ASSEMBLY, No. 1686

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Provides for expungement of certain records of victims of identity theft.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT concerning expungement, amending N.J.S.2C:52-28 and supplementing Title 2C of the New Jersey Statutes and Title 39 of the Revised Statutes.

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

1. (New section) a. Notwithstanding any other provision of law to the contrary, any victim of an offense under N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (2C:21-2.1) or N.J.S.2C:21-17 may make an application to the court for expungement of any records or any entries relating to the victim's charge or conviction, provided that the victim was charged or convicted of an offense or a motor vehicle violation as a result of another person using the victim's personal identifying information to commit an offense or violation and that the charge or conviction was dismissed or set aside.

b. The victim shall not be required to file a duly verified petition as provided in N.J.S.2C:52-1 et seq., but shall be required to make an application to the court for such relief. The application shall include documents and information as may be necessary to establish that the charge or conviction was the result of a person using the personal identifying information of the victim to commit the offense or violation and that the charge or conviction was dismissed or set aside.

c. After the expungement is granted, the court shall forward a copy of the expungement order to the appropriate detention or correctional facility, law enforcement agency, criminal justice agency, department or administrative agency. Upon receipt of the court order, the detention or correctional facility, law enforcement agency, criminal justice agency, department or administrative agency shall expunge the pertinent records.

d. Notwithstanding any other provision of law to the contrary, the expungement of any record on file pursuant to the provisions of this section shall not require the payment of any fee by the victim.

e. The Supreme Court of New Jersey may adopt rules and the Administrative Director of the Courts may issue directives to effectuate the purposes of this act.

f. The Attorney General may issue guidelines which may be necessary concerning procedures for law enforcement agencies or any other agencies in the criminal justice system to effectuate the purposes of this act.

2. N.J.S.2C:52-28 is amended to read as follows:

2C:52-28. Nothing contained in this chapter shall apply to arrests or conviction for motor vehicle offenses contained in Title

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

39, except that the court may expunge the record of an arrest or conviction for motor vehicle offenses provided the person seeking the expungement is a victim of an offense under N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (2C:21-2.1) or N.J.S.2C:21-17 and the arrest or conviction was the result of another person using the victim's personal identifying information to commit the offense and the person has made an application for expungement pursuant to section 1 of P.L. , c. (C.) (now pending before the Legislature as section 1 of this bill).

(cf: P.L.1979, c.178, s.135)

3. (New section) Any insurance company that charged any additional premium based on insurance points assessed against a policyholder as a result of a charge or conviction that was expunged pursuant to the provisions of P.L. , c. (C.) (now pending before the Legislature as this bill) shall refund those additional premiums to the policyholder upon notification of the expungement.

4. Notwithstanding any other provision of law to the contrary, the Director of the Division of Motor Vehicles shall provide to the person whose motor vehicle record is expunged under the provisions of section 1 of P.L. , c. (C.) (now pending before the Legislature as section 1 of this bill) a certified corrected driver history. The director shall also reinstate any drivers license suspended or revoked as a result of the charge or conviction expunged under section 1 of P.L. , c. (C.) (now pending before the Legislature as section 1 of this bill).

5. This act shall take effect immediately.

STATEMENT

This bill would provide for expungement of records in cases where a victim of an identity theft was mistakenly accused of an offense.

Under the provisions of the bill, a victim of an identity theft can make an application to the court for expungement of any records relating to the victim's charge or conviction, provided that the victim was charged or convicted of an offense or a motor vehicle violation as a result of another person using the victim's personal identifying information to commit an offense or violation and that the charge or conviction was dismissed or set aside. The bill provides that the application should include documents and information to support the victim's application.

After an expungement is granted, the court would forward a copy of the expungement order to the appropriate agency. Upon receipt of the order, the agency would be required to expunge the pertinent

records. The bill provides that the victim would not be charged a fee for the expungement.

The bill amends N.J.S.A.2C:52-28, which provides that the expungement provisions in the statute do not apply to arrests or convictions for motor vehicle violations, to make a limited exception for victims of identity theft.

In addition, the bill would require an insurance company to refund those additional premiums charged to a policyholder who was a victim of identity theft upon notification of the expungement.

The bill would also require the director of the Division of Motor Vehicles to provide the person whose motor vehicle record was expunged with a certified corrected driver history. The director would also be required to reinstate any drivers license suspended or revoked as a result of the charge or conviction which was later expunged.

It is the sponsor's intent to provide a mechanism for victims of identity theft for clearing their records.