examined the statutory language and legislative history and found that "the statute's provisions 'discloses an expressed design to deal only with criminal charges and their consequences.'"[83] In finding that expungement of the criminal component of the petitioner's case was permitted under the statute, the Court emphasized that the petitioner "was held to answer for an offense with no resultant criminal or quasi-criminal conviction consequences, as all criminal charges were dismissed."[84] Thus, although the "records of [the petitioner's] admission to an offense resulting in the imposition of a civil penalty would not be expunged," the records relating to the criminal complaint would be.[85]

International Convictions

Research has not revealed any relevant information regarding whether expungement eligibility is impacted by convictions outside the United States. The case law assessing expungement petitions does not appear to have addressed this issue, and as yet, no secondary sources have provided any insight. Outreach to practitioners in this area may yield additional information and Staff will flag this question to commenters if and when outreach is authorized on this project.

In light of the courts' analyses of the legislative intent in enacting the expungement statutes, and particularly the clean slate statute,[86] it would be consistent with the judicial conclusions in those cases to consider international convictions when determining whether the waiting period has been triggered.[87] However, the impracticalities of identifying and analyzing international convictions under New Jersey's criminal laws are more numerous than with respect to federal and out-of-state convictions, which are significantly more accessible by local law enforcement.[88]

Pending Bills

There are two pending bills that propose changes to N.J.S.A. 2C:52-5.3, which are discussed *supra* in relation to the amendments proposed to New Jersey's other expungement

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[82] *Id.* (internal quotations and alterations omitted).
[83] *Id.* at 435.
[84] *Id.* at 439
[85] *Id.* at 432.
[86] *See supra* at pp.4-5.
[87] *See K.M.G.*, 477 N.J. Super at 177 ("[r]eading N.J.S.A. 2C:52-5.3(b) to permit the expungement of an unlimited number of convictions of a person who has continued to violate the law is plainly contrary to N.J.S.A. 2C:52-32" which contains "the Legislature's mandate that chapter 52 'be construed with the primary objective of providing relief to the reformed offender,' but not 'persistent violators of the law or those who associate themselves with continuing criminal activity'").
[88] *See supra* at p.8.

statutes.[89] The proposed changes to the clean slate statute add juvenile adjudications to the list of expungement-eligible criminal dispositions and reduce the waiting period to seven years.[90]

Conclusion

In light of the holding in *K.M.G.*,[91] the proposed modifications set forth in the Appendix add language to N.J.S.A. 2C:52-5.3 clarifying that the phrase "most recent convictions" in the ten-year waiting period provision includes out-of-state convictions.

[89] A.B. 4749, 221st Leg., 2024 Sess. (Sept. 19, 2024) and S.B. 3846, 221st Leg., 2024 Sess. (Oct. 28, 2024); *see also supra* note 47.
[90] *Id.*
[91] *K.M.G.*, 477 N.J. Super. at 181-82.

Appendix

Proposed modifications to **N.J.S.A. 2C:52-5.3** are shown below (with strikethrough to indicate deletion and underlining to indicate addition).

N.J.S.A. 2C:52-5.3. "Clean slate" expungement by petition; terms

"Clean slate" expungement by petition.

a. A person, who is not otherwise eligible to present an expungement application pursuant to any other section of chapter 52 of Title 2C of the New Jersey Statutes or other section of law, may present an expungement application to the Superior Court pursuant to this section if the person has been convicted of one or more crimes, one or more disorderly persons or petty disorderly persons offenses, one or more municipal violations, or a combination of one or more crimes, offenses, or violations under the laws of this State, unless the person has a conviction for a crime which is not subject to expungement pursuant to subsection b. or c. of N.J.S.2C:52-2. . . . .

b. The person, if eligible, may present the expungement application after the expiration of a period of ten years from the date of the person's most recent conviction~~,~~ <u>within this State or any other jurisdiction</u>, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. The term "court-ordered financial assessment" as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, ...

c. (1) Notwithstanding the provisions concerning the ten-year time requirement, if, at the time of application, a court-ordered financial assessment subject to collection under the comprehensive enforcement program established pursuant to P.L.1995, c. 9 (C.2B:19-1 et al.) is not yet satisfied due to reasons other than willful noncompliance, but the time requirement of ten years is otherwise satisfied, ...

(2) Additionally, an application may be filed and presented, and the court shall grant an expungement pursuant to this section, although less than ten years have expired in accordance with the time requirements when the court finds that the court-ordered financial assessment is satisfied but less than ten years have expired from the date of satisfaction, ...

d. No expungement applications may be filed pursuant to this section after the establishment of the automated "clean slate" process pursuant to subsection a. of section 8 of P.L.2019, c. 269 (C.2C:52-5.4).

Comment

The proposed modification is made in N.J.S.A. 2C:52-5.3(b), which imposes a ten-year waiting period from the petitioner's "most recent conviction," or satisfaction of a financial assessment or term of probation, parole or incarceration.[92] The *K.M.G.* Court held that the phrase "most recent conviction" includes out-of-state convictions.[93]

Therefore, the proposed modification adds language clarifying that the ten-year waiting period begins following the "most recent conviction within this State or any other jurisdiction." The language is derived from language used in three other expungement statutes that prohibit expungement when a petitioner has another conviction or conviction(s), "whether within this State or any other jurisdiction."[94]

[92] The statute provides an explanation of the phrase "court-ordered financial assessment" that makes clear that it is related to New Jersey convictions only. N.J. STAT. ANN. § 2C:52-5.3(b) ("The term "court-ordered financial assessment" as used herein and throughout this section means and includes any fine, fee, penalty, restitution, and other form of financial assessment imposed by the court as part of the sentence for the conviction or convictions that are the subject of the application, for which payment of restitution takes precedence in accordance with chapter 46 of Title 2C of the New Jersey Statutes.") (emphasis added).

[93] *See K.M.G.*, 477 N.J. Super. at 181-82.

[94] N.J. STAT. ANN. § 2C:52-2(a); N.J. STAT. ANN. § 2C:52-3(a)-(b); N.J. STAT. ANN. § 2C:52-4.