
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 689 Session of
2023

INTRODUCED BY HARRIS, DELOZIER, FRANKEL, MADDEN, SCHLOSSBERG,
HILL-EVANS, BULLOCK, KINSEY, KENYATTA, T. DAVIS, GUENST,
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SCHEMEL, WEBSTER, McCLINTON, CEPEDA-FREYITZ, KAZEEM AND
BRIGGS, MARCH 24, 2023

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, NOVEMBER 14, 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

1 of April 14, 1972 (P.L.233, No.64), known as The Controlled
2 Substance, Drug, Device and Cosmetic Act, or an attempt,
3 conspiracy or solicitation to commit an offense under section 13
4 of The Controlled Substance, Drug, Device and Cosmetic Act,
5 unless a minimum sentence of 30 months or more of imprisonment
6 or a maximum sentence of 60 months or more of imprisonment was
7 imposed on the offense.

8 * * *

9 Section 2. Section ~~9121(b)(1) and (2)~~ 9121(B) and (b.2)(2) <--
10 of Title 18 are amended to read:

11 § 9121. General regulations.

12 * * *

13 (b) Dissemination to noncriminal justice agencies and
14 individuals.--Criminal history record information shall be
15 disseminated by [a State or local police department] the
16 Pennsylvania State Police to any individual or noncriminal
17 justice agency only upon request. Other criminal justice
18 agencies may disseminate criminal history record information to
19 any individual or noncriminal justice agency only as they deem
20 necessary to carry out their law enforcement functions as
21 otherwise allowed by this chapter. The following apply:

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

30 (2) Except as provided for in subsections (b.1) and

1 (b.2), before [a State or local police department] the
2 Pennsylvania State Police disseminates criminal history
3 record information to an individual or noncriminal justice
4 agency, it shall extract from the record the following:

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

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

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

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

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

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

25 * * *

26 (3) A COURT OR THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA <--
27 COURTS MAY NOT DISSEMINATE TO AN INDIVIDUAL, A NONCRIMINAL
28 JUSTICE AGENCY OR AN INTERNET WEBSITE ANY CRIMINAL HISTORY
29 RECORD INFORMATION RELATING TO A CHARGE WHICH IS THE SUBJECT
30 OF A COURT ORDER FOR LIMITED ACCESS AS PROVIDED IN SECTION

1 9122.1 OR 9122.2. NOTHING IN THIS PARAGRAPH SHALL PERMIT A
2 COUNTY CLERK OF COURTS OR ANY OTHER OFFICIAL TO REFUSE ACCESS
3 TO CRIMINAL HISTORY RECORD INFORMATION RELATED TO CONVICTIONS
4 THAT HAVE NOT BEEN AFFORDED LIMITED ACCESS SOLELY BECAUSE ONE
5 OR MORE CHARGES ARISING OUT OF THE SAME CONDUCT OR CRIMINAL
6 EPISODE HAVE BEEN AFFORDED LIMITED ACCESS, AS PROVIDED IN
7 SECTIONS 9122.1 OR 9122.2 OR NOLLE PROSSED, WITHDRAWN OR
8 DISMISSED.

9 * * *

10 (b.2) Additional exceptions.--

11 * * *

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

13 (i) To the verification of information provided by
14 an applicant if Federal law, including rules and
15 regulations promulgated by a self-regulatory organization
16 that has been created under Federal law, requires the
17 consideration of an applicant's criminal history for
18 purposes of employment.

19 (ii) To the verification of information provided to
20 the Supreme Court, or an entity of the Supreme Court, in
21 its capacity to govern the practice, procedure and
22 conduct of all courts, the admission to the bar, the
23 practice of law, the administration of all courts and
24 supervision of all officers of the judicial branch.

25 (iii) To the verification of information provided by
26 a candidate for public office concerning eligibility
27 under section 7 of Article II of the Constitution of
28 Pennsylvania.

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

1 * * *

2 Section 3. Sections 9122(a) and 9122.1(a) and (b)(1)(i) and
3 (2)(ii) and (iii) of Title 18 are amended and the sections are
4 amended by adding subsections to read:

5 § 9122. Expungement.

6 (a) Specific proceedings.--Criminal history record
7 information in a specific criminal proceeding shall be expunged
8 [in a specific criminal proceeding] when:

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

17 (2) a court order requires that such nonconviction data
18 be expunged;

19 (2.1) a person has been granted an unconditional pardon
20 for an offense in accordance with law;

21 (3) a person 21 years of age or older who has been
22 convicted of a violation of section 6308 (relating to
23 purchase, consumption, possession or transportation of liquor
24 or malt or brewed beverages), which occurred on or after the
25 day the person attained 18 years of age, petitions the court
26 of common pleas in the county where the conviction occurred
27 seeking expungement and the person has satisfied all terms
28 and conditions of the sentence imposed for the violation,
29 including any suspension of operating privileges imposed
30 pursuant to section 6310.4 (relating to restriction of

1 operating privileges). Upon review of the petition, the court
2 shall order the expungement of all criminal history record
3 information and all administrative records of the Department
4 of Transportation relating to said conviction; or

5 (4) a judicial determination has been made that a person
6 is acquitted of an offense, if the person has been acquitted
7 of all charges based on the same conduct or arising from the
8 same criminal episode following a trial and a verdict of not
9 guilty. This paragraph shall not apply to a partial
10 acquittal. A judicial determination under this paragraph may
11 only be made after the following:

12 (i) The court provides notice in writing to the
13 person and to the Commonwealth that the person's criminal
14 history record information will be automatically expunged
15 pursuant to this section.

