

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1984 Session of 2015

INTRODUCED BY DELOZIER, J. HARRIS, STURLA, DAY, M. DALEY, ROTHMAN, SCHLOSSBERG, DAVIS, V. BROWN, KINSEY, THOMAS, NEILSON, HARHART, A. HARRIS, DERMODY, BULLOCK, GIBBONS, MAHONEY, GROVE, DAVIDSON, CONKLIN, McCARTER, ACOSTA, ROZZI, FLYNN, GOODMAN, HANNA, ZIMMERMAN, ELLIS, KLUNK, GINGRICH, FRANKEL, SIMS, MCCLINTON, REESE, FARRY, KIM, DeLISSIO, DIGIROLAMO AND SCHREIBER, APRIL 14, 2016

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 14, 2016

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
 2 Consolidated Statutes, in criminal history record  
 3 information, further providing for general regulations and  
 4 for order for limited access, providing for clean slate for  
 5 convictions of certain offenses, nonconvictions and records  
 6 of juvenile delinquency and for effects of expunged offenses  
 7 and offenses provided limited access and further providing  
 8 for use of records by licensing agencies.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Sections 9121(b)(2) and (3) and (b.2) and 9122.1  
 12 of Title 18 of the Pennsylvania Consolidated Statutes, amended  
 13 or added February 16, 2016 (P.L.10, No.5), are amended 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

1 individual or noncriminal justice agency only upon request.

2 Except as provided in subsection (b.1):

3 \* \* \*

4 (2) Before a State or local police department  
5 disseminates criminal history record information to an  
6 individual or noncriminal justice agency, it shall extract  
7 from the record the following:

8 (i) All notations of arrests, indictments or other  
9 information relating to the initiation of criminal  
10 proceedings where:

11 (A) three years have elapsed from the date of  
12 arrest;

13 (B) no conviction has occurred; and

14 (C) no proceedings are pending seeking a  
15 conviction.

16 (ii) All information relating to a conviction and  
17 the arrest, indictment or other information leading  
18 thereto, or relating to an arrest not leading to a  
19 conviction, which is the subject of a court order for  
20 limited access as provided in section 9122.1 (relating to  
21 order for limited access) or which is subject to limited  
22 access in section 9122.2 (relating to clean slate for  
23 convictions of certain offenses, nonconvictions and  
24 records of juvenile delinquency).

25 (3) A court or the Administrative Office of Pennsylvania  
26 Courts may not disseminate to an individual, a noncriminal  
27 justice agency or an Internet website any information  
28 relating to a conviction, arrest, indictment or other  
29 information leading to a conviction, arrest, indictment or  
30 other information, which is the subject of a court order for

1 limited access as provided in section 9122.1 or which is  
2 subject to limited access in section 9122.2.

3 \* \* \*

4 (b.2) Additional exceptions.--Subsection (b) (2) (ii) and (3)  
5 shall not apply if the request is made [by a State agency to be  
6 used only as authorized under section 9124 (relating to use of  
7 records by licensing agencies).] pursuant to a court order in a  
8 case brought under 23 Pa.C.S. Ch. 53 (relating to child custody)  
9 or 61 (relating to protection from abuse). All information made  
10 available to the court pursuant to this exception shall also be  
11 made available for examination by the parties.

12 \* \* \*

13 § 9122.1. Order for limited access.

14 (a) General rule.--[The following shall apply:

15 (1)] Notwithstanding any other provision of this  
16 chapter, upon petition of a person who has been free of  
17 arrest or prosecution following conviction or final release  
18 from confinement or supervision, whichever is later, for a  
19 period of 10 years, the court of common pleas in the  
20 jurisdiction where the conviction occurred may enter an order  
21 that criminal history record information maintained by any  
22 criminal justice agency pertaining to a conviction for a  
23 misdemeanor of the second degree, a misdemeanor of the third  
24 degree or an ungraded offense which carries a maximum penalty  
25 of no more than two years be disseminated only to a criminal  
26 justice agency [or], a government agency or court as provided  
27 in section 9121(b.1) and (b.2) (relating to general  
28 regulations).

29 [(2) Except when requested or required by a criminal  
30 justice agency, or by and for the official use of a

1 government agency described in section 9121(b.1) or 9124(a)  
2 (relating to use of records by licensing agencies), no  
3 individual shall be required nor requested to disclose  
4 information about the person's criminal history records that  
5 are the subject of a court order for limited access granted  
6 under this section.]

7 \* \* \*

8 Section 2. Title 18 is amended by adding sections to read:

9 § 9122.2. Clean slate for convictions of certain offenses,  
10 nonconvictions and records of juvenile delinquency.

