
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1323 Session of
2020

INTRODUCED BY MUTH, FONTANA, BLAKE, STREET, SCHWANK,
TARTAGLIONE, COSTA AND HUGHES, SEPTEMBER 21, 2020

REFERRED TO JUDICIARY, SEPTEMBER 21, 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 effects of expunged records and records subject
5 to limited access; and, in post-trial matters, further
6 providing for scope of subchapter, for eligibility for
7 relief, and for jurisdiction and proceedings.

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

10 Section 1. Section 9122.5 of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended by adding a subsection to read:
12 § 9122.5. Effects of expunged records and records subject to
13 limited access.

14 * * *

15 (c) Collateral consequences of conviction.--To the extent
16 permitted by Federal law, an expunged record may not be
17 considered a conviction that requires an individual to comply
18 with, refrain from or be prohibited from an activity under the
19 laws of this Commonwealth that is a result of the criminal
20 conviction.

1 Section 2. Sections 9542, 9543(a)(1) and 9545(b)(1) and (2)
2 of Title 42 are amended to read:

3 § 9542. Scope of subchapter.

4 This subchapter provides for an action by which persons
5 convicted of crimes they did not commit and persons serving
6 illegal sentences may obtain collateral relief. The action
7 established in this subchapter shall [be the sole] provide the
8 means of obtaining collateral relief [and encompasses all other
9 common law and statutory remedies for the same purpose that
10 exist when this subchapter takes effect, including habeas corpus
11 and coram nobis.] This subchapter is not intended to limit the
12 availability of remedies in the trial court or on direct appeal
13 from the judgment of sentence, to provide a means for raising
14 issues waived in prior proceedings. [or to] The provisions of
15 this subchapter may be utilized to provide relief from
16 collateral consequences of a criminal conviction when records
17 are ordered to be expunged as provided by law. Except as
18 specifically provided otherwise, all provisions of this
19 subchapter shall apply to capital and noncapital cases.

20 § 9543. Eligibility for relief.

21 (a) General rule.--To be eligible for relief under this
22 subchapter, the petitioner must plead and prove by a
23 preponderance of the evidence all of the following:

24 (1) That the petitioner has been convicted of a crime
25 under the laws of this Commonwealth and is at the time
26 [relief is granted] petition is filed:

27 (i) currently serving a sentence of imprisonment,
28 probation or parole for the crime;

29 (ii) awaiting execution of a sentence of death for
30 the crime;

1 (iii) serving a sentence which must expire before
2 the person may commence serving the disputed sentence;
3 [or]

4 (iv) has completed a sentence of imprisonment,
5 probation or parole for the crime and is seeking relief
6 based upon DNA evidence obtained under section 9543.1(d)
7 (relating to postconviction DNA testing) [.] or

8 (v) has completed a sentence of imprisonment,
9 probation or parole for the crime and is seeking relief
10 under paragraph (2) (i), (iii), (iv) or (vi) or subsection
11 (b) (1) for a claim that was not previously litigated or
12 waived pursuant to section 9544 (relating to previous
13 litigation and waiver).

14 * * *

15 § 9545. Jurisdiction and proceedings.

16 * * *

17 (b) Time for filing petition.--

18 (1) Any petition under this subchapter, including a
19 second or subsequent petition, shall be filed within [one
20 year] two years of the date the judgment becomes final,
21 unless the petition alleges and the petitioner proves that:

22 (i) the failure to raise the claim previously was
23 the result of interference by government officials with
24 the presentation of the claim in violation of the
25 Constitution or laws of this Commonwealth or the
26 Constitution or laws of the United States;

27 (ii) the facts upon which the claim is predicated
28 were unknown to the petitioner and could not have been
29 ascertained by the exercise of due diligence; or

30 (iii) the right asserted is a constitutional right

1 that was recognized by the Supreme Court of the United
2 States or the Supreme Court of Pennsylvania after the
3 time period provided in this section and has been held by
4 that court to apply retroactively.

5 (2) Any petition invoking an exception provided in
6 paragraph (1) shall be filed within [one year] two years of
7 the date [the claim could have been presented] when the
8 grounds for the exception were discovered or reasonably could
9 have been discovered.

10 * * *

11 Section 3. This act shall take effect in 60 days.