16 (ii) Upon receipt of the notice under subparagraph
17 (i), the Commonwealth shall have 60 days to object to the
18 automatic expungement on the basis that the person has
19 not been acquitted of all charges relating to the same
20 conduct, arising from the same criminal episode or
21 otherwise relating to a partial acquittal.

22 (iii) Upon the filing of an objection, the court
23 shall conduct a hearing to determine whether expungement
24 of the acquittal relates to the same conduct, arises from
25 the same criminal episode or otherwise relates to a
26 partial acquittal. The hearing may be waived by agreement
27 of both parties and the court.

28 (iv) Following the hearing, or if no objection has
29 been filed or the hearing has been waived, the court
30 shall order that the person's criminal history record

1 information be automatically expunged unless the court
2 determines the expungement relates to the same conduct,
3 arises from the same criminal episode or otherwise
4 relates to a partial acquittal. Expungement shall occur
5 no later than 12 months from the date of acquittal.

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

7 (1) On a quarterly basis, the Board of Pardons shall
8 transmit a notice of the record of any conviction eligible
9 for expungement under subsection (a)(2.1) to the
10 Administrative Office of Pennsylvania Courts.

11 (2) On a quarterly basis, upon receipt of the notice
12 under paragraph (1), the Administrative Office of
13 Pennsylvania Courts shall transmit the record of any
14 conviction eligible for expungement under subsection (a)(2.1)
15 to the court of common pleas in the jurisdiction where the
16 conviction occurred.

17 (3) Upon receipt of the notice under paragraph (2) and
18 confirmation that the criteria under subsection (a)(2.1) has
19 been met, the court shall order that the person's criminal
20 history record information be expunged and forward notice to
21 the central repository in accordance with subsection (d). The
22 Board of Pardons shall provide pardon information to the
23 Administrative Office of Pennsylvania Courts in a format
24 specified by the Administrative Office of Pennsylvania Courts
25 as necessary for proper identification of the case for which
26 a pardon has been granted.

27 * * *

28 § 9122.1. Petition for limited access.

29 (a) General rule.--Subject to the exceptions in subsection
30 (b) and notwithstanding any other provision of this chapter,

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

18 (a.1) Additional criteria.--Upon petition of a person who
19 has been free from conviction for a period of 10 years for an
20 offense punishable by one or more years in prison and has
21 completed payment of all court-ordered restitution and the fee
22 previously authorized to carry out the limited access and clean
23 slate limited access provisions, the court of common pleas in
24 the jurisdiction where a conviction occurred may enter an order
25 that criminal history record information maintained by a
26 criminal justice agency pertaining to a qualifying felony under
27 this section be disseminated only to a criminal justice agency
28 or as provided in section 9121(b.1) and (b.2). A court may not
29 enter an order under this subsection unless the person who filed
30 the petition, upon payment of all court-ordered restitution,

1 also paid the fee previously authorized to carry out the limited
2 access and clean slate limited access provisions. As used in
3 this subsection, a qualifying felony is any of the following or
4 an attempt, conspiracy or solicitation to commit any of the
5 following, excluding felonies of the first and second degrees:

6 (1) An offense under section 3304 (relating to criminal
7 mischief).

8 (2) An offense under section 3503 (relating to criminal
9 trespass).

10 (3) An offense under Chapter 39 (relating to theft and
11 related offenses).

12 (4) An offense under Chapter 41 (relating to forgery and
13 fraudulent practices).

14 (5) An offense under section 481 of the act of June 13,
15 1967 (P.L.31, No.21), known as the Human Services Code.

16 (6) A qualifying offense.

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

19 (1) A conviction for an offense punishable by more than
20 two years in prison which is any of the following or an
21 attempt, conspiracy or solicitation to commit any of the
22 following:

23 (i) An offense under Article B of Part II (relating
24 to offenses involving danger to the person). This
25 paragraph shall not apply to a misdemeanor offense under
26 section 2706 (relating to terroristic threats).

27 * * *

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

29 * * *

30 (ii) Has been convicted within the previous [20] 15

1 years of:

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

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

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

6 (III) an offense under Chapter 61; or

7 (IV) an offense specified in 42 Pa.C.S. §§
8 9799.14 and 9799.55; [or]

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

11 (C) any of the following offenses:

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).

