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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2525 Session of  
2022

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INTRODUCED BY KAUFER, COOK, MILLARD, DeLUCA AND MOUL,  
APRIL 5, 2022

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 2022

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in criminal history record  
3 information, providing for crime victim right of access.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Chapter 91 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER F.1

9 CRIME VICTIM RIGHT OF ACCESS

10 Sec.

11 9158. Definitions.

12 9158.1. Right to access.

13 9158.2. Access.

14 9158.3. Denial.

15 9158.4. Judicial review.

16 9158.5. Protection of information.

17 9158.6. Current dissemination not limited.

18 9158.7. Rules and regulations.

1 § 9158. Definitions.

2 The following words and phrases when used in this subchapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Child abuse." As defined in 23 Pa.C.S. § 6303(b.1)  
6 (relating to definitions).

7 "Crime victim." As defined as "direct victim" in section 103  
8 of the act of November 24, 1998 (P.L.882, No.111), known as the  
9 Crime Victims Act.

10 "Domestic violence." An offense under section 2701 (relating  
11 to simple assault), 2702 (relating to aggravated assault),  
12 2709.1 (relating to stalking) or 2718 (relating to  
13 strangulation) perpetrated against a family or household member,  
14 as defined in 23 Pa.C.S. § 6102 (relating to definitions).

15 "Records information officer." The head of the criminal  
16 justice agency or designee.

17 "Request for dissemination." A request under section 9158.2  
18 (relating to access).

19 "Sexual abuse." Conduct which occurs in this Commonwealth  
20 and would constitute an offense under any of the following  
21 provisions:

22 Section 3011(a) (1) or (2) or (b) (relating to trafficking  
23 in individuals).

24 Section 3012 (relating to involuntary servitude) as it  
25 relates to sexual servitude.

26 Section 3121 (relating to rape).

27 Section 3122.1 (relating to statutory sexual assault).

28 Section 3123 (relating to involuntary deviate sexual  
29 intercourse).

30 Section 3124.1 (relating to sexual assault).

1 Section 3124.2 (relating to institutional sexual  
2 assault).

3 Section 3125 (relating to aggravated indecent assault).

4 Section 3126 (relating to indecent assault).

5 Section 3127 (relating to indecent exposure).

6 Section 4302 (relating to incest).

7 Section 6312 (relating to sexual abuse of children).

8 Section 6320 (relating to sexual exploitation of  
9 children).

10 "Third-party victim." A crime victim other than the crime  
11 victim making a request for dissemination.

12 § 9158.1. Right to access.

13 A crime victim or the crime victim's legal representative may  
14 obtain criminal history investigative information under this  
15 subchapter for use in or investigation of an actual or potential  
16 civil action relating to that criminal history investigative  
17 information.

18 § 9158.2. Access.

19 (a) General rule.--A crime victim may request the  
20 dissemination of criminal history investigative information that  
21 is:

22 (1) directly related to a civil action pending in a  
23 court in this Commonwealth; or

24 (2) material and necessary to the investigation or  
25 preparation of a civil action.

26 (b) Request.--A request for dissemination shall include an  
27 unsworn statement by the crime victim or the crime victim's  
28 legal representative, made subject to the penalties of section  
29 4904 (relating to unsworn falsification to authorities), that  
30 the requested information is directly related to a civil action

1 pending in a court in this Commonwealth or material and  
2 necessary to the investigation or preparation of a civil action.  
3 A request for dissemination shall identify or describe the  
4 information sought with sufficient specificity to enable the  
5 criminal justice agency to ascertain which information is being  
6 requested.

7 (c) Service.--A request for dissemination shall be served on  
8 the records information officer. Service shall be effective upon  
9 receipt of the request by the records information officer or  
10 head of the criminal justice agency via personal service or  
11 certified mail with receipt.

12 (d) Dissemination.--Subject to section 9158.3 (relating to  
13 denial), a criminal justice agency shall disseminate criminal  
14 history investigative information in response to a request for  
15 dissemination within 30 days of receipt of the request for  
16 dissemination or by the date returnable on the request for  
17 dissemination, whichever is later. The criminal justice agency  
18 may impose reasonable fees for costs incurred to comply with the  
19 request.

20 (e) Receipt of information.--Dissemination of information  
21 under this section may be made to the crime victim or the crime  
22 victim's legal representative, or the attorney for the crime  
23 victim or crime victim's legal representative, as directed by  
24 the request for information. Criminal history investigative  
25 information obtained by a crime victim shall be discoverable in  
26 a civil action directly related to the crime, unless otherwise  
27 privileged from discovery.

28 (f) Subpoenas.--A criminal justice agency may, in its sole  
29 discretion, respond to a subpoena in a pending civil action  
30 seeking disclosure of criminal history investigative information

1 as a request for dissemination under this subchapter. Nothing  
2 under this subchapter shall relieve a criminal justice agency of  
3 responding to a subpoena as otherwise required by law or court  
4 rule.

5 (g) Civil action.--Upon written demand by a defendant in a  
6 civil action in which the crime victim is a party, the crime  
7 victim shall request dissemination of criminal history  
8 investigative information directly related to the civil action  
9 pending in a court in this Commonwealth.

