

**SENATE APPROPRIATIONS COMMITTEE  
FISCAL NOTE**

**BILL NO.** House Bill 1419

**PRINTER NO.** 3314

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

May 25, 2017

**PRIME SPONSOR**

Representative Delozier

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 1419 amends Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to provide for sealing of criminal records.

Title 18

This legislation amends Chapter 91 (Criminal History Record Information, Subchapter C (Dissemination of Criminal History Record Information) of Title 18 as follows:

- § 9121 (relating to general regulations) to allow for dissemination of certain criminal history record information to noncriminal justice agencies and individuals under the following circumstances:
  - Under a court order relating to child custody or protection from abuse;
  - Under a court order by an employer against whom a claim of civil liability has been brought as described under § 9122.6 (relating to employer immunity from liability) for purposes of defending against a claim of civil liability;
  - Federal law requires the consideration of an applicant's criminal history for purposes of employment; and
  - To verify information provided to the Supreme Court to govern and regulate the practice of law and the administration of the courts.
- § 9122.1 (relating to order for limited access) is amended to allow for the filing of a petition, through which a court of common pleas may enter an order limiting public access to certain criminal history record information if the petitioner has been free from conviction for a period of ten (10) years for an offense punishable by one (1) or more years in prison and has completed all court-ordered financial obligations.

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- Adds a new § 9122.2 (relating to clean slate limited access) (CSLA). CSLA establishes a process in which courts may enter orders limiting access to qualifying criminal history record information without cost to the offender or the need to file a petition with the court. A procedure involving courts of common pleas, the Administrative Office of Pennsylvania Courts (AOPC) and the Pennsylvania State Police (PSP) is established to allow for CSLA order to take place on a monthly basis.
- Adds a new § 9122.3 (relating to exceptions) to provide that CSLA shall not be granted for any of the following:
  - A conviction for any of the following or an attempt, conspiracy or solicitation to commit any of the following:
    - An offense involving danger to the person;
    - An offense against the family;
    - An offense relating to firearms and other dangerous articles;
    - An offense relating to sexual offenses and registration;
    - An offense relating to cruelty to animals; or
    - Corruption of minors.
  - An individual who at any time has been convicted of:
    - A felony;
    - Two or more offenses punishable by imprisonment of more than two years (generally misdemeanors of the 1st degree and more serious offenses);
    - Four or more offenses punishable by imprisonment of one or more years (essentially for misdemeanors of the second or 3rd degree or ungraded misdemeanors);
    - Indecent exposure;
    - Sexual intercourse with an animal;
    - Failure to comply with sexual registration requirements;
    - Weapons or implements for escape;
    - Abuse of corpse; or
    - Paramilitary training.
- Limited access shall not apply to an otherwise qualifying conviction if a conviction for an offense punishable by imprisonment of five (5) or more years or an enumerated offense arose out of the same case. A person who is denied CSLA may file a petition with the court for limited access.
- Adds a new § 9122.4 (relating to order to vacate order for limited access) to permit the prosecuting attorney to petition the court to revoke an order granting CSLA if it determines the order was erroneously entered or if the person is subsequently convicted of a misdemeanor or felony offense.

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- Adds a new § 9122.5 (relating to effects of expunged records and records subject to limited access) to provide for a person that has been granted limited access by law, or whose record has been expunged, may deny the arrest or conviction to anyone other than a criminal justice agency or a person that is entitled to the information under the law.
- Adds a new § 9122.6 (relating to employer immunity from liability) to provide immunity to civil liability to an employer for damages suffered as a result of criminal or unlawful conduct that is related to expunged or limited access criminal history record information.

### Title 42

§ 6307 (relating to inspection of court files and records) and § 6308 (relating to law enforcement records) of Title 42 are amended to further provide for consistent policies and practices for sealing of criminal history record information across statutes, specifically as it relates to juvenile delinquency petitions and adjudications.

The State Police (PSP) and the Administrative Office of Pennsylvania Courts (AOPC) are required to identify and complete processing of eligible records within 365 days of Section 4 of the legislation, which takes effect in 365 days of enactment.

A petition for limited access under 18 Pa.C.S. § 9122.1 (relating to general regulations) may be filed beginning 180 days after the effective date of Section 4(2), which takes effect immediately.

This act shall take effect as follows:

- Section 4(2) of the legislation shall take effect immediately;
- The amendment of 18 Pa.C.S. § 9122.1 (relating to general regulations) shall take effect in 180 days; and
- The remainder of this act shall take effect in 365 days.

### **FISCAL IMPACT:**

According to the PSP, a large portion of the costs to implement this legislation is related to computer programming and application development. An estimate received from the department's contractor estimates \$195,000 one-time costs to the PSP in order to address the Clean Slate requirements in this legislation. These costs are related to making the necessary programming changes to the Computerized Criminal History Record Information System (CCHRI) and the Pennsylvania Access To Criminal History (PATCH) system.

According to AOPC, \$50,000 of one-time costs will be incurred to perform the duties under this legislation.

Any costs to PSP and AOPC related to fulfilling the prescribed duties within this legislation would be capable of being accommodated within the agency's current workload and budget.