
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 189 Session of
2013

INTRODUCED BY WASHINGTON, FONTANA, STACK, TEPLITZ, WILLIAMS,
FARNESE AND TARTAGLIONE, JANUARY 17, 2013

REFERRED TO JUDICIARY, JANUARY 17, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, prohibiting persons ordered to undergo
3 involuntary mental health treatment on an outpatient basis
4 from owning firearms.

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

7 Section 1. Sections 6105(c) and (f) (1), 6105.1(a), 6109(c),
8 (e) (1) and (i.1) and 6111.1(f) and (g) of Title 18 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 6105. Persons not to possess, use, manufacture, control, sell
11 or transfer firearms.

12 * * *

13 (c) Other persons.--In addition to any person who has been
14 convicted of any offense listed under subsection (b), the
15 following persons shall be subject to the prohibition of
16 subsection (a):

17 (1) A person who is a fugitive from justice. This
18 paragraph does not apply to an individual whose fugitive
19 status is based upon a nonmoving or moving summary offense

1 under Title 75 (relating to vehicles).

2 (2) A person who has been convicted of an offense under
3 the act of April 14, 1972 (P.L.233, No.64), known as The
4 Controlled Substance, Drug, Device and Cosmetic Act, or any
5 equivalent Federal statute or equivalent statute of any other
6 state, that may be punishable by a term of imprisonment
7 exceeding two years.

8 (3) A person who has been convicted of driving under the
9 influence of alcohol or controlled substance as provided in
10 75 Pa.C.S. § 3802 (relating to driving under influence of
11 alcohol or controlled substance) or the former 75 Pa.C.S. §
12 3731, on three or more separate occasions within a five-year
13 period. For the purposes of this paragraph only, the
14 prohibition of subsection (a) shall only apply to transfers
15 or purchases of firearms after the third conviction.

16 (4) A person who has been adjudicated as an incompetent
17 or who has been involuntarily committed to a mental
18 institution for inpatient care and treatment under section
19 302, 303 or 304 of the provisions of the act of July 9, 1976
20 (P.L.817, No.143), known as the Mental Health Procedures Act.
21 This paragraph shall not apply to any proceeding under
22 section 302 of the Mental Health Procedures Act unless the
23 examining physician has issued a certification that inpatient
24 care was necessary or that the person was committable.

25 (4.1) A person who has been ordered to undergo
26 involuntary mental health treatment on an outpatient basis
27 under the Mental Health Procedures Act.

28 (5) A person who, being an alien, is illegally or
29 unlawfully in the United States.

30 (6) A person who is the subject of an active protection

1 from abuse order issued pursuant to 23 Pa.C.S. § 6108, which
2 order provided for the relinquishment of firearms during the
3 period of time the order is in effect. This prohibition shall
4 terminate upon the expiration or vacation of an active
5 protection from abuse order or portion thereof relating to
6 the relinquishment of firearms.

7 (7) A person who was adjudicated delinquent by a court
8 pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or
9 under any equivalent Federal statute or statute of any other
10 state as a result of conduct which if committed by an adult
11 would constitute an offense under sections 2502, 2503, 2702,
12 2703 (relating to assault by prisoner), 2704, 2901, 3121,
13 3123, 3301, 3502, 3701 and 3923.

14 (8) A person who was adjudicated delinquent by a court
15 pursuant to 42 Pa.C.S. § 6341 or under any equivalent Federal
16 statute or statute of any other state as a result of conduct
17 which if committed by an adult would constitute an offense
18 enumerated in subsection (b) with the exception of those
19 crimes set forth in paragraph (7). This prohibition shall
20 terminate 15 years after the last applicable delinquent
21 adjudication or upon the person reaching the age of 30,
22 whichever is earlier.

23 (9) A person who is prohibited from possessing or
24 acquiring a firearm under 18 U.S.C. § 922(g)(9) (relating to
25 unlawful acts). If the offense which resulted in the
26 prohibition under 18 U.S.C. § 922(g)(9) was committed, as
27 provided in 18 U.S.C. § 921(a)(33)(A)(ii) (relating to
28 definitions), by a person in any of the following
29 relationships:

30 (i) the current or former spouse, parent or guardian

1 of the victim;

2 (ii) a person with whom the victim shares a child in
3 common;

4 (iii) a person who cohabits with or has cohabited
5 with the victim as a spouse, parent or guardian; or

6 (iv) a person similarly situated to a spouse, parent
7 or guardian of the victim;

8 then the relationship need not be an element of the offense
9 to meet the requirements of this paragraph.

10 * * *

11 (f) Other exemptions and proceedings.--

12 (1) Upon application to the court of common pleas under
13 this subsection by an applicant subject to the prohibitions
14 under subsection (c) (4) or (4.1), the court may grant such
15 relief as it deems appropriate if the court determines that
16 the applicant may possess a firearm without risk to the
17 applicant or any other person.

18 * * *

19 § 6105.1. Restoration of firearm rights for offenses under
20 prior laws of this Commonwealth.

