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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 689 Session of  
2023

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INTRODUCED BY HARRIS AND DELOZIER, MARCH 24, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 24, 2023

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in criminal history record  
3 information, further providing for definitions, for general  
4 regulations, for petition for limited access, for clean slate  
5 limited access, for exceptions, for effects of expunged  
6 records and records subject to limited access and for  
7 employer immunity from liability.

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

10 Section 1. Section 9102 of Title 18 of the Pennsylvania  
11 Consolidated Statutes is amended by adding a definition to read:  
12 § 9102. Definitions.

13 The following words and phrases when used in this chapter  
14 shall have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 \* \* \*

17 "Qualifying offense." An offense under section 13 of the act  
18 of April 14, 1972 (P.L.233, No.64), known as The Controlled  
19 Substance, Drug, Device and Cosmetic Act, or an attempt,  
20 conspiracy or solicitation to commit an offense under section 13  
21 of The Controlled Substance, Drug, Device and Cosmetic Act,

1 unless a minimum sentence of 30 months or more of imprisonment  
2 was imposed on the offense.

3 \* \* \*

4 Section 2. Section 9121(b.2) (2) of Title 18 is amended to  
5 read:

6 § 9121. General regulations.

7 \* \* \*

8 (b.2) Additional exceptions.--

9 \* \* \*

10 (2) Subsection (b) (2) shall not apply:

11 (i) To the verification of information provided by  
12 an applicant if Federal law, including rules and  
13 regulations promulgated by a self-regulatory organization  
14 that has been created under Federal law, requires the  
15 consideration of an applicant's criminal history for  
16 purposes of employment.

17 (ii) To the verification of information provided to  
18 the Supreme Court, or an entity of the Supreme Court, in  
19 its capacity to govern the practice, procedure and  
20 conduct of all courts, the admission to the bar, the  
21 practice of law, the administration of all courts and  
22 supervision of all officers of the judicial branch.

23 (iii) To the Department of State for verification of  
24 information provided by a candidate for public office  
25 concerning eligibility under section 7 of Article II of  
26 the Constitution of Pennsylvania.

27 \* \* \*

28 Section 3. Section 9122.1(a) and (b) (1) (i) and (2) (ii) and  
29 (iii) of Title 18 are amended and the section is amended by  
30 adding subsections to read:

1 § 9122.1. Petition for limited access.

2 (a) General rule.--Subject to the exceptions in subsection

3 (b) and notwithstanding any other provision of this chapter,

4 upon petition of a person who has been free from conviction for

5 a period of [10] seven years for an offense punishable by one or

6 more years in prison and has completed payment of all court-

7 ordered restitution and the fee previously authorized to carry

8 out the limited access and clean slate limited access

9 provisions, the court of common pleas in the jurisdiction where

10 a conviction occurred may enter an order that criminal history

11 record information maintained by a criminal justice agency

12 pertaining to a qualifying misdemeanor or an ungraded offense

13 which carries a maximum penalty of no more than five years be

14 disseminated only to a criminal justice agency or as provided in

15 section 9121(b.1) and (b.2) (relating to general regulations). A

16 court may not enter an order under this subsection unless the

17 person who filed the petition, upon payment of all court-ordered

18 restitution, also paid the fee previously authorized to carry

19 out the limited access and clean slate limited access

20 provisions.

21 (a.1) Additional criteria.--Upon petition of a person who

22 has been free from conviction for a period of 10 years for an

23 offense punishable by one or more years in prison and has

24 completed payment of all court-ordered restitution and the fee

25 previously authorized to carry out the limited access and clean

26 slate limited access provisions, the court of common pleas in

27 the jurisdiction where a conviction occurred may enter an order

28 that criminal history record information maintained by a

29 criminal justice agency pertaining to a qualifying felony under

30 this section be disseminated only to a criminal justice agency

1 or as provided in section 9121(b.1) and (b.2). A court may not  
2 enter an order under this subsection unless the person who filed  
3 the petition, upon payment of all court-ordered restitution,  
4 also paid the fee previously authorized to carry out the limited  
5 access and clean slate limited access provisions. As used in  
6 this subsection, a qualifying felony is any of the following or  
7 an attempt, conspiracy or solicitation to commit any of the  
8 following, excluding felonies of the first and second degrees:

9 (1) An offense under section 3304 (relating to criminal  
10 mischief).

