
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **1090** Session of
2015

INTRODUCED BY GREENLEAF, TEPLITZ, FONTANA, PILEGGI, MENSCH,
STEFANO, SCHWANK AND WILLIAMS, DECEMBER 17, 2015

REFERRED TO JUDICIARY, DECEMBER 17, 2015

AN ACT

1 Providing for uniformity of collateral consequences of
2 conviction.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Uniform
7 Collateral Consequences of Conviction Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Collateral consequence." A collateral sanction or a
13 disqualification.

14 "Collateral sanction." A penalty, disability or
15 disadvantage, or its equivalent, imposed on an individual as a
16 result of the individual's conviction for an offense which
17 applies by operation of law whether the penalty, disability or
18 disadvantage is included in the judgment of sentence. The term

1 shall not include imprisonment, probation, parole, supervised
2 release, forfeiture, restitution, fine, assessment or costs of
3 prosecution.

4 "Conviction." Includes an adjudication as a juvenile
5 delinquent.

6 "Decision maker." The Commonwealth acting through a
7 department, agency, officer or instrumentality, including a
8 political subdivision, educational institution, board or
9 commission, or its employees.

10 "Disqualification." A penalty, disability or disadvantage,
11 or its equivalent, that an administrative agency, governmental
12 official or court in a civil proceeding is authorized, but not
13 required, to impose on an individual on grounds relating to the
14 individual's conviction of an offense.

15 "Offense." A felony, misdemeanor or summary offense under
16 Federal or State law.

17 "State." A state or commonwealth of the United States, the
18 District of Columbia, Puerto Rico, the United States Virgin
19 Islands or any territory or insular possession subject to the
20 jurisdiction of the United States.

21 Section 3. Declaration of purpose.

22 The General Assembly finds and declares as follows:

23 (1) This act does not provide a basis for any of the
24 following:

25 (i) Invalidating a plea, conviction or sentence.

26 (ii) A cause of action for money damages.

27 (iii) A claim for relief from or defense to the
28 application of a collateral consequence based on a
29 failure to comply with section 4, 5 or 6.

30 (2) This act does affect all of the following:

1 (i) The duty an individual's attorney owes to the
2 individual.

3 (ii) A claim or right of a victim of an offense.

4 (iii) A right or remedy under any other laws of this
5 Commonwealth available to an individual convicted of an
6 offense.

7 Section 4. Identification, collection and publication of laws
8 regarding collateral consequences.

9 (a) Duties.--The Chief Justice of Pennsylvania, in
10 consultation with the Court Administrator of Pennsylvania and
11 the Administrative Office of Pennsylvania Courts:

12 (1) shall identify any provisions in the Constitution of
13 Pennsylvania, other laws of this Commonwealth, regulations
14 and rules of court which:

15 (i) impose a collateral sanction or authorize the
16 imposition of a disqualification; and

17 (ii) may afford relief from a collateral
18 consequence;

19 (2) no later than 90 days after the effective date of
20 this act, shall prepare a collection of citations to, and the
21 text or short descriptions of, the provisions identified
22 under paragraph (1);

23 (3) shall update or cause to be updated the collection
24 under paragraph (2) within 30 days after each regular session
25 of the General Assembly; and

26 (4) in complying with paragraphs (1) and (2), may rely
27 on the study of the Commonwealth's collateral sanctions,
28 disqualifications and relief provisions prepared by the
29 National Institute of Justice under section 510 of the Court
30 Security Improvement Act of 2007 (Public Law 110-177, 121

1 Stat. 2534).

2 (b) Collection statements.--The Chief Justice of
3 Pennsylvania, in consultation with the Court Administrator of
4 Pennsylvania and the Administrative Office of Pennsylvania
5 Courts, shall include all the following statements in a
6 prominent manner at the beginning of the collection required
7 under subsection (a):

8 (1) This collection has not been enacted into law and
9 does not have the force of law.

