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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 830

Session of  
1979

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INTRODUCED BY MESSRS. MILLER, WHITE, O'DONNELL, SPENCER,  
LASHINGER, ALDEN, CIMINI, FISHER, PICCOLA, BERSON, RHODES,  
WILLIAMS, DONATUCCI, LEVIN, WACHOB, JONES, ZORD, SEVENTY,  
NOYE, LETTERMAN, F. J. LYNCH, E. H. SMITH, WAGNER, VROON,  
SALVATORE, MCINTYRE AND GLADECK, MARCH 26, 1979

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SENATOR O'PAKE, JUDICIARY, IN SENATE, AS AMENDED,  
OCTOBER 29, 1979

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for probation AND <—  
3 FOR CRIMINAL HISTORY RECORDS.

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

6 Section 1. Subsection (c) of section 1354 of Title 18, act  
7 of November 25, 1970 (P.L.707, No.230), known as the  
8 Pennsylvania Consolidated Statutes is amended to read:

9 § 1354. Order of probation.

10 \* \* \*

11 (c) Specific conditions.--The court may as a condition of  
12 its order require the defendant:

13 (1) To meet his family responsibilities.

14 (2) To devote himself to a specific occupation or  
15 employment.

16 (2.1) To participate in a public or nonprofit community

1 service program unless the defendant was convicted of murder,  
2 rape, aggravated assault, arson, theft by extortion,  
3 terroristic threats, robbery or kidnapping.

4 (3) To undergo available medical or psychiatric  
5 treatment and to enter and remain in a specified institution,  
6 when required for that purpose.

7 (4) To pursue a prescribed secular course of study or  
8 vocational training.

9 (5) To attend or reside in a facility established for  
10 the instruction, recreation, or residence of persons on  
11 probation.

12 (6) To refrain from frequenting unlawful or disreputable  
13 places or consorting with disreputable persons.

14 (7) To have in his possession no firearm or other  
15 dangerous weapon unless granted written permission.

16 (8) To make restitution of the fruits of his crime or to  
17 make reparations, in an amount he can afford to pay, for the  
18 loss or damage caused thereby.

19 (9) To remain within the jurisdiction of the court and  
20 to notify the court or the probation officer of any change in  
21 his address or his employment.

22 (10) To report as directed to the court or the probation  
23 officer and to permit the probation officer to visit his  
24 home.

25 (11) To pay such fine as has been imposed.

26 (12) To participate in drug or alcohol treatment  
27 programs.

28 (13) To satisfy any other conditions reasonably related  
29 to the rehabilitation of the defendant and not unduly  
30 restrictive of his liberty or incompatible with his freedom

1 of conscience.

2 \* \* \*

3 SECTION 2. THE DEFINITIONS OF "CRIMINAL HISTORY RECORD  
4 INFORMATION" AND "SECONDARY DISSEMINATION" IN SECTION 9102 OF  
5 TITLE 18 ADDED JULY 16, 1979 (NO.47), ARE AMENDED AND  
6 DEFINITIONS ARE ADDED TO READ:

7 § 9102. DEFINITIONS.

8 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
10 CONTEXT CLEARLY INDICATES OTHERWISE:

11 \* \* \*

12 "CRIMINAL HISTORY RECORD INFORMATION." INFORMATION COLLECTED  
13 BY CRIMINAL JUSTICE AGENCIES CONCERNING INDIVIDUALS, AND ARISING  
14 FROM THE INITIATION OF A CRIMINAL PROCEEDING, CONSISTING OF  
15 IDENTIFIABLE DESCRIPTIONS, DATES AND NOTATIONS OF ARRESTS,  
16 [DETENTIONS,] INDICTMENTS, INFORMATIONS OR OTHER FORMAL CRIMINAL  
17 CHARGES AND ANY DISPOSITIONS ARISING THEREFROM. THE TERM DOES  
18 NOT INCLUDE INTELLIGENCE INFORMATION, INVESTIGATIVE INFORMATION  
19 OR TREATMENT INFORMATION, INCLUDING MEDICAL AND PSYCHOLOGICAL  
20 INFORMATION, OR INFORMATION AND RECORDS SPECIFIED IN SECTION  
21 9104 (RELATING TO SCOPE).

