

AMENDMENTS TO HOUSE BILL NO. 689

Sponsor: SENATOR BAKER

Printer's No. 1360

1 Amend Bill, page 1, line 4, by inserting after "regulations,"
2 for expungment,

3 Amend Bill, page 2, line 8, by striking out "9121(b.2) (2)"
4 and inserting

5 9121(b) (1) and (2) and (b.2) (2)

6 Amend Bill, page 2, line 8, by striking out "is" and
7 inserting

8 are

9 Amend Bill, page 2, by inserting between lines 11 and 12

10 (b) Dissemination to noncriminal justice agencies and
11 individuals.--Criminal history record information shall be
12 disseminated by [a State or local police department] the
13 Pennsylvania State Police to any individual or noncriminal
14 justice agency only upon request. Other criminal justice
15 agencies may disseminate criminal history record information to
16 any individual or noncriminal justice agency only as they deem
17 necessary to carry out their law enforcement functions as
18 otherwise allowed by this chapter. The following apply:

19 (1) A fee may be charged by [a State or local police
20 department] the Pennsylvania State Police for each request
21 for criminal history record information by an individual or
22 noncriminal justice agency, except that no fee shall be
23 charged to an individual who makes the request in order to
24 apply to become a volunteer with an affiliate of Big Brothers
25 of America or Big Sisters of America or with a rape crisis
26 center or domestic violence program.

27 (2) Except as provided for in subsections (b.1) and
28 (b.2), before [a State or local police department] the
29 Pennsylvania State Police disseminates criminal history
30 record information to an individual or noncriminal justice
31 agency, it shall extract from the record the following:

32 (i) All notations of arrests, indictments or other
33 information relating to the initiation of criminal

1 proceedings where:

2 (A) three years have elapsed from the date of
3 arrest;

4 (B) no disposition is indicated in the record;
5 and

6 (C) nothing in the record indicates that
7 proceedings seeking conviction remain pending.

8 (ii) All information relating to a conviction and
9 the arrest, indictment or other information leading
10 thereto, which is the subject of a court order for
11 limited access as provided in section 9122.1 (relating to
12 petition for limited access).

13 (iii) All information relating to a conviction or
14 nonconviction final disposition and the arrest,
15 indictment or other information leading to the arrest or
16 indictment which is subject to a court order for limited
17 access as provided for in section 9122.2 (relating to
18 clean slate limited access).

19 * * *

20 Amend Bill, page 3, lines 4 through 6, by striking out all of
21 said lines and inserting

22 Section 3. Sections 9122(a) and 9122.1(a) and (b)(1)(i) and
23 (2)(ii) and (iii) of Title 18 are amended and the sections are
24 amended by adding subsections to read:

25 § 9122. Expungement.

26 (a) Specific proceedings.--Criminal history record
27 information in a specific criminal proceeding shall be expunged
28 [in a specific criminal proceeding] when:

29 (1) no disposition has been received or, upon request
30 for criminal history record information, no disposition has
31 been recorded in the repository within 18 months after the
32 date of arrest and the court of proper jurisdiction certifies
33 to the director of the repository that no disposition is
34 available and no action is pending. Expungement shall not
35 occur until the certification from the court is received and
36 the director of the repository authorizes such expungement;

37 (2) a court order requires that such nonconviction data
38 be expunged;

39 (2.1) a person has been granted an unconditional pardon
40 for an offense in accordance with law;

41 (3) a person 21 years of age or older who has been
42 convicted of a violation of section 6308 (relating to
43 purchase, consumption, possession or transportation of liquor
44 or malt or brewed beverages), which occurred on or after the
45 day the person attained 18 years of age, petitions the court
46 of common pleas in the county where the conviction occurred
47 seeking expungement and the person has satisfied all terms
48 and conditions of the sentence imposed for the violation,
49 including any suspension of operating privileges imposed

1 pursuant to section 6310.4 (relating to restriction of
2 operating privileges). Upon review of the petition, the court
3 shall order the expungement of all criminal history record
4 information and all administrative records of the Department
5 of Transportation relating to said conviction; or

6 (4) a judicial determination has been made that a person
7 is acquitted of an offense, if the person has been acquitted
8 of all charges based on the same conduct or arising from the
9 same criminal episode following a trial and a verdict of not
10 guilty. This paragraph shall not apply to a partial
11 acquittal. A judicial determination under this paragraph may
12 only be made after the following:

13 (i) The court provides notice in writing to the
14 person and to the Commonwealth that the person's criminal
15 history record information will be automatically expunged
16 pursuant to this section.

17 (ii) Upon receipt of the notice under subparagraph
18 (i), the Commonwealth shall have 60 days to object to the
19 automatic expungement on the basis that the person has
20 not been acquitted of all charges relating to the same
21 conduct, arising from the same criminal episode or
22 otherwise relating to a partial acquittal.

23 (iii) Upon the filing of an objection, the court
24 shall conduct a hearing to determine whether expungement
25 of the acquittal relates to the same conduct, arises from
26 the same criminal episode or otherwise relates to a
27 partial acquittal. The hearing may be waived by agreement
28 of both parties and the court.

29 (iv) Following the hearing, or if no objection has
30 been filed or the hearing has been waived, the court
31 shall order that the person's criminal history record
32 information be automatically expunged unless the court
33 determines the expungement relates to the same conduct,
34 arises from the same criminal episode or otherwise
35 relates to a partial acquittal. Expungement shall occur
36 no later than 12 months from the date of acquittal.

37 (a.1) Automatic expungement pursuant to pardon.--

38 (1) On a quarterly basis, the Board of Pardons shall
39 transmit a notice of the record of any conviction eligible
40 for expungement under subsection (a)(2.1) to the
41 Administrative Office of Pennsylvania Courts.

42 (2) On a quarterly basis, upon receipt of the notice
43 under paragraph (1), the Administrative Office of
44 Pennsylvania Courts shall transmit the record of any
45 conviction eligible for expungement under subsection (a)(2.1)
46 to the court of common pleas in the jurisdiction where the
47 conviction occurred.

48 (3) Upon receipt of the notice under paragraph (2) and
49 confirmation that the criteria under subsection (a)(2.1) has
50 been met, the court shall order that the person's criminal
51 history record information be expunged and forward notice to

1 the central repository in accordance with subsection (d). The
2 Board of Pardons shall provide pardon information to the
3 Administrative Office of Pennsylvania Courts in a format
4 specified by the Administrative Office of Pennsylvania Courts
5 as necessary for proper identification of the case for which
6 a pardon has been granted.
7 * * *

8 Amend Bill, page 7, line 7, by striking out "9122.2(a)(1) and
9 (3)" and inserting

10 9122.2(a)(1), (3) and (4)

11 Amend Bill, page 8, line 20, by striking out all of said line
12 and inserting

13 (4) Criminal history record information pertaining to a
14 conviction for which a conditional pardon was granted.
15 * * *

16 Amend Bill, page 10, line 30; page 11, lines 1 and 2; by
17 striking out "9122.2(A)" in line 30 on page 10 and all of lines
18 1 and 2 on page 11 and inserting

19 9122(a) and (a.1), 9122.2(a)(1), (1.1) and (3) and
20 9122.3(a)(2)(i), (a.1), (b) and (c) shall take effect in 180
21 days.