10 (2) An error or omission in this collection or in any
11 reference work cited in this collection is not a reason for
12 invalidating a plea, conviction or sentence or for not
13 imposing a collateral sanction or authorizing a
14 disqualification.

15 (3) The laws of other jurisdictions and political
16 subdivisions of this Commonwealth that impose additional
17 collateral sanctions and authorize additional
18 disqualifications are not included in this collection.

19 (4) This collection does not include any law or other
20 provision regarding the imposition of or relief from a
21 collateral sanction or disqualification enacted or adopted
22 after the date when the collection was created or updated.

23 (c) Collection publication.--The Chief Justice of
24 Pennsylvania, in consultation with the Court Administrator of
25 Pennsylvania and the Administrative Office of Pennsylvania
26 Courts, shall publish the collection prepared and updated as
27 required under subsection (a). If available, it shall be
28 published as part of the collection, the title and publicly
29 accessible Internet website address containing the most recent
30 collection of all of the following:

1 (1) The collateral consequences imposed by Federal law.

2 (2) Any provision of Federal law that may afford relief
3 from a collateral consequence.

4 (d) Availability.--The collection described under subsection
5 (c) shall be available on a publicly accessible Internet website
6 without charge no later than 14 days after it is created or
7 updated.

8 Section 5. Notice of collateral consequences in pretrial
9 proceeding and at guilty plea.

10 (a) Notice.--When an individual receives formal notice that
11 the individual is charged with an offense, the charging officer
12 or prosecuting agency shall cause information substantially
13 similar to the following to be communicated to the individual:

14 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

15 If you plead guilty or are convicted of an offense you
16 may suffer additional legal consequences beyond jail or
17 prison, probation, parole, fines, costs and restitution.
18 These consequences may include all of the following:

19 (1) Being unable to get or keep some licenses,
20 permits or jobs.

21 (2) Being unable to get or keep benefits, such as
22 public housing or education.

23 (3) Receiving a harsher sentence if you are
24 convicted of another offense in the future.

25 (4) Having the government take your property.

26 (5) Being unable to vote or possess a firearm.

27 If you are not a United States citizen, a guilty plea or
28 conviction may also result in your deportation, removal
29 or exclusion from admission to the United States or
30 denial of citizenship.

1 The law may provide ways to obtain some relief from these
2 consequences.

3 Further information about the consequences of conviction
4 is available on the Internet at (insert publicly
5 accessible Internet website address of the collection of
6 laws published under section 4(c) and (d)).

7 (b) Notice confirmation.--Before the court accepts a plea of
8 guilty or nolo contendere from an individual, the court shall
9 confirm that the individual received and understands the notice
10 required under subsection (a) and had an opportunity to discuss
11 the notice with counsel.

12 Section 6. Notice of collateral consequences at sentencing and
13 upon release.

14 (a) Notice.--An individual convicted of an offense shall be
15 given notice of all the following as provided under subsections
16 (b) and (c):

17 (1) That collateral consequences may apply because of
18 the conviction.

19 (2) The publicly accessible Internet website address of
20 the collection of laws published under section 4(c).

21 (3) That there may be ways to obtain relief from
22 collateral consequences.

23 (4) The contact information for government or nonprofit
24 agencies, groups or organizations, if any, offering
25 assistance to individuals seeking relief from collateral
26 consequences.

27 (5) When an individual convicted of an offense may vote
28 under the laws of this Commonwealth.

29 (b) Notice at sentencing.--The charging officer or
30 prosecuting agency shall provide the notice under subsection (a)

1 as part of sentencing.

2 (c) Notice before release.--If an individual is sentenced to
3 imprisonment or other incarceration, the officer or agency
4 releasing the individual shall provide the notice under
5 subsection (a) no more than 30 days before release.

6 Section 7. Authorization required for collateral sanction.

7 (a) Authorization required.--A collateral sanction may be
8 imposed only by statute or ordinance or by a rule authorized by
9 State law and adopted in accordance with the act of June 25,
10 1982 (P.L.633, No.181), known as the Regulatory Review Act.