22 \* \* \*

23 "INTELLIGENCE INFORMATION." INFORMATION CONCERNING THE  
24 HABITS, PRACTICES, CHARACTERISTICS, HISTORY, POSSESSIONS,  
25 ASSOCIATIONS OR FINANCIAL STATUS OF ANY INDIVIDUAL.

26 "INVESTIGATIVE INFORMATION." INFORMATION ASSEMBLED AS A  
27 RESULT OF THE PERFORMANCE OF ANY INQUIRY, FORMAL OR INFORMAL,  
28 INTO A CRIMINAL INCIDENT OR AN ALLEGATION OF CRIMINAL  
29 WRONGDOING.

30 \* \* \*

1 ["SECONDARY DISSEMINATION." THE SUBSEQUENT TRANSMISSION OR  
2 DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM  
3 A REPOSITORY OR CONFIRMATION OF THE EXISTENCE OR NONEXISTENCE OF  
4 CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM A REPOSITORY.]

5 "TREATMENT INFORMATION." INFORMATION CONCERNING MEDICAL,  
6 PSYCHIATRIC, PSYCHOLOGICAL OR OTHER REHABILITATIVE TREATMENT  
7 PROVIDED, SUGGESTED OR PRESCRIBED FOR ANY INDIVIDUAL.

8 SECTION 3. SECTIONS 9104(D), (E) AND (F), 9106, 9112(B),  
9 9121, 9124(B), 9125(B) AND 9182 OF TITLE 18 ADDED JULY 16, 1979  
10 (NO.47), ARE AMENDED TO READ:

11 § 9104. SCOPE.

12 \* \* \*

13 [(D) CASES IN PROGRESS.--NOTHING IN THIS CHAPTER MUST BE  
14 INTERPRETED TO LIMIT THE DISCLOSURE BY THE ARRESTING AUTHORITY,  
15 A COURT, OR OTHER CRIMINAL JUSTICE AGENCY HAVING LEGAL  
16 JURISDICTION OVER THE INDIVIDUAL TO ANY INDIVIDUAL OR AGENCY OF  
17 THE CURRENT STATUS OF AN INDIVIDUAL INVOLVED IN A CRIMINAL CASE  
18 IN PROGRESS OR FOR WHICH AN INDIVIDUAL IS CURRENTLY IN THE  
19 CRIMINAL JUSTICE SYSTEM SO LONG AS SUCH INFORMATION IS  
20 DISSEMINATED NO MORE THAN 180 DAYS FROM THE OCCURRENCE OF ANY  
21 FINAL OFFICIAL ACTION BY OR FINAL RELEASE FROM THE SUPERVISION,  
22 CUSTODY OR JURISDICTION OF THAT AGENCY.]

23 [(E)] (D) CERTAIN DISCLOSURES AUTHORIZED.--NOTHING IN THIS  
24 CHAPTER SHALL PROHIBIT A CRIMINAL JUSTICE AGENCY FROM DISCLOSING  
25 AN INDIVIDUAL'S PRIOR CRIMINAL ACTIVITY TO AN INDIVIDUAL OR  
26 AGENCY IF THE INFORMATION DISCLOSED IS BASED ON RECORDS SET  
27 FORTH IN SUBSECTION (A).

28 [(F)] (E) NONCRIMINAL JUSTICE AGENCIES.--INFORMATION  
29 COLLECTED BY NONCRIMINAL JUSTICE AGENCIES AND INDIVIDUALS FROM  
30 THE SOURCES IDENTIFIED IN THIS SECTION SHALL NOT BE CONSIDERED

1 CRIMINAL HISTORY RECORD INFORMATION.

2 § 9106. PROHIBITED INFORMATION.

