
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 852 Session of 2023

INTRODUCED BY BAKER, YAW, HAYWOOD, BROWN, ROBINSON, A. WILLIAMS, SANTARSIERO, PENNYCUICK, BREWSTER, BARTOLOTTA, KANE, BOSCOLA, CULVER, COSTA, KEARNEY, SCHWANK, HUGHES, TARTAGLIONE, SAVAL, CAPPELLETTI, STEFANO AND LAUGHLIN, JUNE 30, 2023

REFERRED TO JUDICIARY, JUNE 30, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in criminal history record
3 information, further providing for definitions, for general
4 regulations, for expungement, for petition for limited
5 access, for clean slate limited access, for exceptions, for
6 effects of expunged records and records subject to limited
7 access and for employer immunity from liability.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 9102 of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:
12 § 9102. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Qualifying offense." An offense under section 13 of the act
18 of April 14, 1972 (P.L.233, No.64), known as The Controlled
19 Substance, Drug, Device and Cosmetic Act, or an attempt,

1 conspiracy or solicitation to commit an offense under section 13
2 of The Controlled Substance, Drug, Device and Cosmetic Act,
3 unless a minimum sentence of 30 months or more of imprisonment
4 or a maximum sentence of 60 months or more of imprisonment was
5 imposed on the offense.

6 * * *

7 Section 2. Section 9121(b) introductory paragraph, (1) and
8 (2) and (b.2) (2) of Title 18 are amended to read:

9 § 9121. General regulations.

10 * * *

11 (b) Dissemination to noncriminal justice agencies and
12 individuals.--Criminal history record information [shall] may be
13 disseminated by a State [or local] police department to any
14 individual or noncriminal justice agency only upon request.
15 Other criminal justice agencies may disseminate criminal history
16 record information only in responding to requests for
17 information under Subchapter F.1 (relating to crime victim right
18 of access) or as they deem necessary to carry out their law
19 enforcement functions as otherwise allowed by law. The following
20 apply:

21 (1) A fee may be charged by a State [or local] police
22 department for each request for criminal history record
23 information by an individual or noncriminal justice agency,
24 except that no fee shall be charged to an individual who
25 makes the request in order to apply to become a volunteer
26 with an affiliate of Big Brothers of America or Big Sisters
27 of America or with a rape crisis center or domestic violence
28 program.

29 (2) Except as provided for in subsections (b.1) and
30 (b.2), before a State [or local] police department

1 disseminates criminal history record information to an
2 individual or noncriminal justice agency, it shall extract
3 from the record the following:

4 (i) All notations of arrests, indictments or other
5 information relating to the initiation of criminal
6 proceedings where:

7 (A) three years have elapsed from the date of
8 arrest;

9 (B) no disposition is indicated in the record;
10 and

11 (C) nothing in the record indicates that
12 proceedings seeking conviction remain pending.

13 (ii) All information relating to a conviction and
14 the arrest, indictment or other information leading
15 thereto, which is the subject of a court order for
16 limited access as provided in section 9122.1 (relating to
17 petition for limited access).

18 (iii) All information relating to a conviction or
19 nonconviction final disposition and the arrest,
20 indictment or other information leading to the arrest or
21 indictment which is subject to a court order for limited
22 access as provided for in section 9122.2 (relating to
23 clean slate limited access).

24 * * *

25 (b.2) Additional exceptions.--

26 * * *

27 (2) Subsection (b) (2) shall not apply:

28 (i) To the verification of information provided by
29 an applicant if Federal law, including rules and
30 regulations promulgated by a self-regulatory organization

1 that has been created under Federal law, requires the
2 consideration of an applicant's criminal history for
3 purposes of employment.

4 (ii) To the verification of information provided to
5 the Supreme Court, or an entity of the Supreme Court, in
6 its capacity to govern the practice, procedure and
7 conduct of all courts, the admission to the bar, the
8 practice of law, the administration of all courts and
9 supervision of all officers of the judicial branch.

10 (iii) To the verification of information provided by
11 a candidate for public office concerning eligibility
12 under section 7 of Article II of the Constitution of
13 Pennsylvania.

14 (iv) To the Department of Human Services for
15 verification of information as required by law.

16 * * *

17 Section 3. Sections 9122(a), (b) introductory paragraph, (c)
18 and (d) and 9122.1(a) and (b) (1) (i) and (2) (ii) and (iii) of
19 Title 18 are amended and the sections are amended by adding
20 subsections to read:

21 § 9122. Expungement.