21 (a) Restoration.--A person convicted of a disabling offense
22 may make application to the court of common pleas in the county
23 where the principal residence of the applicant is situated for
24 restoration of firearms rights. The court shall grant
25 restoration of firearms rights after a hearing in open court to
26 determine whether the requirements of this section have been met
27 unless:

28 (1) the applicant has been convicted of any other
29 offense specified in section 6105(a) or (b) (relating to
30 persons not to possess, use, manufacture, control, sell or

1 transfer firearms) or the applicant's conduct meets the
2 criteria in section 6105(c) (1), (2), (3), (4), (4.1), (5),
3 (6) or (7);

4 (2) the applicant has been convicted of any other crime
5 punishable by imprisonment exceeding one year as defined in
6 section 6102 (relating to definitions); or

7 (3) the applicant's character and reputation is such
8 that the applicant would be likely to act in a manner
9 dangerous to public safety.

10 * * *

11 § 6109. Licenses.

12 * * *

13 (c) Form of application and content.--The application for a
14 license to carry a firearm shall be uniform throughout this
15 Commonwealth and shall be on a form prescribed by the
16 Pennsylvania State Police. The form may contain provisions, not
17 exceeding one page, to assure compliance with this section.
18 Issuing authorities shall use only the application form
19 prescribed by the Pennsylvania State Police. One of the
20 following reasons for obtaining a firearm license shall be set
21 forth in the application: self-defense, employment, hunting and
22 fishing, target shooting, gun collecting or another proper
23 reason. The application form shall be dated and signed by the
24 applicant and shall contain the following statement:

25 I have never been convicted of a crime that prohibits me
26 from possessing or acquiring a firearm under Federal or
27 State law. I am of sound mind and have never been
28 committed to a mental institution or been ordered to
29 undergo involuntary mental health treatment on an
30 outpatient bases. I hereby certify that the statements

1 contained herein are true and correct to the best of my
2 knowledge and belief. I understand that, if I knowingly
3 make any false statements herein, I am subject to
4 penalties prescribed by law. I authorize the sheriff, or
5 his designee, or, in the case of first class cities, the
6 chief or head of the police department, or his designee,
7 to inspect only those records or documents relevant to
8 information required for this application. If I am issued
9 a license and knowingly become ineligible to legally
10 possess or acquire firearms, I will promptly notify the
11 sheriff of the county in which I reside or, if I reside
12 in a city of the first class, the chief of police of that
13 city.

14 * * *

15 (e) Issuance of license.--

16 (1) A license to carry a firearm shall be for the
17 purpose of carrying a firearm concealed on or about one's
18 person or in a vehicle and shall be issued if, after an
19 investigation not to exceed 45 days, it appears that the
20 applicant is an individual concerning whom no good cause
21 exists to deny the license. A license shall not be issued to
22 any of the following:

23 (i) An individual whose character and reputation is
24 such that the individual would be likely to act in a
25 manner dangerous to public safety.

26 (ii) An individual who has been convicted of an
27 offense under the act of April 14, 1972 (P.L.233, No.64),
28 known as The Controlled Substance, Drug, Device and
29 Cosmetic Act.

30 (iii) An individual convicted of a crime enumerated

1 in section 6105.

2 (iv) An individual who, within the past ten years,
3 has been adjudicated delinquent for a crime enumerated in
4 section 6105 or for an offense under The Controlled
5 Substance, Drug, Device and Cosmetic Act.

6 (v) An individual who is not of sound mind or who
7 has ever been committed to a mental institution or who
8 has ever been ordered to undergo involuntary mental
9 health treatment on an outpatient basis.

10 (vi) An individual who is addicted to or is an
11 unlawful user of marijuana or a stimulant, depressant or
12 narcotic drug.

13 (vii) An individual who is a habitual drunkard.

14 (viii) An individual who is charged with or has been
15 convicted of a crime punishable by imprisonment for a
16 term exceeding one year except as provided for in section
17 6123 (relating to waiver of disability or pardons).

18 (ix) A resident of another state who does not
19 possess a current license or permit or similar document
20 to carry a firearm issued by that state if a license is
21 provided for by the laws of that state, as published
22 annually in the Federal Register by the Bureau of
23 Alcohol, Tobacco and Firearms of the Department of the
24 Treasury under 18 U.S.C. § 921(a)(19) (relating to
25 definitions).

26 (x) An alien who is illegally in the United States.

27 (xi) An individual who has been discharged from the
28 armed forces of the United States under dishonorable
29 conditions.

30 (xii) An individual who is a fugitive from justice.

1 This subparagraph does not apply to an individual whose
2 fugitive status is based upon nonmoving or moving summary
3 offense under Title 75 (relating to vehicles).

4 (xiii) An individual who is otherwise prohibited
5 from possessing, using, manufacturing, controlling,
6 purchasing, selling or transferring a firearm as provided
7 by section 6105.

8 (xiv) An individual who is prohibited from
9 possessing or acquiring a firearm under the statutes of
10 the United States.

