
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 529 Session of
2017

INTRODUCED BY WAGNER, WILLIAMS, GREENLEAF, RESCHENTHALER, LEACH,
TARTAGLIONE, BARTOLOTTA, FONTANA, HAYWOOD, WARD, McGARRIGLE,
BREWSTER, WHITE, AUMENT, VOGEL, BLAKE, SCAVELLO, COSTA,
YUDICHAK, STREET, LAUGHLIN, KILLION, HUGHES, MENSCH, SCHWANK,
STEFANO, SCARNATI AND BOSCOLA, MAY 19, 2017

REFERRED TO JUDICIARY, MAY 19, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in dissemination of criminal history
3 record information, further providing for general regulations
4 and for order for limited access, providing for clean slate
5 for convictions of misdemeanors and for charges not leading
6 to convictions, for effects of expunged offenses and offenses
7 provided limited access and for employer immunity from
8 liability and further providing for use of records by
9 licensing agencies; and imposing duties on the Pennsylvania
10 State Police and the Administrative Office of Pennsylvania
11 Courts.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Sections 9121(b) and (b.2) and 9122.1(a) of Title
15 18 of the Pennsylvania Consolidated Statutes are amended to
16 read:

17 § 9121. General regulations.

18 * * *

19 (b) Dissemination to noncriminal justice agencies and
20 individuals.--Criminal history record information shall be
21 disseminated by a State or local police department to any

1 individual or noncriminal justice agency only upon request.

2 Except as provided in subsection (b.1):

3 (1) A fee may be charged by a State or local police
4 department for each request for criminal history record
5 information by an individual or noncriminal justice agency,
6 except that no fee shall be charged to an individual who
7 makes the request in order to apply to become a volunteer
8 with an affiliate of Big Brothers of America or Big Sisters
9 of America or with a rape crisis center or domestic violence
10 program.

11 (2) Before a State or local police department
12 disseminates criminal history record information to an
13 individual or noncriminal justice agency, it shall extract
14 from the record the following:

15 (i) All notations of arrests, indictments or other
16 information relating to the initiation of criminal
17 proceedings where:

18 (A) three years have elapsed from the date of
19 arrest;

20 (B) no conviction has occurred; and

21 (C) no proceedings are pending seeking a
22 conviction.

23 (ii) All information relating to a conviction and
24 the arrest, indictment or other information leading
25 thereto, or relating to an arrest not leading to a
26 conviction, which is the subject of a court order for
27 limited access as provided in section 9122.1 (relating to
28 order for limited access)[.] or which is automatically
29 provided limited access under section 9122.2 (relating to
30 clean slate for convictions of misdemeanors and for

1 charges not leading to convictions).

2 (3) A court or the Administrative Office of Pennsylvania
3 Courts may not disseminate to an individual, a noncriminal
4 justice agency or an Internet website any information
5 relating to a conviction, arrest, indictment or other
6 information leading to a conviction, arrest, indictment or
7 other information, which is the subject of a court order for
8 limited access as provided in section 9122.1 or which is
9 automatically provided limited access under section 9122.2.

10 * * *

11 (b.2) Additional exceptions.--Subsection (b)(2)(ii) and (3)
12 shall not apply if the request is made [by a State agency to be
13 used only as authorized under section 9124 (relating to use of
14 records by licensing agencies).]:

15 (1) Pursuant to a court order in a case brought under 23
16 Pa.C.S. Ch. 53 (relating to child custody) or 61 (relating to
17 protection from abuse). All information made available to the
18 court under this exception shall also be made available for
19 examination by the parties.

20 (2) To verify information provided by an applicant where
21 Federal law, including rules and regulations promulgated by a
22 self-regulatory organization that has been created pursuant
23 to Federal law, requires the consideration of an applicant's
24 criminal history for purposes of employment.

25 (3) By an employer against whom a claim of civil
26 liability has been brought as described under section 9122.4
27 (relating to employer immunity from liability) for purposes
28 of defending against a claim of civil liability.

29 (4) To verify information provided to the Supreme Court,
30 or an entity thereof, in its capacity to govern the practice,

1 procedure and the conduct of all courts, the admission to the
2 bar and the practice of law and the administration of all
3 courts and supervision of all officers of the judicial
4 branch.

5 * * *

6 § 9122.1. Order for limited access.

7 (a) General rule.--[The following shall apply:

8 (1)] Notwithstanding any other provision of this
9 chapter, upon petition of a person who has been free of
10 [arrest or prosecution] subsequent conviction following
11 conviction or final release from confinement or supervision,
12 whichever is later, for a period of 10 years, the court of
13 common pleas in the jurisdiction where the conviction
14 occurred may enter an order that criminal history record
15 information maintained by any criminal justice agency
16 pertaining to a conviction for a misdemeanor of the second
17 degree, a misdemeanor of the third degree or an ungraded
18 offense which carries a maximum penalty of no more than two
19 years be disseminated only to a criminal justice agency or a
20 government agency as provided in section 9121(b.1) and (b.2)
21 (relating to general regulations).

