



PUBLIC POLICY & INFORMATION

Promoting Addiction Prevention, Treatment and Recovery Through Advocacy and Education

POSITION PAPER **No. 14/213th Legislature** **(2008-09)**

ISSUE:

Revises eligibility for expungement of criminal and juvenile delinquency records.

BILL NO.

A-1771 (Watson Coleman, Spencer.)

NCADD-NJ POSITION:

The National Council on Alcoholism and Drug Dependence-New Jersey (NCADD—NJ) strongly supports A-1771 in that it responds to the fact that addiction is a treatable disease and that through addiction treatment recovery occurs. Many who are convicted of third and fourth degree crimes involving small amounts of controlled dangerous substances (CDS) have the disease of addiction and committed their crimes as a direct result of this disease. Under this bill, individuals who commit crimes involving larger amounts of drugs will be unable to have their record expunged. Also, anyone who involves a person 17 years or younger in a drug-related crime will not be able to have their record expunged

Crimes that will be expungeable under this bill generally involve less than one half an ounce of drugs such as heroin, cocaine, and methamphetamine and less than an ounce of schedule I or II, and schedule V drugs. For instance, crimes covered by the measure might involve one friend handing a small amount of CDS to another friend.

It should be noted that A-1771 does not provide for automatic expungement but allows a judge to hear the circumstances surrounding the crime as well as the rehabilitation of the offender before rendering a decision. Because the circumstances in each case are unique, informed judges are in a far better position

than legislators to make sure each offender pays a just price for his or her actions.

A-1771 has the potential to assist people transition successfully back into the community and become gainfully employed, while holding individuals accountable for their alcohol or drug affected behavior. NJS 2C:35-1.1 provides, in relevant part, that “it is the intent of the legislature ... to facilitate where feasible the rehabilitation of drug dependent persons ...”

Employment is an important factor for recovering people trying to rebuild their lives. Lack of employment, poverty and idleness contribute to ongoing addiction and recidivism, while meaningful employment promotes recovery. New Jersey’s current laws regarding expungement have only added to the difficulties of those recovering from addiction.

NCADD-NJ convened a panel of state experts and policy-makers to examine the stigma and discrimination encountered by New Jersey residents with alcohol and drug addiction and developed policy recommendations to overcome it. The panel was both diverse and qualified; numerous agencies were represented, ranging from doctors to directors of programs. The panel found that many New Jersey residents with an alcohol or drug addiction routinely encounter stigma and discrimination related to their disease.

The panel’s recommendations included ending discrimination regarding employment and drug related convictions. Those recommendations are consistent with A-1771. Specifically, the panel recommended:

- Past alcohol and drug use or alcohol- or drug-related convictions should not be used to disqualify otherwise qualified applicants from obtaining or maintaining employment;
- Enact legislation to ensure that sentences are fair



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and proportionate ... including a mechanism by which people in recovery will not be repeatedly punished with collateral consequences for the same offense.

Many employers are reluctant to hire someone who has been convicted of a drug-related crime because of stereotypes unrelated to his or her ability to perform the job. Repeatedly punishing someone in recovery with collateral consequences by preventing their record from being expunged is contrary to New Jersey's Law Against Discrimination, the Rehabilitated Convicted Offender Act, and the Federal Americans with Disabilities Act. A-1771 is consistent with these laws and provides a mechanism to address the discrimination and unnecessary obstacles that a person in recovery from addiction faces.

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