11 (2) An offense under section 3503 (relating to criminal  
12 trespass).

13 (3) An offense under Chapter 39 (relating to theft and  
14 related offenses).

15 (4) An offense under Chapter 41 (relating to forgery and  
16 fraudulent practices).

17 (5) An offense under section 481 of the act of June 13,  
18 1967 (P.L.31, No.21), known as the Human Services Code.

19 (6) An offense under section 13 of the act of April 14,  
20 1972 (P.L.233, No.64), known as The Controlled Substance,  
21 Drug, Device and Cosmetic Act.

22 (b) Exceptions.--An order for limited access under this  
23 section shall not be granted for any of the following:

24 (1) A conviction for an offense punishable by more than  
25 two years in prison which is any of the following or an  
26 attempt, conspiracy or solicitation to commit any of the  
27 following:

28 (i) An offense under Article B of Part II (relating  
29 to offenses involving danger to the person). This  
30 paragraph shall not apply to a misdemeanor offense under

1 section 2706 (relating to terroristic threats).

2 \* \* \*

3 (2) An individual who meets any of the following:

4 \* \* \*

5 (ii) Has been convicted within the previous [20] 15  
6 years of:

7 (A) a felony or an offense punishable by  
8 imprisonment of seven or more years involving:

9 (I) an offense under Article B of Part II;

10 (II) an offense under Article D of Part II;

11 (III) an offense under Chapter 61; or

12 (IV) an offense specified in 42 Pa.C.S. §§  
13 9799.14 and 9799.55; [or]

14 (B) four or more offenses punishable by  
15 imprisonment of two or more years[.]; or

16 (C) any of the following offenses:

17 (I) An offense under section 3127 (relating  
18 to indecent exposure).

19 (II) An offense under section 3129 (relating  
20 to sexual intercourse with animal).

21 (III) An offense under section 4915.1  
22 (relating to failure to comply with registration  
23 requirements) or 4915.2 (relating to failure to  
24 comply with 42 Pa.C.S. Ch. 97 Subch. I  
25 registration requirements).

26 (IV) An offense under section 5122 (relating  
27 to weapons or implements for escape).

28 (V) An offense under section 5510 (relating  
29 to abuse of corpse).

30 (VI) An offense under section 5515 (relating

1                   to prohibiting of paramilitary training).  
2           (iii) [Has, within the previous 15 years, been  
3 convicted of:  
4           (A) two or more offenses punishable by more than  
5 two years in prison; or  
6           (B) any of the following:  
7           (I) An offense under section 3127 (relating  
8 to indecent exposure).  
9           (II) An offense under section 3129 (relating  
10 to sexual intercourse with animal).  
11           (III) An offense under section 4915.1  
12 (relating to failure to comply with registration  
13 requirements) or 4915.2 (relating to failure to  
14 comply with 42 Pa.C.S. Ch. 97 Subch. I  
15 registration requirements).  
16           (IV) An offense under section 5122 (relating  
17 to weapons or implements for escape).  
18           (V) An offense under section 5510 (relating  
19 to abuse of corpse).  
20           (VI) An offense under section 5515 (relating  
21 to prohibiting of paramilitary training).] Has,  
22 within the previous 10 years, been convicted of  
23 two or more offenses punishable by more than two  
24 years in prison.

25   (b.1) Consolidation.--For the purpose of this section, the  
26 conviction of two or more offenses charged in separate counts  
27 that are consolidated under one docket number shall be deemed to  
28 be one conviction.

29           \* \* \*

30           Section 4. Section 9122.2(a)(1) and (3) of Title 18 are

1 amended and the subsection is amended by adding a paragraph to  
2 read:

3 § 9122.2. Clean slate limited access.

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

6 (1) Subject to the exceptions under section 9122.3  
7 (relating to exceptions) or if a court has vacated an order  
8 for limited access under section 9122.4 (relating to order to  
9 vacate order for limited access), criminal history record  
10 information pertaining to a conviction of a misdemeanor of  
11 the second degree, a misdemeanor of the third degree or a  
12 misdemeanor offense punishable by imprisonment of no more  
13 than two years if a person has been free for [10] seven years  
14 from conviction for any offense punishable by imprisonment of  
15 one or more years and if payment of all court-ordered  
16 restitution has occurred. Upon payment of all court-ordered  
17 restitution, the person whose criminal history record  
18 information is subject to limited access under this paragraph  
19 shall also pay the fee previously authorized to carry out the  
20 limited access and clean slate limited access provisions.

