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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 166 Session of  
2015

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INTRODUCED BY GREENLEAF, STACK, BREWSTER, KITCHEN, FONTANA,  
BAKER, BOSCOLA, WILEY, COSTA, TARTAGLIONE, HUGHES, VOGEL,  
LEACH, WHITE, RAFFERTY, PILEGGI, SCHWANK AND WILLIAMS,  
JANUARY 15, 2015

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AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, JANUARY 26, 2016

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in criminal history record information, further  
4 providing for general regulations and providing for order for  
5 limited access; and, in governance of the system, providing  
6 for petition for expungement or order for limited access fee.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 9121(b)(2) of Title 18 of the  
10 Pennsylvania Consolidated Statutes is amended, SUBSECTION (B) IS <--  
11 AMENDED BY ADDING A PARAGRAPH and the section is amended by  
12 adding a subsection to read:

13 § 9121. General regulations.

14 \* \* \*

15 (b) Dissemination to noncriminal justice agencies and  
16 individuals.--Criminal history record information shall be  
17 disseminated by a State or local police department to any  
18 individual or noncriminal justice agency only upon request.

1 Except as provided in subsection (b.1):

2 \* \* \*

3 (2) Before a State or local police department  
4 disseminates criminal history record information to an  
5 individual or noncriminal justice agency, it shall extract  
6 from the record [all] the following:

7 (i) All notations of arrests, indictments or other  
8 information relating to the initiation of criminal  
9 proceedings where:

10 [(i) three years have elapsed from the date of  
11 arrest;

12 (ii) no conviction has occurred; and

13 (iii) no proceedings are pending seeking a  
14 conviction.]

15 (A) three years have elapsed from the date of  
16 arrest;

17 (B) no conviction has occurred; and

18 (C) no proceedings are pending seeking a  
19 conviction.

20 (ii) All information relating to a conviction and  
21 the arrest, indictment or other information leading  
22 thereto, which is the subject of a court order for  
23 limited access as provided in section 9122.1 (relating to  
24 order for limited access).

25 (3) A COURT OR THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA <--  
26 COURTS MAY NOT DISSEMINATE TO AN INDIVIDUAL, A NONCRIMINAL  
27 JUSTICE AGENCY OR AN INTERNET WEBSITE ANY INFORMATION  
28 RELATING TO A CONVICTION, ARREST, INDICTMENT OR OTHER  
29 INFORMATION LEADING TO A CONVICTION, ARREST, INDICTMENT OR  
30 OTHER INFORMATION, WHICH IS THE SUBJECT OF A COURT ORDER FOR

1 LIMITED ACCESS AS PROVIDED IN SECTION 9122.1 (RELATING TO  
2 ORDER FOR LIMITED ACCESS).

3 \* \* \*

4 (b.2) Additional ~~exception~~ EXCEPTIONS.--Subsection (b) (2) <--  
5 (ii) AND (3) shall not apply if the request is made by a State <--  
6 agency to be used only as authorized under section 9124  
7 (relating to use of records by licensing agencies).

8 \* \* \*

9 Section 2. Title 18 is amended by adding a section to read:

10 § 9122.1. Order for limited access.

11 (a) General rule.--The following shall apply:

12 (1) Notwithstanding any other provision of this chapter,  
13 upon petition of a person who has been free of arrest or  
14 prosecution following conviction or final release from  
15 confinement or supervision, whichever is later, for a period  
16 of 10 years, the court of common pleas in the jurisdiction  
17 where the conviction occurred may enter an order that  
18 criminal history record information maintained by any  
19 criminal justice agency pertaining to a conviction for a  
20 misdemeanor of the second degree, a misdemeanor of the third  
21 degree or an ungraded offense which carries a maximum penalty  
22 of no more than two years be disseminated only to a criminal  
23 justice agency or a government agency as provided in section  
24 9121(b.1) and (b.2) (relating to general regulations).

25 (2) Except when requested or required by a criminal  
26 justice agency, or by and for the official use of a  
27 government agency described in section 9121(b.1) or 9124(a)  
28 (relating to use of records by licensing agencies), no  
29 individual shall be required nor requested to disclose  
30 information about the person's criminal history records that

1 are the subject of a court order for limited access granted  
2 under this section.

3 (b) Exceptions.--An order for limited access under this  
4 section shall not be granted to an individual who has been  
5 convicted at any time of any of the following:

6 (1) An offense punishable by imprisonment of more than  
7 two years.

8 (2) Four or more offenses punishable by imprisonment of  
9 one or more years.

10 (3) A violation of section 2701 (relating to simple  
11 assault), except when the offense is graded as a misdemeanor  
12 of the third degree.

13 (4) A violation of section 3129 (relating to sexual  
14 intercourse with animal).

15 (5) A violation of section 4912 (relating to  
16 impersonating a public servant).

17 (6) A violation of section 4952 (relating to  
18 intimidation of witnesses or victims).

19 (7) A violation of section 4953 (relating to retaliation  
20 against witness, victim or party).

21 (8) A violation of section 4958 (relating to  
22 intimidation, retaliation or obstruction in child abuse  
23 cases).

24 (9) An offense which requires registration under 42  
25 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual  
26 offenders).

27 (c) Notice to district attorney.--The court shall provide  
28 notice of the filing of a petition under subsection (a) to the  
29 district attorney within 10 days. Within 30 days of receipt of  
30 notice, the district attorney may file objections to the

1 petition. If no objection is timely filed, the court may grant  
2 the petition without further hearing if the requirements of this  
3 section have been met.

4 (d) Notice to central repository.--Notice of an order for  
5 limited access shall promptly be submitted to the central  
6 repository which shall notify all criminal justice agencies  
7 which have received criminal history record information related  
8 to such conviction that access to such criminal history record  
9 has been limited by order of the court.

10 Section 3. Title 42 is amended by adding a section to read:  
11 § 1725.7. Petition for expungement or order for limited access  
12 fee.

13 (a) General rule.--In addition to any other fee authorized  
14 by law, a person who files a petition for expungement under 18  
15 Pa.C.S. § 9122 (relating to expungement) or a petition for an  
16 order for limited access under 18 Pa.C.S. § 9122.1 (relating to  
17 order for limited access) shall pay a fee of \$100 \$132 to the <--  
18 clerk of courts at the time of filing.

19 (b) Distribution.--The clerk of courts shall ensure that the  
20 fee is distributed as follows:

21 ~~(1) One third to the clerk of courts.~~ <--

22 ~~(2) One third to the Pennsylvania State Police.~~

23 ~~(3) One third to the district attorney of the county.~~

24 (1) ONE-QUARTER TO THE ADMINISTRATIVE OFFICE OF <--  
25 PENNSYLVANIA COURTS.

26 (2) ONE-QUARTER TO THE PENNSYLVANIA STATE POLICE.

27 (3) ONE-QUARTER TO THE DISTRICT ATTORNEY OF THE COUNTY.

28 (4) ONE-QUARTER TO THE CLERK OF COURTS.

29 Section 4. This act shall take effect in 270 days.