

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 264 Session of
2009

INTRODUCED BY SOLOBAY, BROWN, CALTAGIRONE, CARROLL, COHEN,
CREIGHTON, DERMODY, GEORGE, GIBBONS, GOODMAN, HALUSKA,
KILLION, KORTZ, KOTIK, KULA, MAHONEY, MELIO, MUNDY,
M. O'BRIEN, SIPTROTH, THOMAS, WALKO, WANSACZ, WHITE AND
GEIST, FEBRUARY 5, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JULY 8, 2009

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for expungement of criminal
4 history record ~~and~~, AND FOR JUVENILE RECORDS; AND PROVIDING
5 for expungement fee. ←

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. ~~Section 9122(b)~~ SECTIONS 9122(A)(3), (B) and (f) ←
9 of Title 18 of the Pennsylvania Consolidated Statutes, amended
10 November 26, 2008 (P.L.1670, No.134), are amended to read:

11 § 9122. Expungement.

12 * * * ←

13 (A) SPECIFIC PROCEEDINGS.--CRIMINAL HISTORY RECORD ←
14 INFORMATION SHALL BE EXPUNGED IN A SPECIFIC CRIMINAL PROCEEDING
15 WHEN:

16 * * *

17 (3) A PERSON 21 YEARS OF AGE OR OLDER WHO HAS BEEN

1 CONVICTED OF A VIOLATION OF SECTION 6308 (RELATING TO
2 PURCHASE, CONSUMPTION, POSSESSION OR TRANSPORTATION OF LIQUOR
3 OR MALT OR BREWED BEVERAGES) WHICH OCCURRED ON OR AFTER THE
4 DAY THE PERSON ATTAINED 18 YEARS OF AGE PETITIONS THE COURT
5 OF COMMON PLEAS IN THE COUNTY WHERE THE CONVICTION OCCURRED
6 SEEKING EXPUNGEMENT AND THE PERSON HAS SATISFIED ALL TERMS
7 AND CONDITIONS OF THE SENTENCE IMPOSED FOR THE VIOLATION,
8 INCLUDING ANY SUSPENSION OF OPERATING PRIVILEGES IMPOSED
9 PURSUANT TO SECTION 6310.4 (RELATING TO RESTRICTION OF
10 OPERATING PRIVILEGES). UPON REVIEW OF THE PETITION, THE COURT
11 SHALL ORDER THE EXPUNGEMENT OF ALL CRIMINAL HISTORY RECORD
12 INFORMATION AND ALL ADMINISTRATIVE RECORDS OF THE DEPARTMENT
13 OF TRANSPORTATION RELATING TO SAID CONVICTION.

14 (b) Generally.--Criminal history record information may be
15 expunged when:

16 (1) An individual who is the subject of the information
17 reaches 70 years of age and has been free of arrest or
18 prosecution for ten years following final release from
19 confinement or supervision.

20 (2) ~~Any~~ AN individual who is the subject of the
21 information has been dead for three years. ←

22 (3) (i) An individual who is the subject of the
23 information, petitions the court for the expungement of a
24 summary offense and has been free of arrest or
25 prosecution for five years following the conviction for
26 that offense.

27 (ii) Expungement under this paragraph shall only be
28 permitted for a conviction of a summary offense.

29 (4) (i) An individual who is the subject of the
30 information petitions THE COURT for expungement of the ←

~~information and the individual~~ A MISDEMEANOR OF THE THIRD
DEGREE AND has been free of arrest or prosecution FOR
SEVEN YEARS following final release from confinement or
supervision for the greater of the following time
periods:

~~(A) In the case of a misdemeanor of the third
degree, seven years.~~

~~(B) In the case of a misdemeanor of the second
degree, ten years.~~

(ii) This paragraph shall not apply to any
individual who has been convicted of:

(A) An offense punishable by imprisonment of
more than two years ONE YEAR.

(B) Four or more offenses punishable by
imprisonment of one or more years.

