

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 1197 Session of  
2015

---

INTRODUCED BY WAGNER, WILLIAMS, STEFANO, TEPLITZ, SCHWANK,  
LEACH, WILEY, MCGARRIGLE, KITCHEN, COSTA, BARTOLOTTA, WHITE,  
FONTANA, GREENLEAF, VOGEL, BREWSTER, WOZNIAK, WARD, AUMENT,  
HAYWOOD, YUDICHAK, HUGHES, TARTAGLIONE AND BLAKE,  
APRIL 20, 2016

---

REFERRED TO JUDICIARY, APRIL 20, 2016

---

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in dissemination of criminal history  
3 record information, further providing for general regulations  
4 and for order for limited access, providing for clean slate  
5 for convictions of misdemeanors and summary offenses, for  
6 charges not leading to convictions and for records of  
7 juvenile delinquency and for effects of expunged offenses and  
8 offenses provided limited access and further providing for  
9 use of records by licensing agencies.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

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

15 § 9121. General regulations.

16 \* \* \*

17 (b) Dissemination to noncriminal justice agencies and  
18 individuals.--Criminal history record information shall be  
19 disseminated by a State or local police department to any  
20 individual or noncriminal justice agency only upon request.

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

2 (1) A fee may be charged by a State or local police  
3 department for each request for criminal history record  
4 information by an individual or noncriminal justice agency,  
5 except that no fee shall be charged to an individual who  
6 makes the request in order to apply to become a volunteer  
7 with an affiliate of Big Brothers of America or Big Sisters  
8 of America or with a rape crisis center or domestic violence  
9 program.

10 (2) Before a State or local police department  
11 disseminates criminal history record information to an  
12 individual or noncriminal justice agency, it shall extract  
13 from the record the following:

14 (i) All notations of arrests, indictments or other  
15 information relating to the initiation of criminal  
16 proceedings where:

17 (A) three years have elapsed from the date of  
18 arrest;

19 (B) no conviction has occurred; and

20 (C) no proceedings are pending seeking a  
21 conviction.

22 (ii) All information relating to a conviction and  
23 the arrest, indictment or other information leading  
24 thereto, or relating to an arrest not leading to a  
25 conviction, which is the subject of a court order for  
26 limited access as provided in section 9122.1 (relating to  
27 order for limited access)[.] or which is automatically  
28 provided limited access under section 9122.2 (relating to  
29 clean slate for convictions of misdemeanors and summary  
30 offenses, for charges not leading to convictions and for

1 records of juvenile delinquency).

2 (3) A court or the Administrative Office of Pennsylvania  
3 Courts may not disseminate to an individual, a noncriminal  
4 justice agency or an Internet website any information  
5 relating to a conviction, arrest, indictment or other  
6 information leading to a conviction, arrest, indictment or  
7 other information, which is the subject of a court order for  
8 limited access as provided in section 9122.1 or which is  
9 automatically provided limited access under section 9122.2.

10 \* \* \*

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

19 \* \* \*

20 § 9122.1. Order for limited access.

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

22 (1)] Notwithstanding any other provision of this  
23 chapter, upon petition of a person who has been free of  
24 arrest or prosecution following conviction or final release  
25 from confinement or supervision, whichever is later, for a  
26 period of 10 years, the court of common pleas in the  
27 jurisdiction where the conviction occurred may enter an order  
28 that criminal history record information maintained by any  
29 criminal justice agency pertaining to a conviction for a  
30 misdemeanor of the second degree, a misdemeanor of the third

1 degree or an ungraded offense which carries a maximum penalty  
2 of no more than two years be disseminated only to a criminal  
3 justice agency or a government agency as provided in section  
4 9121(b.1) and (b.2) (relating to general regulations).

5 [(2) Except when requested or required by a criminal  
6 justice agency, or by and for the official use of a  
7 government agency described in section 9121(b.1) or 9124(a)  
8 (relating to use of records by licensing agencies), no  
9 individual shall be required nor requested to disclose  
10 information about the person's criminal history records that  
11 are the subject of a court order for limited access granted  
12 under this section.]

13 \* \* \*

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

15 § 9122.2. Clean slate for convictions of misdemeanors and  
16 summary offenses, for charges not leading to  
17 convictions and for records of juvenile delinquency.

18 (a) Declaration of policy.--The General Assembly finds and  
19 declares as follows:

20 (1) Individuals with charges not leading to convictions  
21 are inherently harmed by the maintenance of that record and  
22 have a constitutional presumption of innocence.