27 (iii) [Has, within the previous 15 years, been
28 convicted of:

29 (A) two or more offenses punishable by more than
30 two years in prison; or

- 1 (B) any of the following:
- 2 (I) An offense under section 3127 (relating
- 3 to indecent exposure).
- 4 (II) An offense under section 3129 (relating
- 5 to sexual intercourse with animal).
- 6 (III) An offense under section 4915.1
- 7 (relating to failure to comply with registration
- 8 requirements) or 4915.2 (relating to failure to
- 9 comply with 42 Pa.C.S. Ch. 97 Subch. I
- 10 registration requirements).
- 11 (IV) An offense under section 5122 (relating
- 12 to weapons or implements for escape).
- 13 (V) An offense under section 5510 (relating
- 14 to abuse of corpse).
- 15 (VI) An offense under section 5515 (relating
- 16 to prohibiting of paramilitary training).] Has,
- 17 within the previous 10 years, been convicted of
- 18 two or more offenses punishable by more than two
- 19 years in prison.

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

21 conviction of two or more offenses charged in separate counts

22 that are consolidated under one docket number and share the same

23 offense tracking number shall be deemed to be one conviction.

24 * * *

25 Section 4. Section 9122.2(a)(1), (3) and (4) of Title 18

26 are amended and the subsection is amended by adding a paragraph

27 to read:

28 § 9122.2. Clean slate limited access.

29 (a) General rule.--The following shall be subject to limited

30 access:

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

16 (1.1) Subject to the exceptions under section 9122.3 or
17 if a court has vacated an order for limited access under
18 section 9122.4, criminal history record information
19 pertaining to a conviction of a qualifying offense if a
20 person has been free for 10 years from conviction for any
21 offense punishable by imprisonment of one or more years and
22 if payment of all court-ordered restitution has occurred.
23 Upon payment of all court-ordered restitution, the person
24 whose criminal history record information is subject to
25 limited access under this paragraph shall also pay the fee
26 previously authorized to carry out the limited access and
27 clean slate limited access provisions.

28 * * *

29 (3) Criminal history record information pertaining to a
30 conviction for a summary offense when [10] five years have

1 elapsed since entry of the judgment of conviction and payment
2 of all court-ordered restitution has occurred. Upon payment
3 of all court-ordered restitution, the person whose criminal
4 history record information is subject to limited access under
5 this paragraph shall also pay the fee previously authorized
6 to carry out the limited access and clean slate limited
7 access provisions.

8 (4) Criminal history record information pertaining to a
9 conviction for which a conditional pardon was granted.

10 * * *

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

14 § 9122.3. Exceptions.

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

18 * * *

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

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

21 * * *

22 (a.1) Consolidation.--For the purpose of this section, the
23 conviction of two or more offenses that are charged in separate
24 counts, are consolidated under one docket number and share the
25 same offense tracking number shall be deemed to be one
26 conviction, except that the docket may not be deemed one
27 conviction if it contains more than two felony convictions.

28 (b) Limited access to same case.--Limited access under this
29 section shall not apply to an otherwise qualifying conviction if
30 a conviction for an offense punishable by imprisonment of five

1 or more years or an offense enumerated in subsection (a) arose
2 out of the same case. This subsection shall not apply to a
3 qualifying offense.

4 (c) Filing.--Nothing in this section shall preclude the
5 filing of a petition for limited access under section 9122.1
6 (relating to petition for limited access) if limited access is
7 available under [that] this section. An offense eligible for
8 clean slate limited access under this section shall also be
9 eligible for petition for limited access under section 9122.1.

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

12 § 9122.5. Effects of expunged records and records subject to
13 limited access.

14 * * *

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

20 * * *

21 (c.1) Use for eligibility for public office.--
22 Notwithstanding any other provision of this chapter, a record
23 subject to limited access under section 9122.1 or 9122.2 shall
24 remain a part of the individual's criminal history record
25 information and shall be self-disclosed for any relevant purpose
26 required by section 7 of Article II of the Constitution of
27 Pennsylvania.

28 * * *

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

30 § 9122.6. Employer immunity from liability.

1 (a) General rule.--An employer who employs or otherwise
2 engages an individual whose criminal history record has been
3 expunged or to which limited access has been applied under
4 section 9122.1 (relating to petition for limited access) or
5 9122.2 (relating to clean slate limited access) shall be immune
6 from liability for any claim arising out of the misconduct of
7 the individual, if the misconduct relates to the portion of the
8 criminal history record that has been expunged or provided
9 limited access.

10 (b) Voluntary disclosure.--An employer to whom an individual
11 voluntarily discloses the individual's criminal history record
12 information shall be immune from liability for any claim arising
13 under section 9122.5(a.1) (relating to effects of expunged
14 records and records subject to limited access) related to the
15 employer's otherwise lawful use or consideration of the criminal
16 history record information in connection with any employment
17 decision.

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

19 (1) The amendment or addition of 18 Pa.C.S. §§ 9122(a)
20 and (a.1), 9122.2(a)(1), (1.1) and (3) and 9122.3(a)(2)(i),
21 (a.1), (b) and (c) shall take effect in 180 days.

22 (2) This section shall take effect immediately.

23 (3) The remainder of this act shall take effect in 60
24 days.