

**CRIMES CODE (18 PA.C.S.) AND JUDICIAL CODE (42 PA.C.S.) -
EXPUNGEMENT, PETITION FOR LIMITED ACCESS, CLEAN SLATE LIMITED
ACCESS, EFFECTS OF EXPUNGED RECORDS AND RECORDS SUBJECT TO
LIMITED ACCESS AND ATTACHMENT AND SUMMARY PUNISHMENT FOR
CONTEMPTS**

Act of Oct. 29, 2020, P.L. 718, No. 83

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No. 2020-83

HB 440

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for expungement, for petition for limited access, for clean slate limited access and for effects of expunged records and records subject to limited access; and, in administration of justice, further providing for attachment and summary punishment for contempts.

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

Section 1. Sections 9122(a) and 9122.1(a) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read: § 9122. Expungement.

(a) Specific proceedings.--Criminal history record information shall be expunged in a specific criminal proceeding when:

(1) no disposition has been received or, upon request for criminal history record information, no disposition has been recorded in the repository within 18 months after the date of arrest and the court of proper jurisdiction certifies to the director of the repository that no disposition is available and no action is pending. Expungement shall not occur until the certification from the court is received and the director of the repository authorizes such expungement;

(2) a court order requires that such nonconviction data be expunged; [or]

(3) a person 21 years of age or older who has been convicted of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages), which occurred on or after the day the person attained 18 years of age, petitions the court of common pleas in the county where the conviction occurred seeking expungement and the person has satisfied all terms and conditions of the sentence imposed for the violation, including any suspension of operating privileges imposed pursuant to section 6310.4 (relating to restriction of operating privileges). Upon review of the petition, the court shall order the expungement of all criminal history record information and all administrative records of the Department of Transportation relating to said conviction[.]; or

(4) 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. This paragraph shall not apply to a partial

acquittal. A judicial determination under this paragraph may only be made after the following:

(i) The court provides notice in writing to the person and to the Commonwealth that the person's criminal history record information will be automatically expunged pursuant to this section.

(ii) Upon receipt of the notice under subparagraph (i), 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.

(iii) 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. The hearing may be waived by agreement of both parties and the court.

(iv) 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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§ 9122.1. Petition for limited access.

(a) General rule.--Subject to the exceptions in subsection (b) and notwithstanding any other provision of this chapter, upon petition of a person who has been free from conviction for a period of 10 years for an offense punishable by one or more years in prison and has completed [each court-ordered financial obligation of the sentence] **payment of all court-ordered restitution and the fee previously authorized to carry out the limited access and clean slate limited access provisions**, the court of common pleas in the jurisdiction where a conviction occurred may enter an order that criminal history record information maintained by a criminal justice agency pertaining to a qualifying misdemeanor or an ungraded offense which carries a maximum penalty of no more than five years be disseminated only to a criminal justice agency or as provided in section 9121(b.1) and (b.2) (relating to general regulations). **A court may not enter an order under this subsection unless the person who filed the petition, upon payment of all court-ordered restitution, also paid the fee previously authorized to carry out the limited access and clean slate limited access provisions.**

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Section 2. Section 9122.2(a)(1) and (3) and (b)(2)(i) of Title 18 are amended and subsection (a) is amended by adding a paragraph to read:

§ 9122.2. Clean slate limited access.

(a) General rule.--The following shall be subject to limited access:

(1) Subject to the exceptions under section 9122.3 (relating to exceptions) or if a court has vacated an order for limited access under section 9122.4 (relating to order to vacate order for limited access), criminal history record information pertaining to a conviction of a misdemeanor of the second degree, a misdemeanor of the third degree or a misdemeanor offense punishable by imprisonment of no more

than two years if a person has been free for 10 years from conviction for any offense punishable by imprisonment of one or more years and if [completion of each court-ordered financial obligation of the sentence] **payment of all court-ordered restitution** has occurred. **Upon payment of all court-ordered restitution, the person whose criminal history record information is subject to limited access under this paragraph shall also pay the fee previously authorized to carry out the limited access and clean slate limited access provisions.**

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(3) Criminal history record information pertaining to a conviction for a summary offense when 10 years have elapsed since entry of the judgment of conviction and [completion of all court-ordered financial obligations of the sentence] **payment of all court-ordered restitution** has occurred. **Upon payment of all court-ordered restitution, the person whose criminal history record information is subject to limited access under this paragraph shall also pay the fee previously authorized to carry out the limited access and clean slate limited access provisions.**

(4) Criminal history record information pertaining to a conviction for which a pardon was granted.

(b) Procedures.--

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(2) The Administrative Office of Pennsylvania Courts shall transmit to the Pennsylvania State Police repository:

(i) The record of charges subject to limited access under subsection (a) (2) within 30 days after entry of the disposition and payment of [each court-ordered obligation] **any ordered restitution.**

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Section 3. Section 9122.5 of Title 18 is amended by adding subsections to read:

§ 9122.5. Effects of expunged records and records subject to limited access.

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(c) **Use for sentencing.--Notwithstanding any other provision of this chapter, a record subject to limited access under section 9122.1 or 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 law, including sentencing.**

(d) **Use and disclosure of information.--Notwithstanding any other provision of this chapter, 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, court rule or court order to be expunged or subject to limited access under this chapter. The information:**

(1) shall be used solely for the purposes of conducting research and collecting and reporting statistical data under 42 Pa.C.S. § 2153 (relating to powers and duties of commission); and

(2) may not be disclosed unless authorized or required by section 9121(b.1) and (b.2).

Section 4. Section 4132 of Title 42 is amended to read:
§ 4132. Attachment and summary punishment for contempts.

The power of the several courts of this Commonwealth to issue attachments and to impose summary punishments for contempts of court shall be restricted to the following cases:

(1) The official misconduct of the officers of such courts respectively.

(1.1) The willful failure of the officers of such courts to disclose a person's complete criminal history record information when requested.

(2) Disobedience or neglect by officers, parties, jurors or witnesses of or to the lawful process of the court.

(3) The misbehavior of any person in the presence of the court, thereby obstructing the administration of justice.

Section 5. Within 365 days of the effective date of this section, the Administrative Office of Pennsylvania Courts, the Pennsylvania Board of Pardons and the Pennsylvania State Police shall identify and complete the processing of records that are eligible for clean slate limited access under 18 Pa.C.S. § 9122.2(a)(1), (3) and (4).

Section 6. This act shall take effect in 60 days.

APPROVED--The 29th day of October, A.D. 2020.

TOM WOLF