

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 166 Session of 2015

INTRODUCED BY GREENLEAF, STACK, BREWSTER, KITCHEN, FONTANA, BAKER, BOSCOLA, WILEY, COSTA, TARTAGLIONE, HUGHES, VOGEL, LEACH, WHITE, RAFFERTY, PILEGGI, SCHWANK AND WILLIAMS, JANUARY 15, 2015

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 27, 2015

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, in criminal history record~~
3 ~~information, further providing for expungement of criminal~~
4 ~~history record.~~

5 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 42 (JUDICIARY AND <--
6 JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED
7 STATUTES, IN CRIMINAL HISTORY RECORD INFORMATION, FURTHER
8 PROVIDING FOR GENERAL REGULATIONS AND PROVIDING FOR ORDER FOR
9 LIMITED ACCESS; AND, IN GOVERNANCE OF THE SYSTEM, PROVIDING
10 FOR PETITION FOR EXPUNGEMENT OR ORDER FOR LIMITED ACCESS FEE.

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

13 ~~Section 1. Section 9122(b) of Title 18 of the Pennsylvania~~ <--
14 ~~Consolidated Statutes is amended by adding a paragraph to read:~~

15 ~~§ 9122. Expungement.~~

16 * * *

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

19 * * *

20 ~~(4) (i) An individual who is the subject of the~~

1 ~~information petitions for expungement of the information~~
2 ~~and the individual has been free of arrest or prosecution~~
3 ~~following final release from confinement or supervision~~
4 ~~for the following time periods:~~

5 ~~(A) In the case of a misdemeanor of the third~~
6 ~~degree or an offense declared to be a misdemeanor,~~
7 ~~without specification of degree, seven years.~~

8 ~~(B) In the case of a misdemeanor of the second~~
9 ~~degree committed when the individual was less than 25~~
10 ~~years of age, ten years.~~

11 ~~(ii) This paragraph shall not apply to any~~
12 ~~individual who has been convicted of:~~

13 ~~(A) An offense punishable by imprisonment of~~
14 ~~more than two years.~~

15 ~~(B) Four or more offenses punishable by~~
16 ~~imprisonment of one or more years.~~

17 ~~(C) An offense under section 913 (relating to~~
18 ~~possession of firearm or other dangerous weapon in~~
19 ~~court facility) which is graded as a misdemeanor of~~
20 ~~the third degree.~~

21 ~~(D) A violation of section 2701 (relating to~~
22 ~~simple assault), except when the offense is graded as~~
23 ~~a misdemeanor of the third degree.~~

24 ~~(E) A violation of section 3129 (relating to~~
25 ~~sexual intercourse with animal).~~

26 ~~(F) A violation of section 4912 (relating to~~
27 ~~impersonating a public servant).~~

28 ~~(G) A violation of section 4952 (relating to~~
29 ~~intimidation of witnesses or victims).~~

30 ~~(H) A violation of section 4953 (relating to~~

1 ~~retaliation against witness, victim or party).~~

2 ~~(I) A violation of section 5511 (relating to~~
3 ~~cruelty to animals).~~

4 ~~(J) A violation of any provision of Chapter 61~~
5 ~~(relating to firearms and other dangerous articles).~~

6 ~~(K) An offense which requires registration under~~
7 ~~42 Pa.C.S. Ch. 97 Subch. H (relating to registration~~
8 ~~of sexual offenders).~~

9 * * *

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

11 SECTION 1. SECTION 9121(B) (2) OF TITLE 18 OF THE <--
12 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS
13 AMENDED BY ADDING A SUBSECTION TO READ:

14 § 9121. GENERAL REGULATIONS.