11 (a) Legislative policy.--It is declared the policy of the  
12 Commonwealth that:

13 (1) Persons with charges not leading to convictions are  
14 inherently harmed by the maintenance of that record and have  
15 a constitutional presumption of innocence.

16 (2) Persons convicted of crimes in this Commonwealth  
17 must serve their sentences as ordered by the courts of this  
18 Commonwealth.

19 (3) After persons convicted of their crimes have served  
20 their sentences and remained crime free long enough to  
21 demonstrate their rehabilitation, their access to employment,  
22 housing, education and other necessities of life should be  
23 fully restored.

24 (4) The Commonwealth should provide a clean slate remedy  
25 to create a strong incentive for avoidance of recidivism by  
26 offenders, to provide hope for the alleviation of the  
27 hardships of having a criminal record by offenders who are  
28 trying to rehabilitate themselves and to save the  
29 Commonwealth funds that must be spent in the administration  
30 of criminal justice when offenders recidivate.

1           (5) The clean slate remedy should be implemented without  
2           the cost to the Commonwealth's criminal justice agencies and  
3           the former offender of filing and adjudicating a petition  
4           with a court.

5           (b) Clean slate remedy for persons convicted of  
6           misdemeanors.--Except for offenses set forth in Article B  
7           (relating to offenses involving danger to the person) or  
8           offenses which require registration under 42 Pa.C.S. Ch. 97  
9           Subch. H (relating to registration of sexual offenders),  
10           criminal history record information of all qualifying  
11           convictions of misdemeanor offenses shall automatically receive  
12           limited access when 10 years have passed since the final  
13           conviction without subsequent felony or misdemeanor convictions.

14           (c) Clean slate remedy for persons convicted of summary  
15           offenses.--Criminal history record information of all qualifying  
16           convictions of summary offenses shall automatically receive  
17           limited access when five years have passed since the final  
18           conviction without subsequent felony or misdemeanor convictions.

19           (d) Clean slate remedy for records of juvenile  
20           delinquency.--Records of juvenile delinquency shall  
21           automatically receive limited access when seven years have  
22           passed since the final delinquency proceeding resulting in an  
23           adjudication of juvenile delinquency without conviction for a  
24           felony or misdemeanor offense or adjudication of delinquency.

25           (e) Clean slate remedy for persons with charges not leading  
26           to conviction.--Criminal history record information of charges  
27           with a final disposition other than conviction shall  
28           automatically receive limited access 60 days after entry of the  
29           disposition.

30           (f) No court petition required.--

1       (1) Limited access of criminal proceedings as authorized  
2 in subsections (b), (c), (d) and (e) shall be performed by  
3 criminal justice agencies within 30 days of the eligibility  
4 of such proceedings, without the requirement of a court  
5 order.

6       (2) Nothing in this section shall be construed to  
7 preclude the filing of a petition for limited access of  
8 criminal proceedings eligible for limited access as set forth  
9 in subsections (b), (c), (d) and (e) if limited access has  
10 not been provided by criminal justice agencies without a  
11 petition.

12       (g) Right of district attorney.--The district attorney may  
13 petition the court to eliminate limited access under this  
14 section if the person receiving limited access is subsequently  
15 convicted of a misdemeanor or felony offense.

16 § 9122.3. Effects of expunged offenses and offenses provided  
17 limited access.

18       (a) Disclosure of expunged offense or offense provided  
19 limited access.--No individual may be required or requested to  
20 disclose information about the person's criminal history records  
21 that have been expunged or provided limited access under section  
22 9122.1 (relating to order for limited access) or 9122.2  
23 (relating to clean slate for convictions of certain offenses,  
24 nonconvictions and records of juvenile delinquency). An  
25 individual required or requested to provide information in  
26 violation of this section may respond as if the offense did not  
27 occur.

28       (b) Disqualification by law.--An expunged offense or an  
29 offense provided limited access under section 9122.1 or 9122.2  
30 may not be considered a conviction that would prohibit the

1 employment of a person under any law of this Commonwealth or  
2 under Federal laws that prohibit employment based on State  
3 convictions.

4 Section 3. Section 9124(b)(2) of Title 18 is amended to  
5 read:

6 § 9124. Use of records by licensing agencies.

7 \* \* \*

8 (b) Prohibited use of information.--The following  
9 information shall not be used in consideration of an application  
10 for a license, certificate, registration or permit:

11 \* \* \*

12 (2) Convictions which have been annulled [or], expunged  
13 or provided limited access under section 9122.1 (relating to  
14 order for limited access) or 9122.2 (relating to clean slate  
15 for convictions of certain offenses, nonconvictions and  
16 records of juvenile delinquency).

17 \* \* \*

18 Section 4. This act shall take effect in 90 days.