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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 440 Session of  
2019

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INTRODUCED BY NESBIT, McCLINTON, BRIGGS, JAMES, MURT, KENYATTA,  
LONGIETTI, READSHAW, RABB, YOUNGBLOOD, ISAACSON, DIAMOND,  
FREEMAN, IRVIN, SIMMONS, McNEILL, HOWARD, STAATS, HILL-EVANS,  
GROVE, NEILSON, SCHWEYER, WARREN, HARRIS, BURGOS, SOLOMON,  
SANCHEZ, STURLA, A. DAVIS, KINSEY, D. MILLER, KORTZ, CEPHAS,  
T. DAVIS, BULLOCK, DALEY, DAVIDSON AND GOODMAN,  
FEBRUARY 11, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 11, 2019

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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 expungement.

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

6 Section 1. Section 9122(a) and (c) of Title 18 of the  
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 9122. Expungement.

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

12 (1) no disposition has been received or, upon request  
13 for criminal history record information, no disposition has  
14 been recorded in the repository within 18 months after the  
15 date of arrest and the court of proper jurisdiction certifies  
16 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 (2.1) a person has been pardoned for an offense in  
7 accordance with law;

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

22 (4) a judicial determination has been made that a person  
23 is acquitted of an offense, if the person has been acquitted  
24 of all charges based on the same conduct or arising from the  
25 same criminal episode. This paragraph shall not apply to a  
26 partial acquittal. A judicial determination under this  
27 paragraph may only be made after the following:

28 (i) The court provides notice in writing to the  
29 person and to the Commonwealth that the person's criminal  
30 history record information will be automatically expunged

1 pursuant to this section.

2 (ii) Upon receipt of the notice under subparagraph  
3 (i), the Commonwealth shall have 60 days to object to the  
4 automatic expungement on the basis that the expungement  
5 of the acquittal relates to the same conduct, arises from  
6 the same criminal episode or otherwise relates to a  
7 partial acquittal.

8 (iii) Upon the filing of an objection, the court  
9 shall conduct a hearing to determine whether expungement  
10 of the acquittal relates to the same conduct, arises from  
11 the same criminal episode or otherwise relates to a  
12 partial acquittal. The hearing may be waived by agreement  
13 of both parties and the court.

14 (iv) Following the hearing, or if no objection has  
15 been filed or the hearing has been waived, the court  
16 shall order that the person's criminal history record  
17 information be automatically expunged unless the court  
18 determines the expungement relates to the same conduct,  
19 arises from the same criminal episode or otherwise  
20 relates to a partial acquittal. Expungement shall occur  
21 no later than 12 months from the date of acquittal.

22 \* \* \*

23 (c) Maintenance of certain information required or  
24 authorized.--Notwithstanding any other provision of this  
25 chapter, the prosecuting attorney and the central repository  
26 shall, and the court may, maintain a list of the names and other  
27 criminal history record information of persons whose records are  
28 required by law or court rule to be expunged where the  
29 individual has successfully completed the conditions of any  
30 pretrial or post-trial diversion or probation program [or] .

1 where the individual has been pardoned or where the court has  
2 ordered expungement under this section. Such information shall  
3 be used solely for the purposes of determining subsequent  
4 eligibility for such programs, identifying persons in criminal  
5 investigations or determining the grading of subsequent  
6 offenses. Such information shall be made available to any court  
7 or law enforcement agency upon request.

8 \* \* \*

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