AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for use of records by licensing agencies.

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

Section 1. Section 9124(a), (b) and (c) of Title 18 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding subsections to read:

§ 9124. Use of records by licensing agencies.

(a) State agencies.—[Except as provided by this chapter, a] A board, commission or department of the Commonwealth, when determining eligibility for licensing, certification, registration or permission to engage in a trade, profession or occupation, may consider convictions of the applicant of crimes [but the convictions] only in accordance with this chapter. Convictions shall not automatically preclude the issuance of a license, certificate, registration or permit.
(b) Prohibited use of information.—[The] Notwithstanding any other provision of law concerning licensing, certification, registration or permitting, the following information shall not be used in consideration of an application for a license, certificate, registration or permit:

1. Records of arrest if there is no conviction of a crime based on the arrest.
2. Convictions which have been annulled, expunged, or subject to limited access under sections 9122.1 (relating to petition for limited access) and 9122.2 (relating to clean slate limited access).
3. Convictions of a summary offense.
4. Convictions for which the individual has received a pardon from the Governor.
5. Convictions which do not relate to the applicant's suitability for the license, certificate, registration or permit. directly relate to the trade, occupation or profession for which the license, certificate, registration or permit is sought.
6. Adjudications of delinquency.

(c) State action authorized.—[Boards,] Notwithstanding any other provision of law concerning licensing, certification, registration or permitting, the boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit [for the following causes:]

1. Where the applicant has been convicted of a felony.
2. Where the applicant has been convicted of a
misdemeanor which relates to the trade, occupation or
profession for which the license, certificate, registration
or permit is sought.] based in whole or in part on a
conviction of a crime if all of the following apply:

(1) The applicant has been convicted of a felony or a
misdemeanor which directly relates to the trade, occupation
or profession for which the license, certificate,
registration or permit is sought.

(2) The board, commission or department has conducted an
individualized assessment of the relation of the conviction
to the applicant's overall suitability to engage in the
trade, occupation or profession for which the license,
certificate, registration or permit is sought. An
individualized assessment conducted under this paragraph
shall include a consideration of the particular facts or
circumstances surrounding the offense or criminal conduct,
the length of time since the offense or criminal conduct
occurred and the grade and seriousness of the offense or
criminal conduct.

(c.1) Exception.--A board, commission or department may not
refuse to grant or renew and may not suspend or revoke any
license, certificate, registration or permit under subsection
(c) if the applicant can establish sufficient mitigation or
rehabilitation and fitness to perform the duties of the trade,
occupation or profession for which the license, certificate,
registration or permit is sought. Where criminal conduct is
directly related to the license, certificate, registration or
permit being sought, the board, commission or department shall
consider relevant proof of any factors that would rebut an
adverse presumption or show rehabilitation, including:
(1) Facts or circumstances regarding the offense or
criminal conduct.

(2) Number of offenses for which the applicant was
convicted.

(3) Increase in age and maturity of the applicant since
the date of the conviction for the offense or release from a
correctional institution.

(4) The applicant's criminal history, or lack thereof,
after the date of the offense or criminal conduct while
engaged in the same or similar trade, occupation or
profession for which the license, certificate, registration
or permit is sought.

(5) Length and consistency of employment history before
and after the date of the offense or criminal conduct.

(6) Participation in education or training activities.

(7) Employment or character references and any other
information regarding fitness for trade, occupation or
profession for which the license, certificate, registration
or permit is sought.

(8) Whether the applicant is bonded under a Federal,
State or local bonding program.

(9) Any other factors to rebut an adverse presumption or
present relevant individual circumstances to show
rehabilitation.

* * *

(e) Petitions.--An individual with a criminal history record
may petition a board, commission or department at any time,
including before obtaining education or training, for a
preliminary decision on whether the individual's criminal
history record might disqualify the individual from receiving a
license, certificate, registration or permit.

(f) Limitations.--A board, commission or department may only consider criminal history records and determinations of whether to grant, deny, suspend, revoke or renew a license, certificate, registration or permit on the grounds of good moral character, a crime of moral turpitude, an unethical or dishonest practice or conduct or other categorical consideration in accordance with the limitations specified under this section. The provisions of this section shall supersede any law or regulation of this Commonwealth to the contrary.

(g) Regulations.--A board, commission or department shall promulgate regulations regarding the consideration of criminal history records as part of the determination on whether or not to grant, deny, suspend, revoke or renew a license, certificate, registration or permit.

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