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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 156 Session of  
2017

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INTRODUCED BY TALLMAN, METCALFE, MILLARD, JAMES, A. HARRIS,  
REESE, KAUFFMAN, MCGINNIS, ZIMMERMAN, WARD, LAWRENCE,  
ORTITAY, COX, PICKETT AND GILLEN, JANUARY 23, 2017

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 23, 2017

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in firearms and other dangerous  
3 articles, providing for the offense of unlawful firearm  
4 records.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 6143. Unlawful firearm records.

10 (a) Prohibition.--Except as otherwise provided under  
11 subsection (b), no State governmental agency or political  
12 subdivision or official, agent or employee thereof or any other  
13 person, public or private, may knowingly and willfully keep or  
14 cause to be kept any list, database, record or registry of  
15 privately owned firearms or any list, database, record or  
16 registry of the owners of those firearms.

17 (b) Exceptions.--Subsection (a) shall not apply to any of  
18 the following:

1           (1) Records of firearms that have been used in  
2 committing a crime.

3           (2) Records relating to a person who has been convicted  
4 of a crime.

5           (3) Records of firearms that have been reported stolen.  
6 These records may be retained for a period not in excess of  
7 10 days after such firearms are recovered and any criminal  
8 prosecution related to the stolen firearms has ended,  
9 including any period during which an appeal may be filed.  
10 Official documentation recording the theft of a recovered  
11 weapon may be maintained no longer than the balance of the  
12 year entered plus two years.

13           (4) Firearm records that are required to be retained by  
14 firearms dealers or manufacturers under Federal or State law,  
15 including copies of such records transmitted to law  
16 enforcement agencies, provided that no State governmental  
17 agency or political subdivision or official, agent or  
18 employee thereof or any other person, private or public, may  
19 accumulate, compile, computerize or otherwise collect or  
20 convert such written records into any form of list, database  
21 or registry for any purpose.

22           (5) Records kept by the Pennsylvania State Police to the  
23 extent required by Federal law and a log of dates of requests  
24 for criminal history record checks, unique approval and  
25 nonapproval numbers, license identification numbers and  
26 transaction numbers corresponding to such dates.

27           (6) Records of an insurer that, as a condition to  
28 providing insurance against theft or loss of a firearm,  
29 identify such firearm, provided that the records are not  
30 sold, commingled with records relating to other firearms or

1 transferred to any person or entity other than the insured  
2 and that the insurer does not keep a record of the firearm,  
3 unless part of an ongoing claim, more than 60 days after  
4 either the policy of insurance expires or notification by the  
5 insured that the insured is no longer the owner of the  
6 firearm.

7 (7) Lists of customers of a firearms dealer retained by  
8 the dealer, provided that the lists do not disclose the  
9 particular firearms purchased, and lists or any parts thereof  
10 are not sold, commingled with records relating to other  
11 firearms or transferred to any other person or entity.

12 (8) Sales receipts retained by the seller of firearms or  
13 by a person providing credit for the purchase, provided that  
14 the receipts do not serve as or are used for the creation of  
15 a database for registration of firearms.

16 (9) Personal records of firearms maintained by the owner  
17 of the firearms or at the request of the owner of the  
18 firearms.

19 (10) Records maintained by a business or person that  
20 stores or acts as the selling agent of firearms on behalf of  
21 the lawful owner of the firearms.

22 (11) Membership lists of organizations comprised of  
23 owners of firearms.

24 (12) Records maintained by an employer or contracting  
25 entity of the firearms owned or used by its officers,  
26 employees or agents, if the firearms are used in the course  
27 of business performed on behalf of the employer or  
28 contracting entity.

29 (13) Records of firearms involved in criminal  
30 investigations, criminal prosecutions, criminal appeals and

1 postconviction motions, civil proceedings relating to the  
2 ownership, surrender, seizure or safekeeping of firearms,  
3 including protection orders and sheriff executions, and  
4 voluntary surrender by the owner or custodian of the firearm  
5 for safekeeping or otherwise.

6 (14) Paper documents relating to firearms involved in  
7 criminal cases, criminal investigations and criminal  
8 prosecutions, civil proceedings relating to the ownership,  
9 surrender, seizure or safekeeping of firearms, including  
10 protection orders and sheriff executions, and voluntary  
11 surrender by the owner or custodian of the firearm for  
12 safekeeping or otherwise.

13 (15) Noncriminal records relating to the receipt,  
14 storage or return of firearms, including, but not limited to,  
15 records relating to firearms impounded or surrendered for  
16 storage or safekeeping, receipts proving that a firearm was  
17 returned to its lawful owner and supporting records of  
18 identification and proof of ownership, or records relating to  
19 firearms impounded pursuant to sheriff execution or court  
20 orders, provided that the records are not compiled, sorted or  
21 otherwise arranged into any lists, indexes or registries of  
22 firearms or owners of firearms.

23 (16) Records required to be maintained and reported by  
24 eligible organizations licensed under the act of December 19,  
25 1988 (P.L.1262, No.156), known as the Local Option Small  
26 Games of Chance Act, provided that the records are not  
27 compiled, sorted or otherwise arranged into any lists,  
28 indexes or registries of firearms or owners of firearms.

29 (c) Right of action.--A person adversely affected by a  
30 violation of subsection (a) may seek declarative and injunctive

1 relief and the actual damages attributable to the violation in  
2 an appropriate court.

3 (d) Attorney fees and costs.--The court shall award  
4 reasonable expenses to a person adversely affected if an action  
5 under subsection (c) results in a final determination by a court  
6 in favor of the person adversely affected.

7 (e) Construction.--This section shall be construed to  
8 effectuate its remedial and deterrent purposes. This section may  
9 not be construed to grant any substantive, procedural privacy  
10 right or civil claim to any criminal defendant, and a violation  
11 of this section may not be grounds for the suppression of  
12 evidence in any criminal case.

13 (f) Destruction of existing records.--Unless otherwise  
14 prohibited by law, a list, database, record or registry subject  
15 to subsection (a) and kept on the effective date of this section  
16 shall be destroyed within 60 days after the effective date of  
17 this section. After that 60-day time period, the failure to  
18 destroy such list, database, record or registry may result in  
19 prosecution under this section.

20 (g) Confidentiality.--Information retained in compliance  
21 with subsection (b) (3), (4), (5), (12), (13), (14), (15) and  
22 (16) shall not be subject to public access under the act of  
23 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

24 (h) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection:

27 "Firearm." Any weapon which is designed to or may readily be  
28 converted to expel any projectile by the action of an explosive  
29 or the frame or receiver of such weapon.

30 "Person adversely affected." Any of the following:

1           (1) A person who has standing under the laws of this  
2           Commonwealth to bring an action under subsection (c).

3           (2) A membership organization, the members of which  
4           include a person described under paragraph (1).

5           "Reasonable expenses." The term includes, but is not limited  
6           to, attorney fees, expert witness fees, court costs and  
7           compensation for loss of income.

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