



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 440

PRINTERS NO. 3054

PRIME SPONSOR: Nesbit

COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
General Fund	\$0	\$0

SUMMARY:

House Bill 440, Printer's Number 3054 amends Title 18 (Crimes and Offenses), Sections 9122 (Expungement), 9122.1 (Petition for limited access), 9122.2 (Clean slate limited access) and 9122.5 (Effects of expunged records and records subject to limited access); and Title 42 (Judiciary and Judicial Procedure), Section 4132 (Attachment and summary punishment for contempts).

ANALYSIS:

HB 440 further amends the Crimes Code, Section 9122 to provide that an individual's criminal history record will be expunged if the individual has been acquitted of all charges based on the same conduct or arising from the same criminal episode following a trial and a verdict of not guilty. Partial acquittals will not apply, and a judicial determination may only be made after the following:

- The court provides notice in writing to the person and the Commonwealth that the person's criminal history record information will be automatically expunged,
- Upon receipt of notice, the Commonwealth has 60 days to object to the automatic expungement,
- Upon filing an objection, the court shall conduct a hearing to determine whether expungement of the acquittal relates to the same conduct, arises from the same criminal episode; and
- Following the hearing, or if no objection has been filed or the hearing has been waived; the court shall order that the person's criminal history record information be automatically expunged unless the court determines the expungement relates to the same conduct, arises from the same criminal episode or otherwise relates to a partial acquittal.

Sections 9122.1 and 9122.2 of the Crimes Code are amended to require that a person must make payment of all court-ordered restitution and the fee previously authorized in order to carry out limited access and clean slate provisions.

Section 9122.5 is further amended to provide that a record subject to limited access provisions will remain part of a person's criminal history record information and will be disclosed to a court for any relevant purpose in accordance with law, including sentencing. In addition, the

Pennsylvania Commission on Sentencing may maintain a list of the names and other criminal history record information of persons whose records are required by law, for the sole purposes of conducting research and collecting and reporting statistical data and may not be disclosed unless authorized under Section 9121 (b.1) and (b.2).

Section 4132 of the Judicial Code is amended to provide that the courts may impose a summary punishment for contempt of an attorney who willfully fails to disclose a person's complete criminal history record when requested.

This legislation will take effect in 60 days

FISCAL IMPACT:

Enactment of this legislation should have no adverse fiscal impact on Commonwealth funds.

PREPARED BY: Jenny P. Stratton
House Appropriations Committee (R)

DATE: December 18, 2019

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.