
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 440 Session of
2019

INTRODUCED BY DELOZIER, 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, GOODMAN, KRUEGER,
CIRESI, WILLIAMS, MADDEN, DAWKINS, SNYDER, WHEELAND,
McCARTER, ROEBUCK, DONATUCCI AND ROZZI, FEBRUARY 11, 2019

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 19, 2020

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in criminal history record information, further
4 providing for expungement, for petition for limited access,
5 for clean slate limited access and for effects of expunged
6 records and records subject to limited access; and, in
7 administration of justice, further providing for attachment
8 and summary punishment for contempts.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Sections 9122(a) and 9122.1(a) of Title 18 of the
12 Pennsylvania Consolidated Statutes are amended to read:

13 § 9122. Expungement.

14 (a) Specific proceedings.--Criminal history record
15 information shall be expunged in a specific criminal proceeding
16 when:

17 (1) no disposition has been received or, upon request

1 for criminal history record information, no disposition has
2 been recorded in the repository within 18 months after the
3 date of arrest and the court of proper jurisdiction certifies
4 to the director of the repository that no disposition is
5 available and no action is pending. Expungement shall not
6 occur until the certification from the court is received and
7 the director of the repository authorizes such expungement;

8 (2) a court order requires that such nonconviction data
9 be expunged; [or]

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

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

1 (i) The court provides notice in writing to the
2 person and to the Commonwealth that the person's criminal
3 history record information will be automatically expunged
4 pursuant to this section.

5 (ii) Upon receipt of the notice under subparagraph
6 (i), the Commonwealth shall have 60 days to object to the
7 automatic expungement on the basis that the ~~expungement~~ <--
8 ~~of the acquittal relates~~ PERSON HAS NOT BEEN ACQUITTED OF <--
9 ALL CHARGES RELATING to the same conduct, ~~arises~~ ARISING <--
10 from the same criminal episode or otherwise ~~relates~~ <--
11 RELATING to a partial acquittal. <--

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

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

26 * * *

27 § 9122.1. Petition for limited access.

28 (a) General rule.--Subject to the exceptions in subsection

29 (b) and notwithstanding any other provision of this chapter,
30 upon petition of a person who has been free from conviction for

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

19 Section 2. Section 9122.2(a)(1) and (3) and (b)(2)(i) of
20 Title 18 are amended and subsection (a) is amended by adding a
21 paragraph to read:

22 § 9122.2. Clean slate limited access.

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

25 (1) Subject to the exceptions under section 9122.3
26 (relating to exceptions) or if a court has vacated an order
27 for limited access under section 9122.4 (relating to order to
28 vacate order for limited access), criminal history record
29 information pertaining to a conviction of a misdemeanor of
30 the second degree, a misdemeanor of the third degree or a

1 misdemeanor offense punishable by imprisonment of no more
2 than two years if a person has been free for 10 years from
3 conviction for any offense punishable by imprisonment of one
4 or more years and if [completion of each court-ordered
5 financial obligation of the sentence] payment of all court-
6 ordered restitution has occurred. Upon payment of all court-
7 ordered restitution, the person whose criminal history record
8 information is subject to limited access under this paragraph
9 shall also pay the fee previously authorized to carry out the
10 limited access and clean slate limited access provisions.

11 * * *

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

22 (4) Criminal history record information pertaining to a
23 conviction for which a pardon was granted.

24 (b) Procedures.--

25 * * *

26 (2) The Administrative Office of Pennsylvania Courts
27 shall transmit to the Pennsylvania State Police repository:

28 (i) The record of charges subject to limited access
29 under subsection (a) (2) within 30 days after entry of the
30 disposition and payment of [each court-ordered

1 obligation] any ordered restitution.

2 * * *

3 Section 3. Section 9122.5 of Title 18 is amended by adding
4 subsections to read:

5 § 9122.5. Effects of expunged records and records subject to
6 limited access.

7 * * *

8 (c) Use for sentencing.--Notwithstanding any other provision
9 of this chapter, a record subject to limited access under
10 section 9122.1 or 9122.2 shall remain part of a person's
11 criminal history record information and shall be disclosed to a
12 court for any relevant purpose in accordance with law, including
13 sentencing.

14 (d) Use and disclosure of information.--Notwithstanding any
15 other provision of this chapter, the Pennsylvania Commission on
16 Sentencing may maintain a list of the names and other criminal
17 history record information of persons whose records are required
18 by law, court rule or court order to be expunged or subject to
19 limited access under this chapter. The information:

20 (1) shall be used solely for the purposes of conducting
21 research and collecting and reporting statistical data under
22 SECTION 2804 F OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), <--
23 KNOWN AS THE ADMINISTRATIVE CODE OF 1929 42 PA.C.S. § 2153 <--
24 (RELATING TO POWERS AND DUTIES OF COMMISSION); and

25 (2) may not be disclosed unless authorized or required
26 by section 9121(b.1) and (b.2).

27 Section 4. Section 4132 of Title 42 is amended to read:

28 § 4132. Attachment and summary punishment for contempts.

29 The power of the several courts of this Commonwealth to issue
30 attachments and to impose summary punishments for contempts of

1 court shall be restricted to the following cases:

2 (1) The official misconduct of the officers of such
3 courts respectively.

4 (1.1) The willful failure of the officers of such courts
5 to disclose a person's complete criminal history record
6 information when requested.

7 (2) Disobedience or neglect by officers, parties, jurors
8 or witnesses of or to the lawful process of the court.

9 (3) The misbehavior of any person in the presence of the
10 court, thereby obstructing the administration of justice.

11 Section 5. Within 365 days of the effective date of this
12 section, the Administrative Office of Pennsylvania Courts, THE <--
13 PENNSYLVANIA BOARD OF PARDONS and the Pennsylvania State Police
14 shall identify and complete the processing of records that are
15 eligible for ~~expungement under 18 Pa.C.S. § 9122(a)(4), limited~~ <--
16 ~~access under 18 Pa.C.S. § 9122.2(a) and clean slate limited~~
17 access under 18 Pa.C.S. § 9122.2(a)(1) ~~and~~, (3) AND (4). <--

18 Section 6. This act shall take effect in 60 days.