

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 909 Session of
2013

INTRODUCED BY J. HARRIS, WATERS, KIM, BROWNLEE, SCHLOSSBERG,
CLAY, McGEEHAN, SWANGER, COHEN, PARKER, KINSEY, YOUNGBLOOD,
KORTZ, THOMAS, MAHONEY, SIMS, V. BROWN, MATZIE, FRANKEL,
FLYNN, GAINNEY, M. DALEY AND CRUZ, MARCH 11, 2013

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for expungement.

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

5 Section 1. Section 9122(a) of Title 18 of the Pennsylvania
6 Consolidated Statutes, amended October 25, 2012 (P.L.1655,
7 No.204), is amended and the section is amended by adding
8 subsections to read:

9 § 9122. Expungement.

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

13 [(1) no disposition has been received or, upon request
14 for criminal history record information, no disposition has
15 been recorded in the repository within 18 months after the
16 date of arrest and the court of proper jurisdiction certifies
17 to the director of the repository that no disposition is

1 available and no action is pending. Expungement shall not
2 occur until the certification from the court is received and
3 the director of the repository authorizes such expungement;]

4 (2) a court order requires that such nonconviction data
5 be expunged; or

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

20 (a.1) Automatic expungement.--Except as provided under
21 subsection (a.2), an individual's criminal record information
22 shall be automatically expunged by all repositories if:

23 (1) No disposition has been recorded or received in the
24 repository within 18 months after the date of arrest and the
25 court of proper jurisdiction certifies to the director of the
26 repository that no disposition is available and no action is
27 pending.

28 (2) A disposition has been recorded or received
29 containing information indicating that criminal proceedings
30 have been concluded and the disposition includes information

1 disclosing any of the following reasons for the conclusion of
2 proceedings:

3 (i) Law enforcement has elected not to refer a
4 matter for prosecution.

5 (ii) A prosecuting authority has elected not to
6 commence criminal proceedings.

7 (iii) A grand jury has failed to file an indictment
8 or information.

9 (iv) Proceedings have been indefinitely postponed.

10 (v) An acquittal or not guilty judgment has been
11 entered.

12 (vi) Charges have been dismissed.

13 (a.2) Exception.--An individual's criminal record
14 information shall not be expunged under subparagraph (a.1) for
15 any of the following offenses:

16 (1) Any of the following provisions of this title:

17 Section 2502 (relating to murder).

18 Section 2503 (relating to voluntary manslaughter).

19 Section 2702 (relating to aggravated assault).

20 Section 3121 (relating to rape).

21 Section 3122.1 (relating to statutory sexual
22 assault).

23 Section 3123 (relating to involuntary deviate sexual
24 intercourse).

25 Section 3124.1 (relating to sexual assault).

26 Section 3124.2 (relating to institutional sexual
27 assault).

28 Section 3125 (relating to aggravated indecent
29 assault).

30 Section 3126 (relating to indecent assault).

1 Section 3127 (relating to indecent exposure).

2 Section 4304 (relating to endangering welfare of
3 children).

4 Section 4915 (relating to failure to comply with
5 registration of sexual offenders requirements).

6 Section 4915.1 (relating to failure to comply with
7 registration requirements).

8 Section 4952 (relating to intimidation of witnesses
9 or victims).

10 Section 4953 (relating to retaliation against
11 witness, victim or party).

12 Section 5902(b) (relating to prostitution and related
13 offenses).

14 Section 5903 (relating to obscene and other sexual
15 materials and performances).

16 Section 6312 (relating to sexual abuse of children).

17 Section 6320 (relating to sexual exploitation of
18 children).

19 (2) Any of the following provisions of Title 23:

20 Section 6113 (relating to arrest for violation of
21 order).

22 Section 6114 (relating to contempt for violation of
23 order or agreement).

24 Section 6114.1 (relating to civil contempt or
25 modification for violation of an order or agreement).

26 * * *

27 (d.1) Civil liability.--Notwithstanding any other provision
28 of law, a repository shall be liable for civil damages if it
29 fails to expunge an individual's criminal record under
30 subsection (a)(2) or (3) or (a.1) within six months of receipt

1 of a court order, certification or disposition.

2 * * *

3 Section 2. This act shall take effect in 60 days.