23 (2) Individuals convicted of crimes in this Commonwealth  
24 shall serve their sentences as ordered by the courts of this  
25 Commonwealth.

26 (3) After individuals convicted of their crimes have  
27 served their sentences and remained crime free long enough to  
28 demonstrate their rehabilitation, their access to employment,  
29 housing, education and other necessities of life should be  
30 fully restored.

1           (4) The Commonwealth shall provide a clean slate remedy,  
2 as set forth under this section, to:

3           (i) create a strong incentive for avoidance of  
4 recidivism by offenders;

5           (ii) provide hope for the alleviation of the  
6 hardships of having a criminal record by offenders who  
7 are trying to rehabilitate themselves; and

8           (iii) save the Commonwealth money that must be spent  
9 in the administration of criminal justice when offenders  
10 recidivate.

11           (5) The clean slate remedy should be implemented without  
12 cost to the Commonwealth's criminal justice agencies and the  
13 former offender of filing and adjudicating a petition with a  
14 court.

15           (b) Misdemeanor conviction.--Except for offenses under  
16 Article B (relating to offenses involving danger to the person)  
17 or offenses that require registration under 42 Pa.C.S. Ch. 97  
18 Subch. H (relating to registration of sexual offenders),  
19 criminal history record information of all convictions of  
20 misdemeanor offenses shall automatically receive limited access  
21 when 10 years have passed since the most recent felony or  
22 misdemeanor conviction.

23           (c) Summary offense conviction.--Criminal history record  
24 information of all convictions of summary offenses shall  
25 automatically receive limited access when five years have passed  
26 since the most recent felony or misdemeanor conviction.

27           (d) Charges not leading to conviction.--Criminal history  
28 record information of charges with a final disposition other  
29 than conviction shall automatically receive limited access 60  
30 days after entry of the disposition.

1 (e) Records of juvenile delinquency.--Records of juvenile  
2 delinquency shall automatically receive limited access when  
3 seven years have passed with no further adjudication of  
4 delinquency or conviction for a felony or misdemeanor offense.

5 (f) No court petition required.--The following shall apply:

6 (1) Limited access of criminal proceedings under  
7 subsections (b), (c), (d) and (e) shall be performed by  
8 criminal justice agencies within 30 days of the eligibility  
9 of such proceedings, without the requirement of a court  
10 order.

11 (2) Nothing in this section shall preclude the filing of  
12 a petition for limited access of criminal proceedings  
13 eligible for limited access under subsections (b), (c), (d)  
14 and (e) if limited access has not been provided by criminal  
15 justice agencies without a petition.

16 (g) Elimination.--A district attorney may petition a court  
17 to eliminate limited access under this section if the individual  
18 receiving limited access is subsequently convicted of a  
19 misdemeanor or felony offense.

20 § 9122.3. Effects of expunged offenses and offenses provided  
21 limited access.

22 (a) Disclosure.--No individual shall be required or  
23 requested to disclose information about the individual's  
24 criminal history records that have been expunged or provided  
25 limited access under section 9122.1 (relating to order for  
26 limited access) or 9122.2 (relating to clean slate for  
27 convictions of misdemeanors and summary offenses, for charges  
28 not leading to convictions and for records of juvenile  
29 delinquency). An individual required or requested to provide  
30 information in violation of this section may respond as if the

1 offense did not occur.

2 (b) Disqualification by law.--An expunged offense or an  
3 offense provided limited access under section 9122.1 or 9122.2  
4 may not be considered a conviction that would prohibit the  
5 employment of a person under any law of this Commonwealth or  
6 under Federal laws that prohibit employment based on state  
7 convictions.

8 Section 3. Section 9124(b) of Title 18 is amended to read:

9 § 9124. Use of records by licensing agencies.

10 \* \* \*

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

14 (1) Records of arrest if there is no conviction of a  
15 crime based on the arrest.

16 (2) Convictions which have been annulled [or],  
17 expunged[.] or provided limited access under section 9122.1  
18 (relating to order for limited access) or 9122.2 (relating to  
19 clean slate for convictions of misdemeanors and summary  
20 offenses, for charges not leading to convictions and for  
21 records of juvenile delinquency).

22 (3) Convictions of a summary offense.

23 (4) Convictions for which the individual has received a  
24 pardon from the Governor.

25 (5) Convictions which do not relate to the applicant's  
26 suitability for the license, certificate, registration or  
27 permit.

28 \* \* \*

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