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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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SENATOR BROWNE, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, OCTOBER 24, 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.

1 9158.7. Rules and regulations.

2 § 9158. Definitions.

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

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

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

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

16 "Emotional distress." A temporary or permanent state of <--  
17 mental anguish.

18 "Records information officer." The head of the criminal  
19 justice agency or designee.

20 "Request for dissemination." A request under section 9158.2  
21 (relating to access).

22 "Requesting party." A crime victim or a defendant in a civil  
23 action in which a crime victim is a party.

24 "Sexual abuse." Conduct which occurs in this Commonwealth  
25 and would constitute an offense under any of the following  
26 provisions:

27 Section 3011(a)(1) or (2) or (b) (relating to trafficking  
28 in individuals).

29 Section 3012 (relating to involuntary servitude) as it  
30 relates to sexual servitude.

1 Section 3121 (relating to rape).  
2 Section 3122.1 (relating to statutory sexual assault).  
3 Section 3123 (relating to involuntary deviate sexual  
4 intercourse).  
5 Section 3124.1 (relating to sexual assault).  
6 Section 3124.2 (relating to institutional sexual  
7 assault).  
8 Section 3125 (relating to aggravated indecent assault).  
9 Section 3126 (relating to indecent assault).  
10 Section 3127 (relating to indecent exposure).  
11 Section 4302 (relating to incest).  
12 Section 6312 (relating to sexual abuse of children).  
13 Section 6320 (relating to sexual exploitation of  
14 children).

15 "Third-party victim." A crime victim other than the crime  
16 victim making a request for dissemination AND OTHER THAN THE <--  
17 CRIME VICTIM WHO IS THE PLAINTIFF IN THE UNDERLYING CIVIL  
18 ACTION.

19 § 9158.1. Right to access.

20 A requesting party or a requesting party's legal  
21 representative may obtain criminal history investigative  
22 information under this subchapter for use in or investigation of  
23 an actual or potential civil action IN THIS COMMONWEALTH <--  
24 relating to that criminal history investigative information.

25 § 9158.2. Access.

26 (a) General rule.--

27 (1) A requesting party may request the dissemination of  
28 criminal history investigative information that is directly  
29 related to a civil action pending in a court in this  
30 Commonwealth.

1           (2) A crime victim OR THE CRIME VICTIM'S REPRESENTATIVE <--  
2           may request the dissemination of criminal history  
3           investigative information that is material and necessary to  
4           the investigation or preparation of a civil action IN THIS <--  
5           COMMONWEALTH.

6           (b) Request.--A request for dissemination shall include an  
7           unsworn statement by the requesting party or the requesting  
8           party's legal representative, made subject to the penalties of  
9           section 4904 (relating to unsworn falsification to authorities),  
10           that the requested information is directly related to a civil  
11           action pending in a court in this Commonwealth or, if the  
12           requesting party is a crime victim or the crime victim's legal  
13           representative, material and necessary to the investigation or  
14           preparation of a civil action IN THIS COMMONWEALTH. A request <--  
15           for dissemination shall identify or describe the information  
16           sought with sufficient specificity to enable the criminal  
17           justice agency to ascertain which information is being  
18           requested.

19           (c) Service.--A request for dissemination shall be served on  
20           the records information officer. Service shall be effective upon  
21           receipt of the request by the records information officer or  
22           head of the criminal justice agency via personal service or  
23           certified mail with receipt.

24           (d) Dissemination.--Subject to section 9158.3 (relating to  
25           denial), a criminal justice agency shall disseminate criminal  
26           history investigative information in response to a request for  
27           dissemination within ~~30~~ 60 days of receipt of the request for <--  
28           dissemination or by the date returnable on the request for  
29           dissemination, whichever is later. The criminal justice agency  
30           may impose reasonable fees for costs incurred to comply with the

1 request.

2 (e) Receipt of information.--Dissemination of information  
3 under this section may be made to the requesting party or the  
4 requesting party's legal representative, or the attorney for the  
5 requesting party or the requesting party's legal representative,  
6 as directed by the request for information. Criminal history  
7 investigative dissemination obtained under this subchapter shall  
8 be discoverable in a civil action directly related to the crime,  
9 unless otherwise nondiscoverable or privileged from discovery.

10 (f) Subpoenas.--A criminal justice agency may, in its sole  
11 discretion, respond to a subpoena in a pending civil action  
12 seeking disclosure of criminal history investigative information  
13 as a request for dissemination under this subchapter. Nothing  
14 under this subchapter shall relieve a criminal justice agency of  
15 also responding to a subpoena as otherwise required by law or  
16 court rule.

17 § 9158.3. Denial.

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

20 (1) That, ABSENT REASONABLE REDACTIONS, THE <--  
21 dissemination of the requested information:

22 (i) endangers a person or public safety;

23 (ii) adversely affects an investigation or ongoing  
24 prosecution; or

25 (iii) relates to law enforcement's use of  
26 confidential informants or discloses investigative  
27 techniques and procedures, unless reasonable redaction <--  
28 will prevent the disclosure of this information.

29 (2) Either that:

30 (i) The criminal history investigative information

1 is not:

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

4 (B) material and necessary to the investigation  
5 or preparation of a civil action IN THIS <--  
6 COMMONWEALTH.

