

## 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 REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 28, 2009

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for expungement of  
3 criminal history record.

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

6 Section 1. Section 9122(b) AND (F) of Title 18 of the  
7 Pennsylvania Consolidated Statutes, amended November 26, 2008  
8 (P.L.1670, No.134), ~~is~~ ARE amended to read:

9 § 9122. Expungement.

10 \* \* \*

11 (b) Generally.--Criminal history record information may be  
12 expunged when:

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

1           (2) Any individual who is the subject of the information  
2 has been dead for three years.

3           (3) (i) An individual who is the subject of the  
4 information, petitions the court for the expungement of a  
5 summary offense and has been free of arrest or  
6 prosecution for five years following the conviction for  
7 that offense.

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

10          (4) (i) An individual who is the subject of the  
11 information petitions for expungement of the information  
12 and the individual has been free of arrest or prosecution  
13 following final release from confinement or supervision  
14 for the greater of the following time periods:

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

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

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

21                (A) An offense punishable by imprisonment of  
22 more than two years.

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

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

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

30                (E) A violation of section 3126 (relating to

1           indecent assault).

2           (F) A violation of section 3129 (relating to  
3           sexual intercourse with animal).

4           (G) A violation of section 5511 (relating to  
5           cruelty to animals).

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

8           (I) ANY OFFENSE WHERE AN INDIVIDUAL IS REQUIRED ←  
9           TO REGISTER PURSUANT TO 42 PA.C.S. § 9795.1 (RELATING  
10           TO REGISTRATION).

11           (J) A VIOLATION OF 75 PA.C.S. CH. 38 (RELATING  
12           TO DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING  
13           DRUGS).

14           (K) A VIOLATION OF PT. II, ART. B (RELATING TO  
15           OFFENSES INVOLVING DANGER TO THE PERSON) IF THE  
16           VICTIM WAS A LAW ENFORCEMENT OFFICER ENGAGED IN THE  
17           PERFORMANCE OF DUTY AND THE PERPETRATOR KNEW THE  
18           VICTIM WAS A LAW ENFORCEMENT OFFICER AT THE TIME OF  
19           THE OFFENSE.

20           (5) EXPUNGEMENT UNDER THIS SECTION SHALL BE AT THE  
21           DISCRETION OF THE COURT. IN CONSIDERING WHETHER TO GRANT THE  
22           PETITION FOR EXPUNGEMENT, THE COURT SHALL CONSIDER ALL  
23           RELEVANT FACTORS, INCLUDING ALL OF THE FOLLOWING:

24           (I) THE NATURE OF THE OFFENSE.

25           (II) THE NATURE AND DISPOSITION OF ANY RELATED  
26           CHARGES.

27           (III) THE IMPACT OF THE OFFENSE UPON ANY VICTIMS OF  
28           THE OFFENSE.

29           (IV) ANY REASONS THE COMMONWEALTH MAY GIVE FOR  
30           WISHING TO RETAIN THE RECORDS.

1           (V) THE PETITIONER'S AGE, CRIMINAL RECORD AND  
2           EMPLOYMENT HISTORY.

3           (VI) THE LENGTH OF TIME THAT HAS ELAPSED BETWEEN THE  
4           ARREST AND THE PETITION TO EXPUNGE.

5           (VII) THE SPECIFIC ADVERSE CONSEQUENCES THE  
6           PETITIONER MAY ENDURE SHOULD EXPUNCTION BE DENIED.

7           \* \* \*

8           (F) DISTRICT ATTORNEY'S NOTICE.--THE COURT SHALL GIVE [TEN  
9           DAYS] 30 DAYS' PRIOR NOTICE TO THE DISTRICT ATTORNEY OF THE  
10          COUNTY WHERE THE ORIGINAL CHARGE WAS FILED OF ANY APPLICATIONS  
11          FOR EXPUNGEMENT UNDER THE PROVISIONS OF SUBSECTION (A) (2) OR  
12          (B).

13          Section 2. This act shall take effect in 60 days.

