

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 689

**PRINTER NO.** 2310

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

March 24, 2023

**PRIME SPONSOR**

Representative Harris

**DESCRIPTION**

House Bill 689 amends Title 18 (Crimes and Offenses) to further limit access to criminal records under the clean slate provisions of the Criminal History Record Information Act (CHRIA).

This legislation amends Title 18 by modifying the clean slate provisions to authorize the sealing of felony convictions under the Controlled Substance, Drug, Device & Cosmetic Act and certain property crimes.

Section 9102 (relating to definitions) is amended by adding the following definition:

- "Qualifying offense" is defined as an offense under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act , or an attempt, conspiracy or solicitation to commit an offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act, unless a minimum sentence of 30 months or more of imprisonment or a maximum sentence of 60 months or more of imprisonment was imposed on the offense.

Section 9121 (relating to general regulations) is amended by providing that only the Pennsylvania State Police may disseminate criminal history record information. Other criminal justice agencies may disseminate criminal history record information to any individual or noncriminal justice agency only as they deem necessary to carry out their law enforcement functions.

Section 9122 (relating to expungement) is amended to provide for automatic expungement upon notice of a pardon.

Section 9122.1 (relating to petition for limited access) is amended as follows:

- Reduces the time period that an individual must remain conviction-free for a qualifying offense to petition the court of common pleas for limited access to criminal history record information from ten to seven years;
- Adds new qualifying offenses that are eligible for limited access upon petition if the person has remained conviction-free for a period of ten years. These new offenses, excluding felonies of the first and second degrees, are as follows:

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- 1) An offense under section 3304 (relating to criminal mischief);
  - 2) An offense under section 3503 (relating to criminal trespass);
  - 3) An offense under Chapter 39 (relating to theft and related offenses);
  - 4) An offense under Chapter 41 (relating to forgery and fraudulent practices);
  - 5) An offense under section 481 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code; and
  - 6) A qualifying offense.
- Reduces the time period that an individual must remain conviction-free following convictions of two or more offenses punishable by more than two years in prison to petition the court of common pleas for limited access from 15 to 10 years; and
  - Provides that a conviction of two or more offenses charged in separate counts that are consolidated under one docket number and share the same offense tracking number shall be deemed to be one conviction.

Section 9122.2 (relating to clean slate limited access) is amended as follows:

- Reduces the time period that an individual must remain conviction-free prior to qualifying for clean slate limited access from ten to seven years. This applies to any misdemeanor offense that is punishable by imprisonment of no more than two years;
- Adds a provision providing for clean slate limited access pertaining to a conviction of a qualifying offense if a person has been conviction-free for ten years for any offense punishable by imprisonment of one or more years and if payment of all court-ordered restitution has occurred; and
- Reduces the time period that a person must remain conviction-free for any summary offense to qualify for clean slate limited access from ten to five years.

Section 9122.3 (relating to exceptions) is amended as follows:

- Provides for clean slate limited access for an individual convicted of a felony qualifying offense; and
- Provides that a conviction of two or more offenses charged in separate counts that are consolidated under one docket number and share the same offense tracking number shall be deemed to be one conviction, except that the docket may not be deemed one conviction if it contains more than two felony convictions.

Section 9122.5 (relating to effects of expunged records and records subject to limited access) is amended as follows:

- Adds a new subsection to provide that criminal history record information that has been expunged or provided limited access may not be used by any individual or noncriminal justice agency for employment, housing or school matriculation purposes, except if required by federal law; and

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- Adds a new subsection to provide that a record subject to limited access under section 9122.1 or 9122.2 shall remain a part of the individual's criminal history record information and shall be self-disclosed for any relevant purpose required by section 7 of Article II of the Constitution of Pennsylvania (relating to ineligibility for public office).

Section 9122.6 (relating to employer immunity from liability) is amended as follows:

- Adds a new subsection to provide that an employer to whom an individual voluntarily discloses the individual's criminal history record information shall be immune from liability for any claim arising under section 9122.5(a.1) (relating to effects of expunged records and records subject to limited access) related to the employer's otherwise lawful use or consideration of the criminal history record information in connection with any employment decision.

This act shall take effect as follows:

- 1) Amendments to section 9122.2 (relating to clean slate limited access) and section 9122.3 (relating to exceptions) shall take effect in 180 days; and
- 2) Amendments to the remaining sections shall take effect in 60 days.

## **FISCAL IMPACT:**

House Bill 689 will have no fiscal impact on Commonwealth funds. The legislation builds upon current law and practices relating to the sealing and dissemination of criminal records. The clean slate limited access process has been automated within the Administrative Office of Pennsylvania Courts (AOPC) and the Pennsylvania State Police (PSP).

Costs associated with the AOPC's and the PSP's duties under this act are expected to be minimal and can be accommodated within existing budgeted amounts.