
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1308 Session of
2014

INTRODUCED BY STACK, FARNESE, SCHWANK, LEACH AND COSTA,
MARCH 25, 2014

REFERRED TO JUDICIARY, MARCH 25, 2014

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 of Title 18 of the Pennsylvania
6 Consolidated Statutes is amended to read:

7 § 9122. Expungement.

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

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

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

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

17 (b) Generally.--Criminal history record information may be
18 expunged when:

19 (1) An individual who is the subject of the information
20 reaches 70 years of age and has been free of arrest or
21 prosecution for ten years following final release from
22 confinement or supervision.

23 (2) An individual who is the subject of the information
24 has been dead for three years.

25 (3) (i) An individual who is the subject of the
26 information petitions the court for the expungement of a
27 summary offense and has been free of arrest or
28 prosecution for five years following the conviction for
29 that offense.

30 (ii) Expungement under this paragraph shall only be

1 permitted for a conviction of a summary offense.

2 (4) (i) An individual who is the subject of the
3 information petitions the court for the expungement of an
4 offense under section 13(g) of the act of April 14, 1972
5 (P.L.233, No.64), known as The Controlled Substance,
6 Drug, Device and Cosmetic Act, and has been free of
7 arrest or prosecution for five years following the
8 conviction for that offense.

9 (ii) Expungment under this paragraph shall only be
10 permitted for a conviction of a misdemeanor offense.

11 (b.1) Prohibition.--A court shall not have the authority to
12 order expungement of the defendant's arrest record where the
13 defendant was placed on Accelerated Rehabilitative Disposition
14 for a violation of any offense set forth in any of the following
15 where the victim is under 18 years of age:

16 Section 3121 (relating to rape).

17 Section 3122.1 (relating to statutory sexual assault).

18 Section 3123 (relating to involuntary deviate sexual
19 intercourse).

20 Section 3124.1 (relating to sexual assault).

21 Section 3125 (relating to aggravated indecent assault).

22 Section 3126 (relating to indecent assault).

23 Section 3127 (relating to indecent exposure).

24 Section 5902(b) (relating to prostitution and related
25 offenses).

26 Section 5903 (relating to obscene and other sexual
27 materials and performances).

28 (c) Maintenance of certain information required or
29 authorized.--Notwithstanding any other provision of this
30 chapter, the prosecuting attorney and the central repository

1 shall, and the court may, maintain a list of the names and other
2 criminal history record information of persons whose records are
3 required by law or court rule to be expunged where the
4 individual has successfully completed the conditions of any
5 pretrial or post-trial diversion or probation program or where
6 the court has ordered expungement under this section. Such
7 information shall be used solely for the purposes of determining
8 subsequent eligibility for such programs, identifying persons in
9 criminal investigations or determining the grading of subsequent
10 offenses. Such information shall be made available to any court
11 or law enforcement agency upon request.

12 (d) Notice of expungement.--Notice of expungement shall
13 promptly be submitted to the central repository which shall
14 notify all criminal justice agencies which have received the
15 criminal history record information to be expunged.

16 (e) Public records.--Public records listed in section
17 9104(a) (relating to scope) shall not be expunged.

18 (f) District attorney's notice.--The court shall give ten
19 days prior notice to the district attorney of the county where
20 the original charge was filed of any applications for
21 expungement under the provisions of subsection (a)(2).

22 Section 2. Applicability.

23 The amendment of 18 Pa.C.S. § 9122 shall apply retroactively
24 to any conviction for an offense under section 13(g) of the act
25 of April 14, 1972 (P.L.233, No.64), known as The Controlled
26 Substance, Drug, Device and Cosmetic Act, graded as a
27 misdemeanor offense.

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