

Know Your Rights! Automated Expungement for Marijuana and Hashish-Related Cases



The New Jersey Supreme Court has ordered that certain marijuana and hashish-related cases, in accordance with the Marijuana Decriminalization Law, will be dismissed, vacated, and/or expunged through a new automated process. You do not need to file an expungement to take advantage of this relief. The Court has also established a procedure to find out if your case has been expunged. Here's what you need to know:

Which marijuana-related cases are subject to automatic expungement?

The automated process only applies to cases involving the following specific marijuana or hashish offenses, including attempts or conspiracies to commit the following:

- N.J.S.A. 2C:35-5(b)(12) - Distribution of less than one ounce of marijuana or less than 5 grams of hashish (fourth degree);
- N.J.S.A. 2C:35-10(a)(3) - Possession of more than 50 grams of marijuana or more than 5 grams of hashish (fourth degree);
- N.J.S.A. 2C:35-10(a)(4) - Possession of 50 grams or less of marijuana or 5 grams or less of hashish (disorderly persons offense);
- The following convictions, including attempts or conspiracies, must be in combination with at least one of the above-listed offenses involving marijuana or hashish to be eligible for the automated process;
- N.J.S.A. 2C:36-2- Possession of Drug Paraphernalia (disorderly persons offense);
- N.J.S.A. 2C:35-10(b) - Use or Being Under Influence of Controlled Dangerous Substance (CDS) (disorderly persons offense); and
- N.J.S.A. 2C:35-10(c) - Failure to Make Lawful Disposition of Controlled Dangerous Substance (disorderly persons offense).

If I have a case involving marijuana or hashish-related charges and non-marijuana or hashish-related charges, am I still eligible for automated expungement?

If your case included charges which are not marijuana and hashish related, and those charges were dismissed, your case will still be eligible for automated expungement. However, if your case resulted in a conviction for an offense that is not marijuana or hashish related, your case will not be automatically expunged (although you might still be eligible for an expungement through the traditional "petition-based" process).

How do I know if my marijuana or hashish-related conviction has been expunged?

You can request a Certification of Expungement from the court, which is proof that your case has been expunged by completing a "Record Request Form for an Individual to Obtain Copies of Their Own Expunged and/or Sealed Records" (www.njcourts.gov/forms/12830_req_def_copies_expunge_sealed_records.pdf). Be sure to check the appropriate box that you are requesting "Certification of Expungement by Supreme Court Order."

Where do I submit my request?

You will need to deliver it to the court where your expungement was granted, conviction occurred, or juvenile adjudication was ordered. If you are unsure about which court handled your case, you can go to your local municipal court, the criminal or family division in any Superior Court courthouse, or the Superior Court Clerk's Office in Trenton.

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What do I need to provide at the time of my request?

In addition to the completed records request form, you must provide a government issued photo identification. This identification card may be a state issued driver's license, county identification card with your photo, or a passport. If you are under the age of 18, your parent/guardian must request the expungement certification on your behalf. Record requests submitted by an attorney on behalf of their client do not require photo ID, and may be submitted by email to sccoombudsman.mbx@njcourts.gov.

Do I need to notify other agencies that my records have been expunged through this process?

You do not. The lists of marijuana and hashish-related cases subject to automated expungement will be sent to the Attorney General who will share those lists with the New Jersey State Police, county and local law enforcement agencies and other parties typically notified during the expungement process.

What if the automated process does not effectively expunge my marijuana or hashish-related case?

If your marijuana or hashish-related case was not captured by the automated process, you may file an individual petition to expunge your records.

If my case has been expunged, do I have to tell my employer or landlord about my previous record?

An automatic expungement will be treated as a traditional expungement, therefore the court is required to tell all third parties there is no record. This includes landlords, employers, and other entities that may require a background check.

Sources: N.J.S.A. 2C:35-23.1, N.J.S.A. 2C:52-6.1; Grant A. Glenn, J.A.D., Marijuana Decriminalization Law, L. 2021, c. 19, Automated Process for Certain Marijuana and Hashish Cases in Accordance with the Marijuana Decriminalization Law, Administrative Office of the Courts (July 1, 2021); Grant A. Glenn, J.A.D., Directive #24-21, Process to Obtain a Certification of Expungement for Certain Marijuana and Hashish Cases in Accordance with Marijuana Decriminalization Law, Administrative Office of the Courts (August 27, 2021).

If you have any questions, about your legal rights, call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at: 1-888-LSNJ-LAW (1-888-576-5529)
Or apply for help online at <https://lsnjlawhotline.org>. You may also visit us at www.LSNJLAW.org for more assistance and information regarding your civil legal rights.