10 § 9158.3. Denial.

11 (a) Grounds.--A criminal justice agency shall deny a request  
12 for dissemination if the criminal justice agency determines:

13 (1) That dissemination of the requested information:

14 (i) endangers a person or public safety;

15 (ii) adversely affects an investigation or ongoing  
16 prosecution; or

17 (iii) relates to law enforcement's use of  
18 confidential informants or discloses investigative  
19 techniques and procedures, unless reasonable redaction  
20 will prevent the disclosure of this information.

21 (2) Either that:

22 (i) The criminal history investigative information  
23 is not:

24 (A) directly relating to a civil action pending  
25 in a court in this Commonwealth; or

26 (B) material and necessary to the investigation  
27 or preparation of a civil action.

28 (ii) Dissemination of the requested information will  
29 cause substantial emotional distress to a third-party  
30 victim of child abuse, domestic abuse or sexual abuse,

1 unless:

2 (A) reasonable redaction of the information will  
3 prevent substantial emotional distress to the third-  
4 party victim; or

5 (B) the third-party victim consents to  
6 dissemination of the requested information.

7 (b) Contact and consent.--Prior to issuing a denial under  
8 subsection (a) (2), a criminal justice agency shall make  
9 reasonable efforts to contact the third-party victim, describe  
10 the request for information and request the third-party victim's  
11 consent to dissemination of the information.

12 (c) Service of denial.--The criminal justice agency shall  
13 serve a denial in writing to the requesting party within 30 days  
14 of receipt of the request for dissemination or by the date  
15 returnable on the request for dissemination, whichever is later,  
16 identifying the grounds for denial.

17 § 9158.4. Judicial review.

18 (a) Petition for review.--Subject to subsection (c), a  
19 requesting party may file a petition for review appealing a  
20 denial under section 9158.3(a) (2) (relating to denial), which  
21 shall include the following:

22 (1) The request for information.

23 (2) Proof of service of the request for information.

24 (3) The denial.

25 (4) Other information necessary to determine whether the  
26 criminal history investigative information should be  
27 disseminated under this subchapter.

28 (b) Time for petition.--A petition for review shall be filed  
29 within 45 days of service of a denial of a request for  
30 dissemination of information.

1 (c) Location of filing.--A petition for review shall be  
2 filed before the court of common pleas in any judicial district  
3 in which the criminal justice agency that issued the denial is  
4 located. For a criminal justice agency with Statewide  
5 jurisdiction, the petition for review shall be filed in  
6 Commonwealth Court.

7 (d) Judicial review.--A denial under section 9158.3(a)(1)  
8 shall not be subject to judicial review.

9 (e) Relief.--In a proceeding under this section, a court may  
10 award declaratory and injunctive relief only. The court shall  
11 direct a criminal justice agency to produce the requested  
12 information if the requesting party proves entitlement to access  
13 under this subchapter by a preponderance of the evidence.

14 § 9158.5. Protection of information.

15 (a) General rule.--Nothing under this subchapter shall be  
16 construed to permit the dissemination of otherwise privileged  
17 information, including:

18 (1) Grand jury investigative materials.

19 (2) Medical, mental health or treatment records.

20 (3) Materials protected by an applicable attorney-client  
21 or work product privilege.

22 (4) Materials protected by 42 Pa.C.S. Ch. 63 (relating  
23 to juvenile matters).

24 (5) Materials subject to 42 Pa.C.S. Ch. 67A (relating to  
25 recordings by law enforcement officers).

26 (6) Information that is otherwise prohibited or  
27 protected from disclosure or dissemination by Federal or  
28 State law.

29 (b) Protection.--A criminal justice agency shall be subject  
30 to protection under 1 Pa.C.S. § 2310 (relating to sovereign

1 immunity reaffirmed; specific waiver) and 42 Pa.C.S. §§ 8541  
2 (relating to governmental immunity generally) and 8545 (relating  
3 to official liability generally) for dissemination of  
4 information under this subchapter.

5 (c) Use of information.--Information obtained under this  
6 subchapter shall be used only in furtherance of an actual or  
7 potential civil action relating to that criminal history  
8 investigative information.

9 (d) Violation.--Use of information obtained under this  
10 subchapter to harass, intimidate or threaten another shall  
11 constitute a misdemeanor of the second degree.

12 § 9158.6. Current dissemination not limited.

13 Nothing in this chapter shall:

14 (1) Prohibit a police department from furnishing, upon  
15 request, a crime victim or the crime victim's legal  
16 representative a certified copy of a full report of the  
17 police investigation of a crime reported by a victim to an  
18 insurance company for purposes of seeking coverage under an  
19 applicable policy.

20 (2) Prohibit notifications authorized by the act of  
21 November 24, 1998 (P.L.882, No.111), known as the Crime  
22 Victims Act.

23 § 9158.7. Rules and regulations.

24 (a) Attorney General.--The Attorney General, in cooperation  
25 with appropriate criminal justice agencies, shall promulgate  
26 rules and regulations as necessary to implement this subchapter  
27 and establish reasonable fees.

28 (b) Supreme Court.--The Supreme Court shall promulgate rules  
29 as necessary to implement this subchapter.

30 Section 2. This act shall take effect in 120 days.