3 [THE FOLLOWING KINDS OF INFORMATION SHALL NOT BE COLLECTED IN  
4 THE CENTRAL REPOSITORY NOR IN ANY AUTOMATED OR ELECTRONIC  
5 CRIMINAL JUSTICE INFORMATION SYSTEM:

6 (1) INTELLIGENCE INFORMATION.

7 (2) INVESTIGATIVE INFORMATION.

8 (3) TREATMENT INFORMATION, INCLUDING BUT NOT LIMITED TO  
9 MEDICAL OR PSYCHOLOGICAL INFORMATION.]

10 INTELLIGENCE INFORMATION, INVESTIGATIVE INFORMATION AND  
11 TREATMENT INFORMATION SHALL NOT BE COLLECTED IN THE CENTRAL  
12 REPOSITORY NOR IN ANY AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE  
13 INFORMATION SYSTEM. THIS PROHIBITION SHALL NOT PRECLUDE THE  
14 COLLECTION IN THE CENTRAL REPOSITORY OR IN ANY AUTOMATED OR  
15 ELECTRONIC CRIMINAL JUSTICE INFORMATION SYSTEM, OF NAMES, WORDS,  
16 NUMBERS, PHRASES OR OTHER SIMILAR INDEX KEYS TO SERVE AS INDICES  
17 TO INTELLIGENCE OR INVESTIGATIVE REPORTS.

18 § 9112. MANDATORY FINGERPRINTING.

19 \* \* \*

20 (B) [RETAIL THEFT] SPECIAL RULE.--WHERE PRIVATE COMPLAINTS  
21 FOR A FELONY OR MISDEMEANOR RESULT IN A CONVICTION OR WHERE  
22 PERSONS ARE PROCEEDED AGAINST BY A SUMMONS, OR FOR OFFENSES  
23 UNDER SECTION 3929 (RELATING TO RETAIL THEFT), THE [ISSUING  
24 AUTHORITY] COURT OF PROPER JURISDICTION SHALL ORDER THE  
25 DEFENDANT TO SUBMIT FOR FINGERPRINTING BY THE MUNICIPAL POLICE  
26 OF THE JURISDICTION IN WHICH THE OFFENSE ALLEGEDLY WAS COMMITTED  
27 OR, IN THE ABSENCE OF A POLICE DEPARTMENT, THE STATE POLICE.  
28 FINGERPRINTS SO OBTAINED SHALL BE FORWARDED IMMEDIATELY TO THE  
29 CENTRAL REPOSITORY.

30 \* \* \*

1 § 9121. GENERAL REGULATIONS.

2 [(A) PROMULGATION OF DISSEMINATION REGULATIONS.--THE  
3 ATTORNEY GENERAL SHALL ESTABLISH, IN ACCORDANCE WITH THE  
4 PROVISIONS OF THE COMMONWEALTH DOCUMENTS LAW, REGULATIONS  
5 CONCERNING THE DISSEMINATION OF CRIMINAL HISTORY RECORD  
6 INFORMATION WHICH SHALL DISTINGUISH BETWEEN CONVICTION AND  
7 NONCONVICTION DATA.]

8 (A) DISSEMINATION.--CRIMINAL HISTORY RECORD INFORMATION  
9 MAINTAINED BY ANY CRIMINAL JUSTICE AGENCY SHALL BE DISSEMINATED  
10 TO ANY INDIVIDUAL, UPON PAYMENT OF THE AUTHORIZED FEE.

11 (B) DATA REQUIRED TO BE KEPT.--ANY CRIMINAL JUSTICE AGENCY  
12 WHICH DISSEMINATES CRIMINAL HISTORY RECORD INFORMATION MUST  
13 INDICATE TO THE RECIPIENT THAT THE INFORMATION DISSEMINATED IS  
14 ONLY THAT INFORMATION CONTAINED IN ITS OWN FILE, THE DATE OF THE  
15 LAST ENTRY, AND THAT A SUMMARY OF THE STATEWIDE CRIMINAL HISTORY  
16 RECORD INFORMATION MAY BE OBTAINED FROM THE CENTRAL REPOSITORY.