22 (a) Specific proceedings.--Criminal history record
23 information in a specific criminal proceeding shall be expunged
24 [in a specific criminal proceeding] from the central repository
25 when:

26 (1) no disposition has been received or, upon request
27 for criminal history record information, no disposition has
28 been recorded in the repository within 18 months after the
29 date of arrest and the court of proper jurisdiction certifies
30 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;

6 (2.1) a person has been granted an unconditional pardon
7 for an offense in 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 following a trial and a verdict of not
26 guilty. This paragraph shall not apply to a partial
27 acquittal. A judicial determination under this paragraph may
28 only be made after the following:

29 (i) The court provides notice in writing to the
30 person and to the Commonwealth that the person's criminal

1 history record information will be automatically expunged
2 pursuant to this section.

3 (ii) Upon receipt of the notice under subparagraph
4 (i), the Commonwealth shall have 60 days to object to the
5 automatic expungement on the basis that the person has
6 not been acquitted of all charges relating to the same
7 conduct, arising from the same criminal episode or
8 otherwise relating to a partial acquittal.

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

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

23 (a.1) Automatic expungement pursuant to pardon.--

24 (1) On a quarterly basis, the Board of Pardons shall
25 transmit a notice of the record of any conviction eligible
26 for expungement under subsection (a) (2.1) to the
27 Administrative Office of Pennsylvania Courts.

28 (2) On a quarterly basis, upon receipt of the notice
29 under paragraph (1), the Administrative Office of
30 Pennsylvania Courts shall transmit the record to the court of

1 common pleas in the jurisdiction where the conviction
2 occurred, the record of any conviction eligible for
3 expungement under subsection (a)(2.1).

4 (3) Upon receipt of the notice under paragraph (2) and
5 confirmation that the criteria under subsection (a)(2.1) has
6 been met, the court shall order that the person's criminal
7 history record information be expunged and forward notice to
8 the central repository in accordance with subsection (d). The
9 Board of Pardons shall provide pardon information to the
10 Administrative Office of Pennsylvania Courts in a format
11 specified by the Administrative Office of Pennsylvania Courts
12 as necessary for proper identification of the case for which
13 a pardon has been granted.

14 (b) Generally.--Criminal history record information may be
15 expunged from the central repository when:

16 * * *

17 (c) Maintenance of certain information required or
18 authorized.--Notwithstanding any other provision of this
19 chapter, the prosecuting attorney and the central repository
20 shall, and the court may, maintain a list of the names and other
21 criminal history record information of persons whose records are
22 required by law or court rule to be expunged where the
23 individual has successfully completed the conditions of any
24 pretrial or post-trial diversion or probation program [or],
25 where the individual has received a pardon for the conviction in
26 accordance with law or where the court has ordered expungement
27 under this section. Such information shall be used solely for
28 the purposes of determining subsequent eligibility for such
29 programs, identifying persons in criminal investigations or
30 determining the grading of subsequent offenses. Such information

1 shall be made available to any court or law enforcement agency
2 upon request.

3 (d) Notice of expungement.--Notice of expungement shall
4 promptly be submitted to the central repository [which shall
5 notify all criminal justice agencies which have received the
6 criminal history record information to be expunged].

7 * * *

8 § 9122.1. Petition for limited access.

9 (a) General rule.--Subject to the exceptions in subsection
10 (b) and notwithstanding any other provision of this chapter,
11 upon petition of a person who has been free from conviction for
12 a period of [10] seven years for an offense punishable by one or
13 more years in prison and has completed payment of all court-
14 ordered restitution and the fee previously authorized to carry
15 out the limited access and clean slate limited access
16 provisions, the court of common pleas in the jurisdiction where
17 a conviction occurred may enter an order that criminal history
18 record information maintained by a criminal justice agency
19 pertaining to a qualifying misdemeanor or an ungraded offense
20 which carries a maximum penalty of no more than five years be
21 disseminated only to a criminal justice agency or as provided in
22 section 9121(b.1) and (b.2) (relating to general regulations). A
23 court may not enter an order under this subsection unless the
24 person who filed the petition, upon payment of all court-ordered
25 restitution, also paid the fee previously authorized to carry
26 out the limited access and clean slate limited access
27 provisions.

28 (a.1) Additional criteria.--Upon petition of a person who
29 has been free from conviction for a period of 10 years for an
30 offense punishable by one or more years in prison and has

1 completed payment of all court-ordered restitution and the fee
2 previously authorized to carry out the limited access and clean
3 slate limited access provisions, the court of common pleas in
4 the jurisdiction where a conviction occurred may enter an order
5 that criminal history record information maintained by a
6 criminal justice agency pertaining to a qualifying felony under
7 this section be disseminated only to a criminal justice agency
8 or as provided in section 9121(b.1) and (b.2). A court may not
9 enter an order under this subsection unless the person who filed
10 the petition, upon payment of all court-ordered restitution,
11 also paid the fee previously authorized to carry out the limited
12 access and clean slate limited access provisions. As used in
13 this subsection, a qualifying felony is any of the following or
14 an attempt, conspiracy or solicitation to commit any of the
15 following, excluding felonies of the first and second degrees:

16 (1) An offense under section 3304 (relating to criminal
17 mischief).

