

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 386 Session of
2005

INTRODUCED BY COSTA, LOGAN, PIPPY, WOZNIAK, BOSCOLA, ORIE,
C. WILLIAMS, TARTAGLIONE, KASUNIC, LAVALLE, KITCHEN, STACK,
STOUT, O'PAKE AND MUSTO, MARCH 14, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JULY 2, 2005

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for burglary AND FOR <—
3 CRIMINAL HISTORY RECORD EXPUNGEMENT.

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

6 ~~Section 1. Section 3502 of Title 18 of the Pennsylvania~~ <—
7 ~~Consolidated Statutes is amended to read:~~

8 SECTION 1. SECTIONS 3502 AND 9122(B) AND (B.1) OF TITLE 18 <—
9 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:
10 § 3502. Burglary.

11 [(a) Offense defined.--A person is guilty of burglary if he
12 enters a building or occupied structure, or separately secured
13 or occupied portion thereof, with intent to commit a crime
14 therein, unless the premises are at the time open to the public
15 or the actor is licensed or privileged to enter.

16 (b) Defense.--It is a defense to prosecution for burglary
17 that the building or structure was abandoned.]

1 (a) Offense defined.--A person commits the offense of
2 burglary if, with the intent to commit a crime therein, the
3 person:

4 (1) enters a building or occupied structure, or
5 separately secured or occupied portion thereof that is
6 adapted for overnight accommodations in which at the time of
7 the offense any person is present;

8 (2) enters a building or occupied structure, or
9 separately secured or occupied portion thereof that is
10 adapted for overnight accommodations in which at the time of
11 the offense no person is present;

12 (3) enters a building or occupied structure, or
13 separately secured or occupied portion thereof that is not
14 adapted for overnight accommodations in which at the time of
15 the offense any person is present; or

16 (4) enters a building or occupied structure, or
17 separately secured or occupied portion thereof that is not
18 adapted for overnight accommodations in which at the time of
19 the offense no person is present.

20 (b) Defense.--It is a defense to prosecution for burglary if
21 any of the following exist at the time of the commission of the
22 offense:

23 (1) The building or structure was abandoned.

24 (2) The premises are open to the public.

25 (3) The actor is licensed or privileged to enter.

26 (c) Grading.--

27 (1) Except as provided in paragraph (2), burglary is a
28 felony of the first degree.

29 (2) [If the building, structure or portion entered is
30 not adapted for overnight accommodation and if no individual

1 is present at the time of entry, burglary is a felony of the
2 second degree.] An offense under subsection (a)(4) is a
3 felony of the second degree.

4 (d) Multiple convictions.--A person may not be [convicted] <—
5 SENTENCED both for burglary and for the offense which it was his <—
6 intent to commit after the burglarious entry or for an attempt
7 to commit that offense, unless the additional offense
8 constitutes a felony of the first or second degree.

9 § 9122. EXPUNGEMENT. <—

10 * * *

11 (B) GENERALLY.--CRIMINAL HISTORY RECORD INFORMATION MAY BE
12 EXPUNGED WHEN:

13 (1) [AN] AN INDIVIDUAL WHO IS THE SUBJECT OF THE
14 INFORMATION REACHES 70 YEARS OF AGE AND HAS BEEN FREE OF
15 ARREST OR PROSECUTION FOR TEN YEARS FOLLOWING FINAL RELEASE
16 FROM CONFINEMENT OR SUPERVISION[; OR].

17 (2) [AN] AN INDIVIDUAL WHO IS THE SUBJECT OF THE
18 INFORMATION HAS BEEN DEAD FOR THREE YEARS.

19 (3) (I) AN INDIVIDUAL WHO IS THE SUBJECT OF THE
20 INFORMATION PETITIONS FOR EXPUNGEMENT OF THE INFORMATION
21 AND THE INDIVIDUAL HAS BEEN FREE OF ARREST OR PROSECUTION
22 FOLLOWING FINAL RELEASE FROM CONFINEMENT OR SUPERVISION
23 FOR THE GREATER OF THE FOLLOWING TIME PERIODS:

24 (A) IN THE CASE OF A SUMMARY OFFENSE, FIVE
25 YEARS.

26 (B) IN THE CASE OF A MISDEMEANOR OF THE THIRD
27 DEGREE, SEVEN YEARS.

28 (C) IN THE CASE OF A MISDEMEANOR OF THE SECOND
29 DEGREE, TEN YEARS.

30 (II) THIS PARAGRAPH SHALL NOT APPLY TO ANY

1 INDIVIDUAL WHO HAS BEEN CONVICTED OF:

2 (A) AN OFFENSE PUNISHABLE BY IMPRISONMENT OF
3 MORE THAN TWO YEARS.

4 (B) FOUR OR MORE OFFENSES PUNISHABLE BY
5 IMPRISONMENT OF ONE OR MORE YEARS.

6 (C) A VIOLATION OF SECTION 3126 (RELATING TO
7 INDECENT ASSAULT).

8 (D) A VIOLATION OF SECTION 3129 (RELATING TO
9 SEXUAL INTERCOURSE WITH ANIMAL).

10 (E) A VIOLATION OF SECTION 5511 (RELATING TO
11 CRUELTY TO ANIMALS).

12 (B.1) PROHIBITION.--A COURT SHALL NOT HAVE THE AUTHORITY TO
13 ORDER EXPUNGEMENT OF THE DEFENDANT'S ARREST RECORD WHERE THE
14 DEFENDANT WAS PLACED ON ACCELERATED REHABILITATIVE DISPOSITION
15 FOR A VIOLATION OF ANY OFFENSE SET FORTH IN ANY OF THE FOLLOWING
16 WHERE THE VICTIM IS UNDER 18 YEARS OF AGE:

17 SECTION 3121 (RELATING TO RAPE).

18 SECTION 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT).

19 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
20 INTERCOURSE).

21 SECTION 3124.1 (RELATING TO SEXUAL ASSAULT).

22 SECTION 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT).

23 SECTION 3126 (RELATING TO INDECENT ASSAULT).

24 SECTION 3127 (RELATING TO INDECENT EXPOSURE).

25 SECTION 5902(B) (RELATING TO PROSTITUTION AND RELATED
26 OFFENSES).

27 SECTION 5903 (RELATING TO OBSCENE AND OTHER SEXUAL
28 MATERIALS AND PERFORMANCES).

29 * * *

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