17 [(C) SECONDARY DISSEMINATION.--EXCEPT DURING JOINT CRIMINAL  
18 INVESTIGATIONS, NO SECONDARY DISSEMINATION OF CRIMINAL HISTORY  
19 RECORD INFORMATION IS PERMITTED EXCEPT AS PROVIDED FOR BY THIS  
20 CHAPTER.]

21 (C) EXTRACTING FROM THE RECORD.--WHEN CRIMINAL HISTORY  
22 RECORD INFORMATION IS MAINTAINED BY A CRIMINAL JUSTICE AGENCY IN  
23 RECORDS CONTAINING INVESTIGATIVE INFORMATION, INTELLIGENCE  
24 INFORMATION, TREATMENT INFORMATION OR OTHER NONPUBLIC  
25 INFORMATION, THE AGENCY MAY EXTRACT AND DISSEMINATE ONLY THE  
26 CRIMINAL HISTORY RECORD INFORMATION IF THE DISSEMINATION IS TO  
27 BE MADE TO A NONCRIMINAL JUSTICE AGENCY OR INDIVIDUAL.

28 [(D) DUPLICATION.--NO DUPLICATION OF CRIMINAL HISTORY RECORD  
29 INFORMATION BY ANY CRIMINAL JUSTICE AGENCY EXCEPT FOR ITS OWN  
30 INTERNAL USE, OR BY ANY INDIVIDUAL RECEIVING CRIMINAL HISTORY

1 RECORD INFORMATION, IS PERMITTED.

2 (E) RETURN OR DESTRUCTION OF INFORMATION.--ALL NONCRIMINAL  
3 JUSTICE AGENCIES OR INDIVIDUALS OR AGENCIES RECEIVING CRIMINAL  
4 HISTORY RECORD INFORMATION MUST RETURN TO THE DISSEMINATING  
5 AGENCY OR DESTROY, IN ACCORDANCE WITH AN AGREEMENT WITH THE  
6 REPOSITORY, ALL SUCH INFORMATION RECEIVED UPON COMPLETION OF THE  
7 SPECIFIC PURPOSE FOR WHICH CRIMINAL HISTORY RECORD INFORMATION  
8 WAS RECEIVED. SUCH INFORMATION SHALL NOT BE PERMANENTLY  
9 INCORPORATED INTO THE FILES OR RECORDS OF THE AGENCY OR  
10 INDIVIDUAL RECEIVING IT.]

11 (D) DISSEMINATION PROCEDURES.--CRIMINAL JUSTICE AGENCIES MAY  
12 ESTABLISH REASONABLE PROCEDURES FOR THE DISSEMINATION OF  
13 CRIMINAL HISTORY RECORD INFORMATION.

14 [(F)] (E) NOTATIONS ON RECORD.--REPOSITORIES MUST ENTER AS  
15 A PERMANENT PART OF AN INDIVIDUAL'S CRIMINAL HISTORY RECORD  
16 INFORMATION FILE, A LISTING OF ALL PERSONS AND AGENCIES TO WHOM  
17 THEY HAVE DISSEMINATED THAT PARTICULAR CRIMINAL HISTORY RECORD  
18 INFORMATION AND THE DATE AND PURPOSE FOR WHICH THE INFORMATION  
19 WAS DISSEMINATED. SUCH LISTING SHALL BE MAINTAINED SEPARATE FROM  
20 THE RECORD ITSELF.