18 (2) An offense under section 3503 (relating to criminal
19 trespass).

20 (3) An offense under Chapter 39 (relating to theft and
21 related offenses).

22 (4) An offense under Chapter 41 (relating to forgery and
23 fraudulent practices).

24 (5) An offense under section 481 of the act of June 13,
25 1967 (P.L.31, No.21), known as the Human Services Code.

26 (6) A qualifying offense.

27 (b) Exceptions.--An order for limited access under this
28 section shall not be granted for any of the following:

29 (1) A conviction for an offense punishable by more than
30 two years in prison which is any of the following or an

1 attempt, conspiracy or solicitation to commit any of the
2 following:

3 (i) An offense under Article B of Part II (relating
4 to offenses involving danger to the person). This
5 paragraph shall not apply to a misdemeanor offense under
6 section 2706 (relating to terroristic threats).

7 * * *

8 (2) An individual who meets any of the following:

9 * * *

10 (ii) Has been convicted within the previous [20] 15
11 years of:

12 (A) a felony or an offense punishable by
13 imprisonment of seven or more years involving:

14 (I) an offense under Article B of Part II;

15 (II) an offense under Article D of Part II;

16 (III) an offense under Chapter 61; or

17 (IV) an offense specified in 42 Pa.C.S. §§

18 9799.14 and 9799.55; [or]

19 (B) four or more offenses punishable by
20 imprisonment of two or more years[.]; or

21 (C) any of the following offenses:

22 (I) An offense under section 3127 (relating
23 to indecent exposure).

24 (II) An offense under section 3129 (relating
25 to sexual intercourse with animal).

26 (III) An offense under section 4915.1
27 (relating to failure to comply with registration
28 requirements) or 4915.2 (relating to failure to
29 comply with 42 Pa.C.S. Ch. 97 Subch. I
30 registration requirements).

1 (IV) An offense under section 5122 (relating
2 to weapons or implements for escape).

3 (V) An offense under section 5510 (relating
4 to abuse of corpse).

5 (VI) An offense under section 5515 (relating
6 to prohibiting of paramilitary training).

7 (iii) [Has, within the previous 15 years, been
8 convicted of:

9 (A) two or more offenses punishable by more than
10 two years in prison; or

11 (B) any of the following:

12 (I) An offense under section 3127 (relating
13 to indecent exposure).

14 (II) An offense under section 3129 (relating
15 to sexual intercourse with animal).

16 (III) An offense under section 4915.1
17 (relating to failure to comply with registration
18 requirements) or 4915.2 (relating to failure to
19 comply with 42 Pa.C.S. Ch. 97 Subch. I
20 registration requirements).

21 (IV) An offense under section 5122 (relating
22 to weapons or implements for escape).

23 (V) An offense under section 5510 (relating
24 to abuse of corpse).

25 (VI) An offense under section 5515 (relating
26 to prohibiting of paramilitary training).] Has,
27 within the previous 10 years, been convicted of
28 two or more offenses punishable by more than two
29 years in prison.

30 (b.1) Consolidation.--For the purpose of this section, the

1 conviction of two or more offenses charged in separate counts
2 that are consolidated under one docket number and share the same
3 offense tracking number shall be deemed to be one conviction.

4 * * *

5 Section 4. Section 9122.2(a)(1) and (3) of Title 18 are
6 amended and the subsection is amended by adding a paragraph to
7 read:

8 § 9122.2. Clean slate limited access.

9 (a) General rule.--The following shall be subject to limited
10 access:

11 (1) Subject to the exceptions under section 9122.3
12 (relating to exceptions) or if a court has vacated an order
13 for limited access under section 9122.4 (relating to order to
14 vacate order for limited access), criminal history record
15 information pertaining to a conviction of a misdemeanor of
16 the second degree, a misdemeanor of the third degree or a
17 misdemeanor offense punishable by imprisonment of no more
18 than two years if a person has been free for [10] seven years
19 from conviction for any offense punishable by imprisonment of
20 one or more years and if payment of all court-ordered
21 restitution has occurred. Upon payment of all court-ordered
22 restitution, the person whose criminal history record
23 information is subject to limited access under this paragraph
24 shall also pay the fee previously authorized to carry out the
25 limited access and clean slate limited access provisions.