11 (b) Ambiguity.--A law establishing a collateral consequence
12 that is ambiguous as to whether or not it imposes a collateral
13 sanction or authorizes a disqualification shall be construed as
14 authorizing a disqualification.

15 Section 8. Decision to disqualify.

16 (a) Disqualification.--In deciding whether or not to impose
17 a disqualification, a decision maker shall undertake an
18 individualized assessment to determine whether or not the
19 benefit or opportunity at issue should be denied the individual.

20 (b) Factors to consider.--

21 (1) In making the decision under subsection (a), the
22 decision maker may consider, if substantially related to the
23 benefit or opportunity at issue:

24 (i) the particular facts and circumstances involved
25 in the offense; and

26 (ii) the essential elements of the offense. A
27 conviction itself may not be considered except as having
28 established the elements of the offense.

29 (2) In making the decision under subsection (a), the
30 decision maker shall consider other relevant information,

1 including all of the following:

2 (i) The effect on third parties of granting the
3 benefit or opportunity.

4 (ii) Whether or not the individual has been granted
5 relief such as an order of limited relief or a
6 certificate of restoration of rights.

7 Section 9. Effect of conviction under Federal law or another
8 state law.

9 (a) Convictions.--For the purposes of authorizing or
10 imposing a collateral consequence in this Commonwealth, a
11 conviction of an offense under Federal law or another state law
12 shall be deemed a conviction of the offense in this Commonwealth
13 with the same elements. If there is no offense in this
14 Commonwealth with the same elements, the conviction shall be
15 deemed a conviction of the most serious offense in this
16 Commonwealth which is established by the elements of the
17 offense.

18 (b) Juvenile adjudications.--For the purposes of authorizing
19 or imposing a collateral consequence in this Commonwealth, a
20 juvenile adjudication under Federal law or another state law may
21 not be deemed a conviction of a felony, misdemeanor or offense
22 lesser than a misdemeanor in this Commonwealth, but may be
23 deemed a juvenile adjudication for the delinquent act in this
24 Commonwealth with the same elements. If there is no delinquent
25 act in this Commonwealth with the same elements, the juvenile
26 adjudication shall be deemed an adjudication of the most serious
27 delinquent act in this Commonwealth which is established by the
28 elements of the offense.

29 (c) Convictions vacated.--A conviction that is reversed,
30 overturned or otherwise vacated by a court of competent

1 jurisdiction of this Commonwealth, another state or the United
2 States on grounds other than rehabilitation or good behavior may
3 not serve as the basis for authorizing or imposing a collateral
4 consequence in this Commonwealth.

5 (d) Pardons.--A pardon issued by another state or the United
6 States shall have the same effect for purposes of authorizing,
7 imposing and relieving a collateral consequence in this
8 Commonwealth as it has in the issuing jurisdiction.

9 (e) Convictions expunged.--

10 (1) A conviction that has been relieved by expungement,
11 sealing, annulment, set-aside or vacation by a court of
12 competent jurisdiction of another state or the United States
13 on grounds of rehabilitation or good behavior, or for which
14 civil rights are restored under law, shall be deemed a
15 conviction for purposes of authorizing or imposing collateral
16 consequences in this Commonwealth under subsection (a).

17 (2) An individual convicted in another jurisdiction may
18 seek relief under section 10 or 11 from any authorized or
19 imposed collateral consequence, other than those listed under
20 section 12, and the court shall consider that the conviction
21 was relieved or civil rights restored in deciding whether or
22 not to issue an order of limited relief or certificate of
23 restoration of rights.

24 (f) Deferred adjudications.--

25 (1) A charge or prosecution in any jurisdiction which
26 has been finally terminated without a conviction and
27 imposition of sentence based on participation in a deferred
28 adjudication or diversion program may not serve as the basis
29 for authorizing or imposing a collateral consequence in this
30 Commonwealth.

1 (2) Nothing in this section shall be construed to affect
2 the validity of any restriction or condition imposed by law
3 as part of participation in the deferred adjudication or
4 diversion program, before or after the termination of the
5 charge or prosecution.