(C) A violation of section 2701 (relating to
simple assault).

~~(D) An offense classified as a misdemeanor of
the second degree committed when the individual was
at least 25 years of age.~~

~~(E)~~ (D) A violation of section 3126 (relating to
indecent assault).

~~(F)~~ (E) A violation of section 3129 (relating to
sexual intercourse with animal).

~~(G)~~ (F) A violation of section 5511 (relating to
cruelty to animals).

~~(H)~~ (G) A violation of any provision of Chapter
61 (relating to firearms and other dangerous
articles).

~~(I)~~ (H) Any offense where an individual is

1 required to register pursuant to 42 Pa.C.S. § 9795.1
2 (relating to registration).

3 ~~(J)~~ (I) A violation of 75 Pa.C.S. Ch. 38 ←
4 (relating to driving after imbibing alcohol or
5 utilizing drugs).

6 ~~(K)~~ (J) A violation of Pt. II, Art. B (relating ←
7 to offenses involving danger to the person) if the
8 victim was a law enforcement officer engaged in the
9 performance of duty and the perpetrator knew the
10 victim was a law enforcement officer at the time of
11 the offense.

12 (5) Expungement under this section shall be at the
13 discretion of the court. In considering whether to grant the
14 petition for expungement, the court shall consider all
15 relevant factors, including all of the following:

16 (i) The nature of the offense.

17 (ii) The nature and disposition of any related
18 charges.

19 (iii) The impact of the offense upon any victims of
20 the offense.

21 (iv) Any reasons the Commonwealth may give for
22 wishing to retain the records.

23 (v) The petitioner's age, criminal record and
24 employment history.


25 (vi) The length of time that has elapsed between the
26 arrest and the petition to expunge.

27 (vii) The specific adverse consequences the
28 petitioner may endure should expunction be denied.

29 * * *

30 (f) District attorney's notice.--The court shall give [ten

1 days] 30 days' prior notice to the district attorney of the
2 county where the original charge was filed of any applications
3 for expungement under the provisions of subsection (a)(2) or
4 (b).

5 SECTION 2. SECTION 9123(A) OF TITLE 18 IS AMENDED TO READ: 
6 § 9123. JUVENILE RECORDS.

7 (A) EXPUNGEMENT OF JUVENILE RECORDS.--NOTWITHSTANDING THE
8 PROVISIONS OF SECTION 9105 (RELATING TO OTHER CRIMINAL JUSTICE
9 INFORMATION) AND EXCEPT UPON CAUSE SHOWN, EXPUNGEMENT OF RECORDS
10 OF JUVENILE DELINQUENCY CASES AND CASES INVOLVING SUMMARY
11 OFFENSES COMMITTED WHILE THE INDIVIDUAL WAS UNDER 18 YEARS OF
12 AGE, WHEREVER KEPT OR RETAINED, SHALL OCCUR AFTER 30 DAYS'
13 NOTICE TO THE DISTRICT ATTORNEY, WHENEVER THE COURT UPON ITS
14 MOTION OR UPON THE MOTION OF A CHILD OR THE PARENTS OR GUARDIAN
15 FINDS:

16 (1) A COMPLAINT IS FILED WHICH IS NOT SUBSTANTIATED OR
17 THE PETITION WHICH IS FILED AS A RESULT OF A COMPLAINT IS
18 DISMISSED BY THE COURT;

19 (2) SIX MONTHS HAVE ELAPSED SINCE THE FINAL DISCHARGE OF
20 THE PERSON FROM SUPERVISION UNDER A CONSENT DECREE AND NO
21 PROCEEDING SEEKING ADJUDICATION OR CONVICTION IS PENDING;

