

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 440

PRINTER NO. 4546

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

February 11, 2019

PRIME SPONSOR

Representative Delozier

DESCRIPTION AND PURPOSE OF BILL

House Bill 440 amends Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes further providing for expungement of criminal records and failure to disclose criminal records when requested.

This legislation makes the following amendments to Titles 18 and 42:

Title 18

- Amends section 9122 (relating to expungement) to provide that criminal history record information shall be expunged in a specific proceeding when a judicial determination has been made that a person is acquitted of an offense, if the person 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. A judicial determination may only be made under the following circumstances:
 - 1) The court provides notice in writing to the person and to the Commonwealth;
 - 2) Upon receipt of the notice, the Commonwealth shall have 60 days to object to the automatic expungement on the basis that the person has not been acquitted of all charges relating to the same conduct, arising from the same criminal episode or otherwise relating to a partial acquittal;
 - 3) Upon the filing of 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 or otherwise relates to a partial acquittal; and
 - 4) 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.
- Expungement shall occur no later than 12 months from the date of acquittal.

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- Amends sections 9122.1 (relating to petition for limited access) and 9122.2 (relating to clean slate limited access) to change the requirement that before a petition for limited access may be granted and before clean slate limited access will be permitted, a person must pay all of their court-ordered financial obligations (restitution, fines and fees) to a requirement that a person must pay all court-ordered restitution as well as the fee required to carry out the limited access and clean slate limited access provisions.
- Further amends section 9122.2 (relating to clean slate limited access) to provide that criminal history record information pertaining to a conviction for which a pardon was granted shall be subject to clean slate limited access provisions.
- Amends section 9122.5 (relating to effects of expunged records and records subject to limited access) to provide that a record subject to limited access under sections 9122.1 and 9122.2 shall remain part of a person's criminal history record information and shall be disclosed to a court for any relevant purpose in accordance with the law, including sentencing.
- Further amends section 9122.5 (relating to effects of expunged records and records subject to limited access) by adding a subsection (d) that allows the Pennsylvania Commission on Sentencing to maintain a list of the names and other criminal history record information of persons whose records are expunged or subject to limited access. Such records, however, may only be used for research and collecting and reporting statistical data and may not be disclosed unless authorized or required by section 9121 (b.1) and (b.2).

Title 42

- Amends section 4132 (relating to attachment and summary punishment for contempts) to provide that the courts may impose summary punishments for contempts of court if an officer of such courts willfully fails to disclose a person's complete criminal history record information when requested.

This act shall take effect in 60 days.

FISCAL IMPACT:

The provisions of HB 440 build upon current law and practices relating to the sealing and dissemination of criminal records. Any costs to the Pennsylvania State Police (PSP) and the Administrative Office of Pennsylvania Courts (AOPC) related to fulfilling the prescribed duties within this legislation are capable of being accommodated within the agencies' current workload and budget.