7 ~~(ii) Dissemination of the requested information will~~ <--  
8 ~~cause substantial emotional distress to a third party~~  
9 ~~victim of child abuse, domestic violence or sexual abuse,~~  
10 ~~unless:~~

11 ~~(A) reasonable redaction of the information will~~  
12 ~~prevent substantial emotional distress to the third~~  
13 ~~party victim; or~~

14 ~~(B) the third party victim consents to~~  
15 ~~dissemination of the requested information.~~

16 ~~(b) Contact and consent. Prior to issuing a denial under~~  
17 ~~subsection (a) (2), a criminal justice agency shall make~~  
18 ~~reasonable efforts to contact the third party victim, describe~~  
19 ~~the request for information and request the third party victim's~~  
20 ~~consent to dissemination of the information.~~

21 ~~(c) (II) DISSEMINATION OF THE REQUESTED INFORMATION WOULD~~ <--  
22 ~~IDENTIFY A THIRD-PARTY VICTIM OF CHILD ABUSE, DOMESTIC VIOLENCE~~  
23 ~~OR SEXUAL ABUSE, UNLESS THE CRIMINAL JUSTICE AGENCY DETERMINES~~  
24 ~~THAT REASONABLE REDACTION OF THE INFORMATION WILL PREVENT~~  
25 ~~IDENTIFICATION OF THE THIRD-PARTY VICTIM.~~

26 (B) Service of denial.--The criminal justice agency shall  
27 serve a denial in writing to the requesting party within 30 60 <--  
28 days of receipt of the request for dissemination or by the date  
29 returnable on the request for dissemination, whichever is later,  
30 identifying the grounds for denial.

1 § 9158.4. Judicial review.

2 (a) Petition for review.--Subject to subsection ~~(e)~~ (D), a <--  
3 requesting party may file a petition for review appealing a  
4 denial under section 9158.3(a)(2) (relating to denial), which  
5 shall include the following:

6 (1) The request for dissemination.

7 (2) Proof of service of the request for dissemination.

8 (3) The denial.

9 (4) Other information necessary to determine whether the  
10 criminal history investigative information should be  
11 disseminated under this subchapter.

12 (b) Time for petition.--A petition for review shall be filed  
13 within 45 days of service of a denial of a request for  
14 dissemination of information.

15 (c) Location of filing.--A petition for review shall be  
16 filed before the court of common pleas in any judicial district  
17 in which the criminal justice agency that issued the denial is  
18 located. For a criminal justice agency with Statewide  
19 jurisdiction, the petition for review shall be filed in  
20 Commonwealth Court.

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

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

28 § 9158.5. Protection of information.

29 (a) General rule.--Nothing under this subchapter shall be  
30 construed to permit the dissemination of otherwise

1 nondiscoverable or privileged information, including:

2 (1) Grand jury investigative materials.

3 (2) Medical, mental health or treatment records <--  
4 INFORMATION. <--

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

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

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

11 (6) Information that is otherwise prohibited or  
12 protected from disclosure or dissemination by Federal or  
13 State law.

14 (B) EXEMPTION.--THE FOLLOWING PERSONAL IDENTIFICATION <--  
15 INFORMATION WITH RESPECT TO AN INDIVIDUAL OTHER THAN A THE <--  
16 REQUESTING PARTY SHALL BE EXEMPT FROM DISSEMINATION:

17 (1) A PERSON'S SOCIAL SECURITY NUMBER.

18 (2) A PERSON'S DRIVER'S LICENSE NUMBER.

19 (3) PERSONAL FINANCE INFORMATION.

20 (4) A PERSON'S HOME, CELLULAR OR PERSONAL TELEPHONE  
21 NUMBERS.

22 (5) A PERSON'S E-MAIL ADDRESS, EMPLOYEE NUMBER OR OTHER  
23 CONFIDENTIAL PERSONAL IDENTIFICATION NUMBER.

24 ~~(b)~~ (C) Protection.--A criminal justice agency shall be <--  
25 subject to protection under 1 Pa.C.S. § 2310 (relating to  
26 sovereign immunity reaffirmed; specific waiver) and 42 Pa.C.S.  
27 §§ 8541 (relating to governmental immunity generally) and 8545  
28 (relating to official liability generally) for dissemination of  
29 criminal history investigative information under this  
30 subchapter.

1 ~~(e)~~ (D) Use of information.--Information obtained under this <--  
2 subchapter shall be used only in connection with an actual or  
3 potential civil action directly relating to that criminal  
4 history investigative information.

5 ~~(d)~~ (E) Violation.--Use of information obtained under this <--  
6 subchapter to harass, intimidate or threaten another shall  
7 constitute a misdemeanor of the second degree.

8 § 9158.6. Current dissemination not limited.

9 Nothing in this chapter shall:

10 (1) Prohibit a police department from furnishing, upon  
11 request, a certified copy of a full report of a police  
12 investigation to an insurance company for the purpose of  
13 processing a claim for coverage under an applicable policy.

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

17 § 9158.7. Rules and regulations.

18 (a) Attorney General.--The Attorney General, in cooperation  
19 with appropriate criminal justice agencies, shall promulgate  
20 rules and regulations as necessary to implement this subchapter  
21 and establish reasonable fees.

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

24 Section 2. This act shall take effect in ~~120~~ 180 days. <--