26 (1.1) Subject to the exceptions under section 9122.3 or
27 if a court has vacated an order for limited access under
28 section 9122.4, criminal history record information
29 pertaining to a conviction of a qualifying offense if a
30 person has been free for 10 years from conviction for any

1 offense punishable by imprisonment of one or more years and
2 if payment of all court-ordered restitution has occurred.
3 Upon payment of all court-ordered restitution, the person
4 whose criminal history record information is subject to
5 limited access under this paragraph shall also pay the fee
6 previously authorized to carry out the limited access and
7 clean slate limited access provisions.

8 * * *

9 (3) Criminal history record information pertaining to a
10 conviction for a summary offense when [10] five years have
11 elapsed since entry of the judgment of conviction and payment
12 of all court-ordered restitution has occurred. Upon payment
13 of all court-ordered restitution, the person whose criminal
14 history record information is subject to limited access under
15 this paragraph shall also pay the fee previously authorized
16 to carry out the limited access and clean slate limited
17 access provisions.

18 * * *

19 Section 5. Section 9122.3(a)(2)(i), (b) and (c) of Title 18
20 are amended and the section is amended by adding a subsection to
21 read:

22 § 9122.3. Exceptions.

23 (a) Limited access not applicable.--Limited access to
24 records under section 9122.2(a)(1) (relating to clean slate
25 limited access) shall not be granted for any of the following:

26 * * *

27 (2) An individual who at any time has been convicted of:

28 (i) A felony, excluding a qualifying offense.

29 * * *

30 (a.1) Consolidation.--For the purpose of this section, the

1 conviction of two or more offenses that are charged in separate
2 counts, are consolidated under one docket number and share the
3 same offense tracking number shall be deemed to be one
4 conviction, except that the docket may not be deemed one
5 conviction if it contains more than two felony convictions.

6 (b) Limited access to same case.--Limited access under this
7 section shall not apply to an otherwise qualifying conviction if
8 a conviction for an offense punishable by imprisonment of five
9 or more years or an offense enumerated in subsection (a) arose
10 out of the same case. This subsection shall not apply to a
11 qualifying offense.

12 (c) Filing.--Nothing in this section shall preclude the
13 filing of a petition for limited access under section 9122.1
14 (relating to petition for limited access) if limited access is
15 available under [that] this section. An offense eligible for
16 clean slate limited access under this section shall also be
17 eligible for petition for limited access under section 9122.1.

18 Section 6. Section 9122.5 of Title 18 is amended by adding
19 subsections to read:

20 § 9122.5. Effects of expunged records and records subject to
21 limited access.

22 * * *

23 (a.1) Use of information.--Except if required by Federal
24 law, criminal history record information that has been expunged
25 or provided limited access may not be used by any individual or
26 noncriminal justice agency for employment, housing or school
27 matriculation purposes.

28 * * *

29 (c.1) Use for eligibility for public office.--
30 Notwithstanding any other provision of this chapter, a record

1 subject to limited access under section 9122.1 or 9122.2 shall
2 remain a part of the individual's criminal history record
3 information and shall be self-disclosed for any relevant purpose
4 required by section 7 of Article II of the Constitution of
5 Pennsylvania.

6 * * *

7 Section 7. Section 9122.6 of Title 18 is amended to read:

8 § 9122.6. Employer immunity from liability.

9 (a) General rule.--An employer who employs or otherwise
10 engages an individual whose criminal history record has been
11 expunged or to which limited access has been applied under
12 section 9122.1 (relating to petition for limited access) or
13 9122.2 (relating to clean slate limited access) shall be immune
14 from liability for any claim arising out of the misconduct of
15 the individual, if the misconduct relates to the portion of the
16 criminal history record that has been expunged or provided
17 limited access.

18 (b) Voluntary disclosure.--An employer to whom an individual
19 voluntarily discloses the individual's criminal history record
20 information shall be immune from liability for any claim arising
21 under section 9122.5(a.1) (relating to effects of expunged
22 records and records subject to limited access) related to the
23 employer's otherwise lawful use or consideration of the criminal
24 history record information in connection with any employment
25 decision.

26 Section 8. This act shall take effect as follows:

27 (1) The amendment or addition of 18 Pa.C.S. §§ 9122(a),
28 (a.1), (b) introductory paragraph, (c) and (d), 9122.2(a)(1),
29 (1.1) and (3) and 9122.3(a)(2)(i), (a.1), (b) and (c) shall
30 take effect in 365 days.

1 (2) This section shall take effect immediately.

2 (3) The remainder of this act shall take effect in 60

3 days.