11 * * *

12 (i.1) Notice to sheriff.--Notwithstanding any statute to the
13 contrary:

14 (1) Upon conviction of a person for a crime specified in
15 section 6105(a) or (b) or upon conviction of a person for a
16 crime punishable by imprisonment exceeding one year or upon a
17 determination that the conduct of a person meets the criteria
18 specified in section 6105(c) (1), (2), (3), (5), (6) or (9),
19 the court shall determine if the defendant has a license to
20 carry firearms issued pursuant to this section. If the
21 defendant has such a license, the court shall notify the
22 sheriff of the county in which that person resides, on a form
23 developed by the Pennsylvania State Police, of the identity
24 of the person and the nature of the crime or conduct which
25 resulted in the notification. The notification shall be
26 transmitted by the judge within seven days of the conviction
27 or determination.

28 (2) Upon adjudication that a person is incompetent or
29 upon the involuntary commitment of a person to a mental
30 institution for inpatient care and treatment under the act of

1 July 9, 1976 (P.L.817, No.143), known as the Mental Health
2 Procedures Act, or upon involuntary treatment of a person as
3 described under section 6105(c)(4) or (4.1), the judge of the
4 court of common pleas, mental health review officer or county
5 mental health and mental retardation administrator shall
6 notify the sheriff of the county in which that person
7 resides, on a form developed by the Pennsylvania State
8 Police, of the identity of the person who has been
9 adjudicated, committed or treated and the nature of the
10 adjudication, commitment or treatment. The notification shall
11 be transmitted by the judge, mental health review officer or
12 county mental health and mental retardation administrator
13 within seven days of the adjudication, commitment or
14 treatment.

15 * * *

16 § 6111.1. Pennsylvania State Police.

17 * * *

18 (f) Notification of mental health adjudication, treatment,
19 commitment, drug use or addiction.--

20 (1) Notwithstanding any statute to the contrary, judges
21 of the courts of common pleas shall notify the Pennsylvania
22 State Police, on a form developed by the Pennsylvania State
23 Police, of:

24 (i) the identity of any individual who has been
25 adjudicated as an incompetent or as a mental defective or
26 who has been involuntarily committed to a mental
27 institution under the act of July 9, 1976 (P.L.817,
28 No.143), known as the Mental Health Procedures Act, or
29 who has been involuntarily treated as described in
30 section 6105(c)(4) or (4.1) (relating to persons not to

1 possess, use, manufacture, control, sell or transfer
2 firearms) or as described in 18 U.S.C. § 922(g)(4)
3 (relating to unlawful acts) and its implementing Federal
4 regulations; and

5 (ii) any finding of fact or court order related to
6 any person described in 18 U.S.C. § 922(g)(3).

7 (2) The notification shall be transmitted by the judge
8 to the Pennsylvania State Police within seven days of the
9 adjudication, commitment or treatment.

10 (3) Notwithstanding any law to the contrary, the
11 Pennsylvania State Police may disclose, electronically or
12 otherwise, to the United States Attorney General or a
13 designee, any record relevant to a determination of whether a
14 person is disqualified from possessing or receiving a firearm
15 under 18 U.S.C. § 922 (g)(3) or (4) or an applicable state
16 statute.

17 (g) Review by court.--

18 (1) Upon receipt of a copy of the order of a court of
19 competent jurisdiction which vacates a final order or an
20 involuntary certification issued by a mental health review
21 officer, the Pennsylvania State Police shall expunge all
22 records of the involuntary treatment received under
23 subsection (f).

24 (2) A person who is involuntarily committed pursuant to
25 section 302 of the Mental Health Procedures Act may petition
26 the court to review the sufficiency of the evidence upon
27 which the commitment was based. If the court determines that
28 the evidence upon which the involuntary commitment was based
29 was insufficient, the court shall order that the record of
30 the commitment submitted to the Pennsylvania State Police be

1 expunged. A petition filed under this subsection shall toll
2 the 60-day period set forth under section 6105(a)(2).

3 (3) The Pennsylvania State Police shall expunge all
4 records of an involuntary commitment of an individual who is
5 discharged from a mental health facility based upon the
6 initial review by the physician occurring within two hours of
7 arrival under section 302(b) of the Mental Health Procedures
8 Act and the physician's determination that no severe mental
9 disability existed pursuant to section 302(b) of the Mental
10 Health Procedures Act. The physician shall provide signed
11 confirmation of the determination of the lack of severe
12 mental disability following the initial examination under
13 section 302(b) of the Mental Health Procedures Act to the
14 Pennsylvania State Police.

15 (4) A person who is ordered to undergo involuntary
16 mental health treatment on an outpatient basis under the
17 Mental Health Procedures Act may petition the court to review
18 the sufficiency of the evidence upon which the order was
19 based. If the court determines that the evidence upon which
20 the order was based was insufficient, the court shall order
21 that the record of the involuntary treatment submitted to the
22 Pennsylvania State Police be expunged. A petition filed under
23 this subsection shall toll the 60-day period set forth under
24 section 6105(a)(2).

25 * * *

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