21 [(G) NONCRIMINAL JUSTICE OFFICIALS, ETC.--ANY NONCRIMINAL  
22 JUSTICE OFFICIAL, AGENCY OR ORGANIZATION REQUESTING CRIMINAL  
23 HISTORY RECORD INFORMATION PRIOR TO RECEIPT OF ANY SUCH CRIMINAL  
24 HISTORY RECORD INFORMATION, MUST SIGN A CONTRACT WITH THE  
25 REPOSITORY FROM WHICH IT IS SEEKING CRIMINAL HISTORY RECORD  
26 INFORMATION, AGREEING TO ABIDE BY THE PROVISIONS OF THIS  
27 CHAPTER. ANY SUCH NONCRIMINAL JUSTICE OFFICIAL, AGENCY OR  
28 ORGANIZATION ENTERING INTO SUCH A CONTRACT WITH A REPOSITORY IS  
29 BOUND BY AND SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

30 (H) PROHIBITION ON INCORPORATION OF RECORDS.--EXCEPT AS

1 OTHERWISE PROVIDED IN THIS CHAPTER, NO CRIMINAL HISTORY RECORD  
2 INFORMATION ACQUIRED FROM REPOSITORIES OTHER THAN THE CENTRAL  
3 REPOSITORY SHALL BE PERMANENTLY INCORPORATED INTO THE FILES OR  
4 RECORDS OF THE CRIMINAL JUSTICE AGENCY OR INDIVIDUAL AND MUST BE  
5 DESTROYED UPON COMPLETION OF THE SPECIFIC PURPOSE FOR WHICH SUCH  
6 INFORMATION WAS RECEIVED.]

7 § 9124. USE OF RECORDS BY LICENSING AGENCIES.

8 \* \* \*

9 (B) PROHIBITED USE OF INFORMATION.--THE FOLLOWING  
10 INFORMATION SHALL NOT BE USED IN CONSIDERATION OF AN APPLICATION  
11 FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT:

12 (1) RECORDS OF ARREST IF THERE IS NO CONVICTION OF A  
13 CRIME BASED ON THE ARREST.

14 (2) CONVICTIONS WHICH HAVE BEEN ANNULLED OR EXPUNGED.

15 (3) CONVICTIONS OF A SUMMARY OFFENSE.

16 (4) [INFORMATION THAT] CONVICTIONS FOR WHICH THE  
17 INDIVIDUAL HAS RECEIVED A PARDON FROM THE GOVERNOR.

18 \* \* \*

19 § 9125. USE OF RECORDS FOR EMPLOYMENT.

20 \* \* \*

21 (B) USE OF INFORMATION.--[CONVICTIONS FOR FELONIES, AS WELL  
22 AS MISDEMEANOR CONVICTIONS AND ARRESTS FOR OFFENSES, WHICH  
23 RELATE TO THE APPLICANT'S SUITABILITY FOR EMPLOYMENT IN THE  
24 POSITION FOR WHICH HE HAS APPLIED MAY BE CONSIDERED BY THE  
25 EMPLOYER. MISDEMEANOR CONVICTIONS AND ARRESTS FOR OFFENSES WHICH  
26 DO NOT] ARRESTS AND MISDEMEANOR CONVICTIONS MAY BE CONSIDERED BY  
27 THE EMPLOYER ONLY TO THE EXTENT TO WHICH THEY RELATE TO THE  
28 APPLICANT'S SUITABILITY FOR EMPLOYMENT IN THE POSITION FOR WHICH  
29 HE HAS APPLIED [SHALL NOT BE CONSIDERED BY THE EMPLOYER].

30 \* \* \*



1    [§ 9182.    CRIMINAL PENALTIES.

2            A PERSON EMPLOYED BY A GOVERNMENT AGENCY COMMITS A

3 MISDEMEANOR OF THE THIRD DEGREE IF SUCH PERSON:

4            (1)    KNOWINGLY REQUESTS, OBTAINS OR SEEKS TO OBTAIN  
5            CRIMINAL HISTORY RECORD INFORMATION IN VIOLATION OF THIS  
6            CHAPTER; OR

7            (2)    DISSEMINATES, MAINTAINS OR USES CRIMINAL HISTORY  
8            RECORD INFORMATION KNOWING SUCH DISSEMINATION, MAINTENANCE OR  
9            USE TO BE IN VIOLATION OF THIS CHAPTER.]

10          Section ~~2-~~ 4.    This act shall take effect in 60 days.

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