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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 931 Session of  
2013

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INTRODUCED BY STEPHENS, ADOLPH, BOBACK, R. BROWN, V. BROWN,  
CALTAGIRONE, CARROLL, DEAN, FABRIZIO, FARRY, GABLER,  
GINGRICH, GRELL, GROVE, HARPER, W. KELLER, KORTZ, MILLER,  
MOLCHANY, MURT, MUSTIO, O'BRIEN, O'NEILL, PARKER, PASHINSKI,  
SANTARSIERO, SCHLOSSBERG, STURLA, TOEPEL, TOOHIL, TRUITT,  
VEREB AND WATSON, MARCH 11, 2013

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 2013

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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, further providing for persons not to possess, use,  
4 manufacture, control, sell or transfer firearms.

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

7 Section 1. Section 6105(f)(1) and (j) of Title 18 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 6105. Persons not to possess, use, manufacture, control, sell  
10 or transfer firearms.

11 \* \* \*

12 (f) Other exemptions and proceedings.--

13 [(1) Upon application to the court of common pleas under  
14 this subsection by an applicant subject to the prohibitions  
15 under subsection (c)(4), the court may grant such relief as  
16 it deems appropriate if the court determines that the  
17 applicant may possess a firearm without risk to the applicant

1 or any other person.]

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

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

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

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

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

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

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

9           (A) The district attorney of the county where  
10 the application is filed.

11           (B) The Firearms Division of the Pennsylvania  
12 State Police.

13           (C) The county mental health agency where the  
14 commitment or adjudication occurred.

15           (iii) Any party shall have the right of appeal to  
16 Superior Court. A person may only file a subsequent  
17 application under this paragraph after three years have  
18 elapsed from the conclusion of the prior proceeding,  
19 including any appeal, which resulted in a denial under  
20 this paragraph.

21           (iv) Notwithstanding any law to the contrary, the  
22 judges of the courts of common pleas, mental health  
23 review officers and county mental health and mental  
24 retardation administrators shall disclose to the district  
25 attorney of the county where the application is filed and  
26 to the Pennsylvania State Police any records in their  
27 possession which are to be received by a court consistent  
28 with subparagraph (i) when such request is made in  
29 conjunction with a proceeding under this paragraph. The  
30 district attorney of the county where the application is

1 filed and the Pennsylvania State Police may, in their  
2 discretion, disclose the information to any person or  
3 entity whenever necessary in accordance with this  
4 paragraph.

5 \* \* \*

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

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

14 (2) In all cases of relief authorized under this  
15 section, the Pennsylvania State Police shall, upon the  
16 expiration of any applicable appeal period, take all steps  
17 necessary to comply with the order, including, when required,  
18 notifying the Federal Bureau of Investigation and the  
19 National Instant Check System, regarding the order.

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