

STATE OF NEW YORK

5454

2021-2022 Regular Sessions

IN SENATE

March 5, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to petition for expungement of records for certain marihuana convictions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The criminal procedure law is amended by adding a new
2 section 440.75 to read as follows:

3 § 440.75 Petition for expungement of records for certain marihuana
4 convictions.

5 1. Any person who has been previously convicted of unlawful possession
6 of marihuana in the first degree as defined in section 221.10 of the
7 penal law and who has not been convicted of any prior or subsequent
8 offense in this state, another state, or by the United States may, after
9 the expiration of a period of two years from the date of his or her
10 previous conviction, satisfactory completion of his or her probation,
11 parole, supervised release and paid any fines imposed or restitution
12 ordered, whichever is later, may present a verified petition to the
13 criminal term of the supreme court in the county of conviction or the
14 county court in the county of conviction seeking an order that such
15 conviction and all records and information pertaining thereto be
16 expunged.

17 2. (a) A copy of the petition for expungement together with a copy of
18 all supporting documents shall be served upon:

19 (i) the district attorney serving the county of conviction;

20 (ii) the superintendent of the state police and the police department
21 in the jurisdiction of conviction; and

22 (iii) the judge or justice who imposed sentence or if not serving the
23 administrative or supervising judge in the jurisdiction where the
24 conviction was entered.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (b) Within ninety days of the filing of the petition, if there is no
2 objection from the law enforcement agencies notified or from those
3 offices or agencies required to be served and the petitioner is not
4 disqualified from obtaining an order of expungement, the court may grant
5 an order directing the clerk of the court and all relevant criminal
6 justice and law enforcement agencies to expunge all records of said
7 disposition including, but not limited to all evidence of arrest,
8 detention, conviction, sentence and proceedings related thereto.

9 3. Every petition for expungement filed pursuant to this section shall
10 be verified under the penalty of perjury and shall include:

11 (a) petitioner's date of birth;

12 (b) petitioner's date of arrest;

13 (c) the original indictment, superior court information or complaint;

14 (d) a certificate of disposition with the seal of the court from the
15 court of conviction; and

16 (e) the name of the judge or justice who imposed the sentence.

17 4. This section shall apply to convictions which occurred prior to and
18 which are entered subsequent to the effective date of this section.

19 § 2. This act shall take effect immediately.