6 Section 10. Order of limited relief.

7 (a) Petition.--An individual convicted of an offense may
8 petition for an order of limited relief from one or more
9 collateral sanctions related to employment, education, housing,
10 public benefits or occupational licensing. The petition may be
11 presented to the sentencing court at or before sentencing or at
12 any time after sentencing.

13 (b) Issuance.--Except as otherwise provided in section 12,
14 the sentencing court may issue an order of limited relief
15 relieving one or more of the collateral sanctions described
16 under subsection (a) if, after reviewing the petition, the
17 individual's criminal history, any filing by a victim under
18 section 15 or a prosecutor and any other relevant evidence, the
19 sentencing court finds the individual has established by a
20 preponderance of the evidence that:

21 (1) granting the petition will materially assist the
22 individual in obtaining or maintaining employment, education,
23 housing, public benefits or occupational licensing;

24 (2) the individual has substantial need for the relief
25 requested in order to live a law-abiding life; and

26 (3) granting the petition would not pose an unreasonable
27 risk to the safety or welfare of the public or any
28 individual.

29 (c) Contents.--An order of limited relief issued under
30 subsection (b) shall specify all of the following:

1 (1) The collateral sanction from which relief is
2 granted.

3 (2) Any restriction imposed under section 13(b).

4 (d) Relief.--An order of limited relief relieves a
5 collateral sanction to the extent provided in the order.

6 (e) Underlying conduct.--If a collateral sanction has been
7 relieved under this section, a decision maker may consider the
8 conduct underlying a conviction under section 8.

9 Section 11. Certificate of restoration of rights.

10 (a) Petition.--An individual convicted of an offense may
11 petition the sentencing court for a certificate of restoration
12 of rights relieving collateral sanctions no earlier than five
13 years after the individual's most recent conviction of a felony
14 or misdemeanor in any jurisdiction, or no earlier than five
15 years after the individual's release from confinement pursuant
16 to a criminal sentence in any jurisdiction, whichever is later.

17 (b) Issuance.--Except as provided under section 12, the
18 sentencing court may issue a certificate of restoration of
19 rights if, after reviewing the petition, the individual's
20 criminal history, any filing by a victim under section 15 or a
21 prosecutor and any other relevant evidence, it finds the
22 individual has established by a preponderance of the evidence
23 that:

24 (1) the individual is engaged in, or seeking to engage
25 in, a lawful occupation or activity, including employment,
26 training, education or rehabilitative programs, or the
27 individual otherwise has a lawful source of support;

28 (2) the individual is not in violation of the terms of a
29 criminal sentence or that any failure to comply with the
30 terms of a criminal sentence is justified, excused,

1 involuntary or insubstantial;

2 (3) a criminal charge is not pending against the
3 individual; and

4 (4) granting the petition would not pose an unreasonable
5 risk to the safety or welfare of the public or any
6 individual.

7 (c) Contents.--A certificate of restoration of rights shall
8 specify any restriction imposed and collateral sanction from
9 which relief has not been granted under section 13(b).

10 (d) Relief.--A certificate of restoration of rights shall
11 relieve all collateral sanctions, except those listed under
12 section 12 and any others specifically excluded in the
13 certificate.

14 (e) Underlying conduct.--If a collateral sanction has been
15 relieved under this section, a decision maker may consider the
16 conduct underlying a conviction under section 8.

17 Section 12. Collateral sanctions not subject to order of
18 limited relief or certificate of restoration of
19 rights.

20 An order of limited relief or certificate of restoration of
21 rights may not be issued to relieve any of the following
22 collateral sanctions:

23 (1) Requirements imposed under the Sex Offender
24 Registration and Notification Act (SORNA), Title I of the
25 Adam Walsh Child Protection and Safety Act of 2006 (Public
26 Law 109-248, 120 Stat. 587).

27 (2) A motor vehicle license suspension, revocation,
28 limitation or ineligibility under 75 Pa.C.S. Ch. 37 (relating
29 to miscellaneous provisions) or 38 (relating to driving after
30 imbibing alcohol or utilizing drugs).

