
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of
2017

INTRODUCED BY DELOZIER, J. HARRIS, MILLARD, DEAN, FRANKEL,
KINSEY, PHILLIPS-HILL, D. COSTA, CALTAGIRONE, SOLOMON,
V. BROWN, WARREN, COX, GODSHALL, DAVIS, BULLOCK, WHEATLEY,
WHEELAND, HILL-EVANS, DeLUCA, A. HARRIS, KIM, ROZZI,
McCARTER, ZIMMERMAN, McCLINTON, SCHWEYER, REESE, FEE,
DERMODY, SIMS, ROTHMAN, FARRY, HANNA, DALEY, THOMAS, STURLA,
NEILSON, KRUEGER-BRANEKY AND SCHLOSSBERG, MAY 25, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MAY 25, 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

1 disseminated by a State or local police department to any
2 individual or noncriminal justice agency only upon request.

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

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

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

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

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

21 (B) no conviction has occurred; and

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

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

1 clean slate for convictions of misdemeanors and for
2 charges not leading to convictions).

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

11 * * *

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

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

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

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

30 (4) To verify information provided to the Supreme Court,

1 or an entity thereof, in its capacity to govern the practice,
2 procedure and the conduct of all courts, the admission to the
3 bar and the practice of law and the administration of all
4 courts and supervision of all officers of the judicial
5 branch.

6 * * *

7 § 9122.1. Order for limited access.

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

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

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

1 * * *

2 Section 2. Title 18 is amended by adding sections to read:
3 § 9122.2. Clean slate for convictions of misdemeanors and for
4 charges not leading to convictions.

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

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

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

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

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

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

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

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

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

1 (b) Misdemeanor conviction.--

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

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

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

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

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

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

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

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

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

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

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

30 (3) Limited access under this subsection shall not be

1 granted to misdemeanor convictions when there is a felony
2 conviction in the same case.

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

8 (d) No court petition required.--

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

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

19 (3) (i) On a monthly basis, the Administrative Office
20 of Pennsylvania Courts shall transmit to the Pennsylvania
21 State Police central repository any case eligible for
22 limited access under this section.

23 (ii) If the Pennsylvania State Police central
24 repository determines through a validation process that a
25 case transmitted is not eligible for limited access
26 relief or does not match data held in the repository, the
27 Pennsylvania State Police shall notify the Administrative
28 Office of Pennsylvania Courts of this determination
29 within 30 days of receiving the information.

30 (iii) Upon the expiration of the 30-day period, the

1 Administrative Office of Pennsylvania Courts shall remove
2 from the list of eligible cases any case for which the
3 Administrative Office of Pennsylvania Courts received a
4 notification of ineligibility or nonmatch with repository
5 data.

6 (iv) Thereafter, each court of common pleas shall
7 issue monthly an order granting limited access to any
8 case in its judicial district for which no notification
9 of ineligibility was received by the Administrative
10 Office of Pennsylvania Courts.

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

14 (i) was convicted of a misdemeanor or felony in a
15 court of the unified judicial system during the
16 applicable period of time under subsection (b) that must
17 elapse before a case becomes eligible for limited access
18 relief;

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

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

23 (e) Elimination.--

24 (1) If an individual's case receives limited access not
25 in accordance with this section or an individual receiving
26 limited access is subsequently convicted of a misdemeanor or
27 felony, the district attorney of the county in which the
28 underlying or subsequent conviction took place or, if the
29 Office of Attorney General obtained the conviction for the
30 underlying conviction, the Office of Attorney General shall

1 have standing to challenge the limited access granted by the
2 court.

3 (2) If the court that granted the limited access
4 sustains the challenge, the court and the Pennsylvania State
5 Police shall undo the limited access.

6 § 9122.3. Effects of expunged offenses and offenses provided
7 limited access.

8 (a) Disclosure.--

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

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

26 (b) Disqualification by law.--An expunged offense or an
27 offense provided limited access under section 9122.1 or 9122.2
28 may not be considered a conviction that would prohibit the
29 employment of a person under any law of this Commonwealth or
30 under Federal laws that prohibit employment based on state

1 convictions to the extent permitted by Federal law.

2 § 9122.4. Employer immunity from liability.

3 An employer who employs or otherwise engages an individual
4 whose criminal history record has been expunged or provided
5 limited access under section 9122.1 (relating to order for
6 limited access) or 9122.2 (relating to clean slate for
7 convictions of misdemeanors and for charges not leading to
8 convictions) shall be immune from liability in a civil action
9 based, in whole or in part, upon damages suffered to a person or
10 property as a result of criminal or other unlawful conduct of
11 the individual employee when the portion of the criminal history
12 record that has been expunged or provided limited access is
13 related to:

14 (1) the criminal or other unlawful conduct; and

15 (2) the individual's suitability for employment in the
16 position for which the individual was hired or engaged.

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

18 § 9124. Use of records by licensing agencies.

19 * * *

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

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

25 (2) Convictions which have been annulled [or],
26 expunged[.] or provided limited access under section 9122.1
27 (relating to order for limited access) or 9122.2 (relating to
28 clean slate for convictions of misdemeanors and for charges
29 not leading to convictions).

30 (3) Convictions of a summary offense.

1 (4) Convictions for which the individual has received a
2 pardon from the Governor.

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

6 * * *

7 Section 4. The Pennsylvania State Police and the
8 Administrative Office of Pennsylvania Courts shall process the
9 backlog of existing cases in which the provisions of this act
10 are applicable within one year from the effective date of this
11 section.

12 Section 5. Petitions for limited access of criminal
13 proceedings eligible for limited access under 18 Pa.C.S. §
14 9122.2(b) and (c) may be filed beginning 90 days after the
15 effective date of this section.

16 Section 6. This act shall take effect as follows:

17 (1) Section 5 of this act shall take effect immediately.

18 (2) This section shall take effect immediately.

19 (3) The remainder of this act shall take effect in 270
20 days.