

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1243 Session of 2013

INTRODUCED BY STEPHENS, ADOLPH, BOBACK, R. BROWN, V. BROWN, CALTAGIRONE, CARROLL, DEAN, FABRIZIO, FARRY, GABLER, GINGRICH, GRELL, GROVE, HARPER, W. KELLER, KORTZ, R. MILLER, MOLCHANY, MURT, MUSTIO, O'BRIEN, O'NEILL, PARKER, PASHINSKI, SANTARSIERO, SCHLOSSBERG, STURLA, TOEPEL, TOOHIL, TRUITT, VEREB AND WATSON, APRIL 23, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in firearms and other dangerous
3 articles, further providing for persons not to possess, use,
4 manufacture, control, sell or transfer firearms and for
5 Pennsylvania State Police.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 6105(f)(1) and (j) and 6111.1(f)(3) of
9 Title 18 of the Pennsylvania Consolidated Statutes are amended
10 to read:

11 § 6105. Persons not to possess, use, manufacture, control, sell
12 or transfer firearms.

13 * * *

14 (f) Other exemptions and proceedings.--

15 [(1) Upon application to the court of common pleas under
16 this subsection by an applicant subject to the prohibitions
17 under subsection (c)(4), the court may grant such relief as

1 it deems appropriate if the court determines that the
2 applicant may possess a firearm without risk to the applicant
3 or any other person.]

4 (1) (i) Any person subject to the prohibitions under
5 subsection (c) (4), or who is prohibited from possessing
6 firearms under 18 U.S.C. § 922(d) (4) or (g) (4) (relating
7 to unlawful acts) as a result of actions taken under the
8 laws of this Commonwealth, may apply to the court of
9 common pleas for relief. The court shall grant relief if
10 the court determines by clear and convincing evidence and
11 makes findings that the applicant does not present a risk
12 of harm to the applicant or any other person, will not be
13 likely to act in a manner dangerous to public safety and
14 that the granting of the relief would not be contrary to
15 the public interest. The court order, whether denying or
16 granting relief, shall also be supported by findings of
17 fact and conclusions of law. In making its decision, the
18 court shall receive and consider evidence relating to the
19 following:

20 (A) The circumstances of the original
21 commitment, appointment of a guardian or other
22 finding of incompetency or incapacity.

23 (B) The applicant's mental health records,
24 including the original commitment application and any
25 related order, or other finding of incompetency or
26 incapacity and medical records relating to any
27 hospitalization resulting from the involuntary
28 commitment, if any.

29 (C) The applicant's criminal history record.

30 (D) The applicant's character and reputation.

1 (E) Changes in the applicant's condition or
2 circumstances relevant to the relief sought.

3 (ii) The application shall be made to the court of
4 common pleas in either the applicant's county of
5 residence or the county of adjudication or commitment.
6 The applicant shall bear the burden of proof. No
7 application may be made until two years have elapsed from
8 date of the imposition of the disability. The application
9 shall be served upon the following parties, who shall
10 have standing to appear and contest the application:

11 (A) The district attorney of the county where
12 the application is filed.

13 (B) The Firearms Division of the Pennsylvania
14 State Police.

15 (C) The county mental health agency where the
16 commitment or adjudication occurred.

17 (iii) Any party shall have the right of appeal to
18 Superior Court. APPEAL SHALL BE SUBJECT TO A DE NOVO <--
19 STANDARD OF REVIEW. A person may only file a subsequent
20 application under this paragraph after three years have
21 elapsed from the conclusion of the prior proceeding,
22 including any appeal, which resulted in a denial under
23 this paragraph.

24 (iv) Notwithstanding any law to the contrary, the
25 judges of the courts of common pleas, mental health
26 review officers and county mental health and mental
27 retardation administrators shall disclose to the district
28 attorney of the county where the application is filed and
29 to the Pennsylvania State Police any records in their
30 possession which are to be received by a court consistent

1 with subparagraph (i) when such request is made in
2 conjunction with a proceeding under this paragraph. The
3 district attorney of the county where the application is
4 filed and the Pennsylvania State Police may, in their
5 discretion, disclose the information to any person or
6 entity whenever necessary in accordance with this
7 paragraph.

8 * * *

9 (j) Copy of order to State Police.--

10 (1) If [the court grants relief from the disabilities
11 imposed under this section] a court grants any relief
12 authorized by this section, a copy of the order shall be sent
13 by the prothonotary or Clerk of Court within ten days of the
14 entry of the order to the Pennsylvania State Police and shall
15 include the name, date of birth and Social Security number of
16 the individual.

17 (2) In all cases of relief authorized under this
18 section, the Pennsylvania State Police shall, upon the
19 expiration of any applicable appeal period, take all steps
20 necessary to comply with the order, including, when required,
21 notifying the ATTORNEY GENERAL OF THE UNITED STATES, THE <--
22 Federal Bureau of Investigation and the National Instant
23 Check System, regarding the order.

24 § 6111.1. Pennsylvania State Police.

25 * * *

26 (f) Notification of mental health adjudication, treatment,
27 commitment, drug use or addiction.--

28 * * *

29 (3) Notwithstanding any law to the contrary, the
30 Pennsylvania State Police [may] shall, within 48 hours of

1 receipt, disclose, electronically or otherwise, to the United
2 States Attorney General or a designee, any record relevant to
3 a determination of whether a person is disqualified from
4 possessing or receiving a firearm under 18 U.S.C. § 922 (g)
5 (3) or (4) or an applicable state statute.

6 * * *

7 Section 2. This act shall take effect in 60 days.