1 (3) Ineligibility for employment with a law enforcement
2 agency.

3 Section 13. Issuance, modification and revocation of order of
4 limited relief and certificate of restoration of
5 rights.

6 (a) Notice.--When a petition is filed under section 10 or
7 11, including a petition for enlargement of an existing order of
8 limited relief or certificate of restoration of rights, the
9 sentencing court shall notify the office that prosecuted the
10 offense giving rise to the collateral consequence from which
11 relief is sought and, if the conviction was not obtained in a
12 court within this Commonwealth, the Office of Attorney General.

13 (b) Revocation.--The sentencing court may restrict or revoke
14 an order of limited relief or certificate of restoration of
15 rights it issued or an order of limited relief issued by a court
16 in this Commonwealth if it finds just cause by a preponderance
17 of the evidence. As used in this subsection, the term "just
18 cause" shall include a subsequent conviction of a felony in this
19 Commonwealth or of an offense in another jurisdiction that is
20 deemed a felony in this Commonwealth under section 9(a). An
21 order of restriction or revocation may be issued:

22 (1) on the court's own motion or on the motion of the
23 office of the prosecutor that obtained the conviction or a
24 government agency designated by the prosecutor;

25 (2) after notice to the individual and any prosecutor
26 that has appeared in the matter; and

27 (3) after a hearing if requested by the individual or
28 the prosecutor that made the motion or any prosecutor that
29 has appeared in the matter.

30 (c) Necessary orders.--The sentencing court shall order any

1 test, report, investigation or disclosure by the individual it
2 reasonably believes necessary to its decision to issue, modify
3 or revoke an order of limited relief or certificate of
4 restoration of rights. If there are material-disputed issues of
5 fact or law, the individual and any prosecutor notified under
6 subsection (a) or another prosecutorial agency designated by a
7 prosecutor notified under subsection (a) may submit evidence and
8 be heard on those issues.

9 (d) Public records.--The sentencing court shall maintain a
10 public record of the issuance, modification and revocation of
11 orders of limited relief and certificates of restoration of
12 rights. The criminal history record system of the Pennsylvania
13 State Police and the Administrative Office of Pennsylvania
14 Courts shall include issuance, modification and revocation of
15 orders and certificates.

16 (e) Rules.--The Supreme Court of Pennsylvania may adopt
17 rules for application, determination, modification and
18 revocation of orders of limited relief and certificates of
19 restoration of rights.

20 Section 14. Reliance on order or certificate as evidence of due
21 care.

22 In a judicial or administrative proceeding alleging
23 negligence or other fault, an order of limited relief or a
24 certificate of restoration of rights may be introduced as
25 evidence of a person's due care in hiring, retaining, licensing,
26 leasing to, admitting to a school or program or otherwise
27 transacting business or engaging in activity with the individual
28 to whom the order was issued, if the person knew of the order or
29 certificate at the time of the alleged negligence or other
30 fault.

1 Section 15. Victim's rights.

2 A victim of an offense may participate in a proceeding for
3 issuance, modification or revocation of an order of limited
4 relief or a certificate of restoration of rights in the same
5 manner as at a sentencing proceeding.

6 Section 16. Uniformity of application and construction.

7 In applying and construing this uniform act, consideration
8 shall be given to the need to promote uniformity of law with
9 respect to its subject matter among states that enact it.

10 Section 17. Savings and transactional provisions.

11 (a) Applicability.--This act applies to collateral
12 consequences whenever enacted or imposed, unless the law
13 creating the collateral consequence expressly states that this
14 act does not apply.

15 (b) Validity.--Nothing in this act shall be construed to
16 invalidate the imposition of a collateral sanction on an
17 individual before the effective date of this act, but a
18 collateral sanction validly imposed before the effective date of
19 this act may be the subject of relief under this act.

20 Section 18. Effective date.

21 This act shall take effect in 60 days.