15 * * *

16 (B) DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES AND
17 INDIVIDUALS.--CRIMINAL HISTORY RECORD INFORMATION SHALL BE
18 DISSEMINATED BY A STATE OR LOCAL POLICE DEPARTMENT TO ANY
19 INDIVIDUAL OR NONCRIMINAL JUSTICE AGENCY ONLY UPON REQUEST.
20 EXCEPT AS PROVIDED IN SUBSECTION (B.1):

21 * * *

22 (2) BEFORE A STATE OR LOCAL POLICE DEPARTMENT
23 DISSEMINATES CRIMINAL HISTORY RECORD INFORMATION TO AN
24 INDIVIDUAL OR NONCRIMINAL JUSTICE AGENCY, IT SHALL EXTRACT
25 FROM THE RECORD [ALL] THE FOLLOWING:

26 (I) ALL NOTATIONS OF ARRESTS, INDICTMENTS OR OTHER
27 INFORMATION RELATING TO THE INITIATION OF CRIMINAL
28 PROCEEDINGS WHERE:

29 [(I) THREE YEARS HAVE ELAPSED FROM THE DATE OF
30 ARREST;

1 (II) NO CONVICTION HAS OCCURRED; AND
2 (III) NO PROCEEDINGS ARE PENDING SEEKING A
3 CONVICTION.]

4 (A) THREE YEARS HAVE ELAPSED FROM THE DATE OF
5 ARREST;

6 (B) NO CONVICTION HAS OCCURRED; AND

7 (C) NO PROCEEDINGS ARE PENDING SEEKING A
8 CONVICTION.

9 (II) ALL INFORMATION RELATING TO A CONVICTION AND
10 THE ARREST, INDICTMENT OR OTHER INFORMATION LEADING
11 THERE TO, WHICH IS THE SUBJECT OF A COURT ORDER FOR
12 LIMITED ACCESS AS PROVIDED IN SECTION 9122.1 (RELATING TO
13 ORDER FOR LIMITED ACCESS).

14 * * *

15 (B.2) ADDITIONAL EXCEPTION.--SUBSECTION (B) (2) (II) SHALL NOT
16 APPLY IF THE REQUEST IS MADE BY A STATE AGENCY TO BE USED ONLY
17 AS AUTHORIZED UNDER SECTION 9124 (RELATING TO USE OF RECORDS BY
18 LICENSING AGENCIES).

19 * * *

20 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:
21 § 9122.1. ORDER FOR LIMITED ACCESS.

22 (A) GENERAL RULE.--THE FOLLOWING SHALL APPLY:

23 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,
24 UPON PETITION OF A PERSON WHO HAS BEEN FREE OF ARREST OR
25 PROSECUTION FOLLOWING CONVICTION OR FINAL RELEASE FROM <--
26 CONFINEMENT ~~AND~~ OR SUPERVISION, WHICHEVER IS LATER, FOR A <--
27 PERIOD OF 10 YEARS, THE COURT OF COMMON PLEAS IN THE
28 JURISDICTION WHERE THE CONVICTION OCCURRED MAY ENTER AN ORDER
29 THAT CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY ANY
30 CRIMINAL JUSTICE AGENCY PERTAINING TO A CONVICTION FOR A

1 MISDEMEANOR OF THE SECOND DEGREE, A MISDEMEANOR OF THE THIRD
2 DEGREE OR AN UNGRADED OFFENSE WHICH CARRIES A MAXIMUM PENALTY
3 OF NO MORE THAN TWO YEARS BE DISSEMINATED ONLY TO A CRIMINAL
4 JUSTICE AGENCY OR A GOVERNMENT AGENCY AS PROVIDED IN SECTION
5 9121(B.1) AND (B.2) (RELATING TO GENERAL REGULATIONS).

6 (2) EXCEPT WHEN REQUESTED OR REQUIRED BY A CRIMINAL
7 JUSTICE AGENCY, OR BY AND FOR THE OFFICIAL USE OF A
8 GOVERNMENT AGENCY DESCRIBED IN SECTION 9121(B.1) OR 9124(A)
9 (RELATING TO USE OF RECORDS BY LICENSING AGENCIES), NO
10 INDIVIDUAL SHALL BE REQUIRED NOR REQUESTED TO DISCLOSE
11 INFORMATION ABOUT THE PERSON'S CRIMINAL HISTORY RECORDS THAT
12 ARE THE SUBJECT OF A COURT ORDER FOR LIMITED ACCESS GRANTED
13 UNDER THIS SECTION.

14 (B) EXCEPTIONS.--AN ORDER FOR LIMITED ACCESS UNDER THIS
15 SECTION SHALL NOT BE GRANTED TO AN INDIVIDUAL WHO HAS BEEN
16 CONVICTED AT ANY TIME OF ANY OF THE FOLLOWING:

17 (1) AN OFFENSE PUNISHABLE BY IMPRISONMENT OF MORE THAN
18 TWO YEARS.