21 (1.1) Subject to the exceptions under section 9122.3 or  
22 if a court has vacated an order for limited access under  
23 section 9122.4, criminal history record information  
24 pertaining to a conviction of a qualifying offense if a  
25 person has been free for 10 years from conviction for any  
26 offense punishable by imprisonment of one or more years and  
27 if payment of all court-ordered restitution has occurred.  
28 Upon payment of all court-ordered restitution, the person  
29 whose criminal history record information is subject to  
30 limited access under this paragraph shall also pay the fee

1 previously authorized to carry out the limited access and  
2 clean slate limited access provisions.

3 \* \* \*

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

13 \* \* \*

14 Section 5. Section 9122.3(a)(2)(i), (b) and (c) of Title 18  
15 are amended and the section is amended by adding a subsection to  
16 read:

17 § 9122.3. Exceptions.

18 (a) Limited access not applicable.--Limited access to  
19 records under section 9122.2(a)(1) (relating to clean slate  
20 limited access) shall not be granted for any of the following:

21 \* \* \*

22 (2) An individual who at any time has been convicted of:

23 (i) A felony, excluding a qualifying offense.

24 \* \* \*

25 (a.1) Consolidation.--For the purpose of this section, the  
26 conviction of two or more offenses that are charged in separate  
27 counts and consolidated under one docket number shall be deemed  
28 to be one conviction, except that the docket may not be deemed  
29 one conviction if it contains more than two felony convictions.

30 (b) Limited access to same case.--Limited access under this

1 section shall not apply to an otherwise qualifying conviction if  
2 a conviction for an offense punishable by imprisonment of five  
3 or more years or an offense enumerated in subsection (a) arose  
4 out of the same case. This subsection shall not apply to a  
5 qualifying offense.

6 (c) Filing.--Nothing in this section shall preclude the  
7 filing of a petition for limited access under section 9122.1  
8 (relating to petition for limited access) if limited access is  
9 available under [that] this section. An offense eligible for  
10 clean slate limited access under this section shall also be  
11 eligible for petition for limited access under section 9122.1.

12 Section 6. Section 9122.5 of Title 18 is amended by adding  
13 subsections to read:

14 § 9122.5. Effects of expunged records and records subject to  
15 limited access.

16 \* \* \*

17 (a.1) Use of information.--Except if required by Federal  
18 law, criminal history record information that has been expunged  
19 or provided limited access may not be used by any individual or  
20 noncriminal justice agency for employment, housing or school  
21 matriculation purposes.

22 \* \* \*

23 (c.1) Use for eligibility for public office.--  
24 Notwithstanding any other provision of this chapter, a record  
25 subject to limited access under section 9122.1 or 9122.2 shall  
26 remain a part of the individual's criminal history record  
27 information and shall be self-disclosed for any relevant purpose  
28 required by section 7 of Article II of the Constitution of  
29 Pennsylvania.

30 \* \* \*

1 Section 7. Section 9122.6 of Title 18 is amended to read:

2 § 9122.6. Employer immunity from liability.

3 (a) General rule.--An employer who employs or otherwise  
4 engages an individual whose criminal history record has been  
5 expunged or to which limited access has been applied under  
6 section 9122.1 (relating to petition for limited access) or  
7 9122.2 (relating to clean slate limited access) shall be immune  
8 from liability for any claim arising out of the misconduct of  
9 the individual, if the misconduct relates to the portion of the  
10 criminal history record that has been expunged or provided  
11 limited access.

12 (b) Voluntary disclosure.--An employer to whom an individual  
13 voluntarily discloses the individual's criminal history record  
14 information shall be immune from liability for any claim arising  
15 under section 9122.5(a.1) (relating to effects of expunged  
16 records and records subject to limited access) related to the  
17 employer's otherwise lawful use or consideration of the criminal  
18 history record information in connection with any employment  
19 decision.

20 Section 8. This act shall take effect in 60 days.