22 (2.1) THE INDIVIDUAL IS 18 YEARS OF AGE OR OLDER AND HAS
23 BEEN CONVICTED OF A VIOLATION OF SECTION 6308 (RELATING TO
24 PURCHASE, CONSUMPTION, POSSESSION OR TRANSPORTATION OF LIQUOR
25 OR MALT OR BREWED BEVERAGES) WHICH OCCURRED WHILE THE
26 INDIVIDUAL WAS UNDER 18 YEARS OF AGE AND THE INDIVIDUAL HAS
27 SATISFIED ALL TERMS AND CONDITIONS OF THE SENTENCE IMPOSED
28 FOR THE VIOLATION, INCLUDING ANY SUSPENSION OF OPERATING
29 PRIVILEGES IMPOSED PURSUANT TO SECTION 6310.4 (RELATING TO
30 RESTRICTION OF OPERATING PRIVILEGES). EXPUNGEMENT SHALL

1 INCLUDE ALL CRIMINAL HISTORY RECORD INFORMATION AND ALL
2 ADMINISTRATIVE RECORDS OF THE DEPARTMENT OF TRANSPORTATION
3 RELATING TO THE CONVICTION;

4 (2.2) THE INDIVIDUAL IS 18 YEARS OF AGE OR OLDER AND THE
5 INDIVIDUAL HAS SATISFIED ALL TERMS AND CONDITIONS OF THE
6 SENTENCE IMPOSED FOLLOWING A CONVICTION FOR A SUMMARY
7 OFFENSE, WITH THE EXCEPTION OF A VIOLATION OF SECTION 6308,
8 COMMITTED WHILE THE INDIVIDUAL WAS UNDER 18 YEARS OF AGE AND
9 THE INDIVIDUAL HAS NOT BEEN CONVICTED OF A FELONY,
10 MISDEMEANOR OR ADJUDICATED DELINQUENT AND NO PROCEEDING IS
11 PENDING SEEKING SUCH CONVICTION OR ADJUDICATION;

12 (3) FIVE YEARS HAVE ELAPSED SINCE THE FINAL DISCHARGE OF
13 THE PERSON FROM COMMITMENT, PLACEMENT, PROBATION OR ANY OTHER
14 DISPOSITION AND REFERRAL AND SINCE SUCH FINAL DISCHARGE, THE
15 PERSON HAS NOT BEEN CONVICTED OF A FELONY, MISDEMEANOR OR
16 ADJUDICATED DELINQUENT AND NO PROCEEDING IS PENDING SEEKING
17 SUCH CONVICTION OR ADJUDICATION; OR

18 (4) THE INDIVIDUAL IS [18] 17 YEARS OF AGE OR OLDER, THE
19 ATTORNEY FOR THE COMMONWEALTH CONSENTS TO THE EXPUNGEMENT AND
20 A COURT ORDERS THE EXPUNGEMENT AFTER GIVING CONSIDERATION TO
21 THE FOLLOWING FACTORS:

22 (I) THE TYPE OF OFFENSE;

23 (II) THE INDIVIDUAL'S AGE, HISTORY OF EMPLOYMENT,
24 CRIMINAL ACTIVITY AND DRUG OR ALCOHOL PROBLEMS;

25 (III) ADVERSE CONSEQUENCES THAT THE INDIVIDUAL MAY
26 SUFFER IF THE RECORDS ARE NOT EXPUNGED; AND

27 (IV) WHETHER RETENTION OF THE RECORD IS REQUIRED FOR
28 PURPOSES OF PROTECTION OF THE PUBLIC SAFETY.

29 * * *

30 Section 2 3. Title 42 is amended by adding a section to



1 read:

2 § 1725.7. Expungement fee.

3 In addition to any other fee authorized by law, a person who
4 is filing a petition for expungement under 18 Pa.C.S. § 9122
5 (relating to expungement), shall pay a fee of \$100 to the clerk
6 of courts at the time the petition for expungement is filed. The
7 clerk of courts shall ensure that \$50 of the expungement fee
8 shall be directed to the Administrative Office of Pennsylvania
9 Courts and that \$50 of the fee shall be directed to the
10 Pennsylvania State Police.

11 Section 3 4. This act shall take effect in 60 days.