19 (2) FOUR OR MORE OFFENSES PUNISHABLE BY IMPRISONMENT OF
20 ONE OR MORE YEARS.

21 (3) A VIOLATION OF SECTION 2701 (RELATING TO SIMPLE
22 ASSAULT), EXCEPT WHEN THE OFFENSE IS GRADED AS A MISDEMEANOR
23 OF THE THIRD DEGREE.

24 (4) A VIOLATION OF SECTION 3129 (RELATING TO SEXUAL
25 INTERCOURSE WITH ANIMAL).

26 (5) A VIOLATION OF SECTION 4912 (RELATING TO
27 IMPERSONATING A PUBLIC SERVANT).

28 (6) A VIOLATION OF SECTION 4952 (RELATING TO
29 INTIMIDATION OF WITNESSES OR VICTIMS).

30 (7) A VIOLATION OF SECTION 4953 (RELATING TO RETALIATION

1 AGAINST WITNESS, VICTIM OR PARTY).

2 (8) A VIOLATION OF SECTION 4958 (RELATING TO
3 INTIMIDATION, RETALIATION OR OBSTRUCTION IN CHILD ABUSE
4 CASES).

5 (9) AN OFFENSE WHICH REQUIRES REGISTRATION UNDER 42
6 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL
7 OFFENDERS).

8 (C) NOTICE TO DISTRICT ATTORNEY.--THE COURT SHALL PROVIDE
9 NOTICE OF THE FILING OF A PETITION UNDER SUBSECTION (A) TO THE
10 DISTRICT ATTORNEY WITHIN 10 DAYS. WITHIN 30 DAYS OF RECEIPT OF
11 NOTICE, THE DISTRICT ATTORNEY MAY FILE OBJECTIONS TO THE
12 PETITION. IF NO OBJECTION IS TIMELY FILED, THE COURT MAY GRANT
13 THE PETITION WITHOUT FURTHER HEARING IF THE REQUIREMENTS OF THIS
14 SECTION HAVE BEEN MET.

15 (D) NOTICE TO CENTRAL REPOSITORY.--NOTICE OF AN ORDER FOR
16 LIMITED ACCESS SHALL PROMPTLY BE SUBMITTED TO THE CENTRAL
17 REPOSITORY WHICH SHALL NOTIFY ALL CRIMINAL JUSTICE AGENCIES
18 WHICH HAVE RECEIVED CRIMINAL HISTORY RECORD INFORMATION RELATED
19 TO SUCH CONVICTION THAT ACCESS TO SUCH CRIMINAL HISTORY RECORD
20 HAS BEEN LIMITED BY ORDER OF THE COURT.

21 SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
22 § 1725.7. PETITION FOR EXPUNGEMENT OR ORDER FOR LIMITED ACCESS
23 FEE.

24 (A) GENERAL RULE.--IN ADDITION TO ANY OTHER FEE AUTHORIZED
25 BY LAW, A PERSON WHO FILES A PETITION FOR EXPUNGEMENT UNDER 18
26 PA.C.S. § 9122 (RELATING TO EXPUNGEMENT) OR A PETITION FOR AN
27 ORDER FOR LIMITED ACCESS UNDER 18 PA.C.S. § 9122.1 (RELATING TO
28 ORDER FOR LIMITED ACCESS) SHALL PAY A FEE OF \$100 TO THE CLERK
29 OF COURTS AT THE TIME OF FILING.

30 (B) DISTRIBUTION.--THE CLERK OF COURTS SHALL ENSURE THAT THE

1 FEE IS DISTRIBUTED AS FOLLOWS:

2 (1) ONE-THIRD TO THE ADMINISTRATIVE OFFICE OF <--
3 PENNSYLVANIA COURTS CLERK OF COURTS. <--

4 (2) ONE-THIRD TO THE PENNSYLVANIA STATE POLICE.

5 (3) ONE-THIRD TO THE DISTRICT ATTORNEY OF THE COUNTY.

6 SECTION 4. THIS ACT SHALL TAKE EFFECT IN ~~60 180~~ 270 DAYS. <--