22 [(2) Except when requested or required by a criminal
23 justice agency, or by and for the official use of a
24 government agency described in section 9121(b.1) or 9124(a)
25 (relating to use of records by licensing agencies), no
26 individual shall be required nor requested to disclose
27 information about the person's criminal history records that
28 are the subject of a court order for limited access granted
29 under this section.]

30 * * *

1 Section 2. Title 18 is amended by adding sections to read:

2 § 9122.2. Clean slate for convictions of misdemeanors and for
3 charges not leading to convictions.

4 (a) Declaration of policy.--The General Assembly finds and
5 declares as follows:

6 (1) Individuals with charges not leading to convictions
7 may be inherently harmed by the maintenance of that record
8 and have a constitutional presumption of innocence.

9 (2) Individuals convicted of crimes in this Commonwealth
10 shall serve their sentences as ordered by the courts of this
11 Commonwealth.

12 (3) After less violent individuals convicted of their
13 crimes have served their sentences and remained crime free
14 long enough to demonstrate their rehabilitation, their access
15 to employment, housing, education and other necessities of
16 life should be fully restored.

17 (4) The Commonwealth shall provide a clean slate remedy,
18 as set forth under this section, to:

19 (i) create a strong incentive for avoidance of
20 recidivism by offenders;

21 (ii) provide hope for the alleviation of the
22 hardships of having a criminal record by offenders who
23 are trying to rehabilitate themselves; and

24 (iii) save the Commonwealth money that must be spent
25 in the administration of criminal justice when offenders
26 recidivate.

27 (5) The clean slate remedy should be implemented without
28 cost to the former offender of filing a petition with a
29 court.

30 (b) Misdemeanor conviction.--The following shall apply:

1 (1) Except as provided under paragraphs (2) and (3),
2 criminal history record information of all convictions of
3 misdemeanor offenses shall automatically receive limited
4 access when completion of the court-ordered financial
5 obligations of the sentence has occurred and 10 years have
6 passed since the most recent misdemeanor or felony conviction
7 in any court of the unified judicial system.

8 (2) Limited access under this subsection shall not be
9 granted to misdemeanor convictions of the following offenses:

10 (i) Offenses under Article B (relating to offenses
11 involving danger to the person).

12 (ii) Offenses under Article D (relating to offenses
13 against the family).

14 (iii) Offenses under Chapter 61 (relating to
15 firearms and other dangerous articles).

16 (iv) Offenses that require registration under 42
17 Pa.C.S. Ch. 97 Subch. H (relating to registration of
18 sexual offenders).

19 (v) A violation of section 3127 (relating to
20 indecent exposure).

21 (vi) A violation of section 4915.1 (relating to
22 failure to comply with registration requirements).

23 (vii) A violation of section 5122 (relating to
24 weapons or implements for escape).

25 (viii) A violation of section 5511 (relating to
26 cruelty to animals).

27 (ix) A violation of section 6301 (relating to
28 corruption of minors).

29 (3) Limited access under this subsection shall not be
30 granted to misdemeanor convictions when there is a felony

1 conviction in the same case.

2 (c) Charges not leading to conviction.--Criminal history
3 record information of charges with a final disposition other
4 than conviction shall automatically receive limited access 60
5 days after entry of the disposition and payment of any court-
6 ordered obligations.

7 (d) No court petition required.--The following shall apply:

8 (1) Except as provided under paragraph (3), limited
9 access of criminal proceedings under subsections (b) and (c)
10 shall be performed by criminal justice agencies within 30
11 days of the eligibility of such proceedings, without the
12 requirement of a court order.

13 (2) Nothing in this section shall preclude the filing of
14 a petition for limited access of criminal proceedings
15 eligible for limited access under subsections (b) and (c) if
16 limited access has not been provided by criminal justice
17 agencies without a petition.

18 (3) On a monthly basis, the Administrative Office of
19 Pennsylvania Courts shall transmit to the Pennsylvania State
20 Police central repository any case eligible for limited
21 access under this section. If the Pennsylvania State Police
22 central repository determines through a validation process
23 that a case transmitted is not eligible for limited access
24 relief or does not match data held in the repository, it
25 shall notify the Administrative Office of Pennsylvania Courts
26 of this determination within 30 days of receiving the
27 information. Upon the expiration of the 30-day period, the
28 Administrative Office of Pennsylvania Courts shall remove
29 from the list of eligible cases any case for which it
30 received a notification of ineligibility or nonmatch with

1 repository data. Thereafter, each court of common pleas shall
2 issue monthly an order granting limited access to any case in
3 its judicial district for which no notification of
4 ineligibility was received by the Administrative Office of
5 Pennsylvania Courts.

6 (4) The Pennsylvania State Police may object to a case
7 as not eligible for limited access under paragraph (3) in
8 which the defendant:

9 (i) was convicted of a misdemeanor or felony in a
10 court of the unified judicial system during the
11 applicable period of time under subsection (b) that must
12 elapse before a case becomes eligible for limited access
13 relief;

14 (ii) was convicted of a misdemeanor and a felony
15 within the same case; or

16 (iii) has not completed all obligations of the
17 sentence or been discharged from court supervision.

18 (e) Elimination.--If an individual's case receives limited
19 access not in accordance with this section or an individual
20 receiving limited access is subsequently convicted of a
21 misdemeanor or felony, the district attorney of the county in
22 which the underlying or subsequent conviction took place or the
23 Office of Attorney General if it obtained the conviction for the
24 underlying conviction shall have standing to challenge the
25 limited access granted by the court. If the court that granted
26 the limited access sustains the challenge, the court and the
27 Pennsylvania State Police shall undo the limited access.

28 § 9122.3. Effects of expunged offenses and offenses provided
29 limited access.

30 (a) Disclosure.--The following shall apply:

1 (1) Except when requested or required by a criminal
2 justice agency, the Supreme Court or entity thereof, or
3 pursuant to an order under section 9121(b.2) (relating to
4 general regulations), no individual shall be required or
5 requested to disclose information about the individual's
6 criminal history records that have been expunged or provided
7 limited access under section 9122.1 (relating to order for
8 limited access) or 9122.2 (relating to clean slate for
9 convictions of misdemeanors and for charges not leading to
10 convictions). An individual required or requested to provide
11 information in violation of this section may respond as if
12 the offense did not occur.

13 (2) This subsection shall not apply where Federal law,
14 including rules and regulations promulgated by a self-
15 regulatory organization that has been created pursuant to
16 Federal law, requires the consideration of an applicant's
17 criminal history for purposes of employment.

18 (b) Disqualification by law.--An expunged offense or an
19 offense provided limited access under section 9122.1 or 9122.2
20 may not be considered a conviction that would prohibit the
21 employment of a person under any law of this Commonwealth or
22 under Federal laws that prohibit employment based on state
23 convictions to the extent permitted by Federal law.

24 § 9122.4. Employer immunity from liability.

25 An employer who employs or otherwise engages an individual
26 whose criminal history record has been expunged or provided
27 limited access under section 9122.1 (relating to order for
28 limited access) or 9122.2 (relating to clean slate for
29 convictions of misdemeanors and for charges not leading to
30 convictions) shall be immune from liability in a civil action

1 based, in whole or in part, upon damages suffered to a person or
2 property as a result of criminal or other unlawful conduct of
3 the individual employee when the portion of the criminal history
4 record that has been expunged or provided limited access is
5 related to the criminal or other unlawful conduct and the
6 individual's suitability for employment in the position for
7 which the individual was hired or engaged.

8 Section 3. Section 9124(b) of Title 18 is amended to read:

9 § 9124. Use of records by licensing agencies.

10 * * *

11 (b) Prohibited use of information.--The following
12 information shall not be used in consideration of an application
13 for a license, certificate, registration or permit:

14 (1) Records of arrest if there is no conviction of a
15 crime based on the arrest.

16 (2) Convictions which have been annulled [or],
17 expunged[.] or provided limited access under section 9122.1
18 (relating to order for limited access) or 9122.2 (relating to
19 clean slate for convictions of misdemeanors and for charges
20 not leading to convictions).

21 (3) Convictions of a summary offense.

22 (4) Convictions for which the individual has received a
23 pardon from the Governor.

24 (5) Convictions which do not relate to the applicant's
25 suitability for the license, certificate, registration or
26 permit.

27 * * *

28 Section 4. The following apply:

29 (1) The Pennsylvania State Police and the Administrative
30 Office of Pennsylvania Courts shall process the backlog of

1 existing cases in which the provisions of this act are
2 applicable within one year from the effective date of this
3 section.

4 (2) Petitions for limited access of criminal proceedings
5 eligible for limited access under 18 Pa.C.S. § 9122.2(b) and
6 (c) may be filed beginning 90 days after the effective date
7 of this paragraph.

8 Section 5. This act shall take effect as follows:

9 (1) Section 4(2) of this act shall take effect
10 immediately.

11 (2) This section shall take effect immediately.

12 (3) The remainder of this act shall take effect in 270
13 days.