

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 689 Session of 2023

INTRODUCED BY HARRIS, DELOZIER, FRANKEL, MADDEN, SCHLOSSBERG, HILL-EVANS, BULLOCK, KINSEY, KENYATTA, T. DAVIS, GUENST, ECKER, SOLOMON, SMITH-WADE-EL, HANBIDGE, ORTITAY, JAMES, McNEILL, TAKAC, M. JONES, HOHENSTEIN, SHUSTERMAN, SANCHEZ, KRAJEWSKI, DEASY, KAIL, BRENNAN, CONKLIN, KIM, SCOTT, HOWARD AND SCHEMEL, MARCH 24, 2023

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 3, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in criminal history record
3 information, further providing for definitions, for general
4 regulations, for petition for limited access, for clean slate
5 limited access, for exceptions, for effects of expunged
6 records and records subject to limited access and for
7 employer immunity from liability.

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

10 Section 1. Section 9102 of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:

12 § 9102. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 \* \* \*

17 "Qualifying offense." An offense under section 13 of the act
18 of April 14, 1972 (P.L.233, No.64), known as The Controlled

1 Substance, Drug, Device and Cosmetic Act, or an attempt,  
2 conspiracy or solicitation to commit an offense under section 13  
3 of The Controlled Substance, Drug, Device and Cosmetic Act,  
4 unless a minimum sentence of 30 months or more of imprisonment  
5 was imposed on the offense.

6 \* \* \*

7 Section 2. Section 9121(b.2)(2) of Title 18 is amended to  
8 read:

9 § 9121. General regulations.

10 \* \* \*

11 (b.2) Additional exceptions.--

12 \* \* \*

13 (2) Subsection (b)(2) shall not apply:

14 (i) To the verification of information provided by  
15 an applicant if Federal law, including rules and  
16 regulations promulgated by a self-regulatory organization  
17 that has been created under Federal law, requires the  
18 consideration of an applicant's criminal history for  
19 purposes of employment.

20 (ii) To the verification of information provided to  
21 the Supreme Court, or an entity of the Supreme Court, in  
22 its capacity to govern the practice, procedure and  
23 conduct of all courts, the admission to the bar, the  
24 practice of law, the administration of all courts and  
25 supervision of all officers of the judicial branch.

26 (iii) To the ~~Department of State for verification of~~ <--  
27 information provided by a candidate for public office  
28 concerning eligibility under section 7 of Article II of  
29 the Constitution of Pennsylvania.

30 \* \* \*

1 Section 3. Section 9122.1(a) and (b) (1) (i) and (2) (ii) and  
2 (iii) of Title 18 are amended and the section is amended by  
3 adding subsections to read:

4 § 9122.1. Petition for limited access.

5 (a) General rule.--Subject to the exceptions in subsection  
6 (b) and notwithstanding any other provision of this chapter,  
7 upon petition of a person who has been free from conviction for  
8 a period of [10] seven years for an offense punishable by one or  
9 more years in prison and has completed payment of all court-  
10 ordered restitution and the fee previously authorized to carry  
11 out the limited access and clean slate limited access  
12 provisions, the court of common pleas in the jurisdiction where  
13 a conviction occurred may enter an order that criminal history  
14 record information maintained by a criminal justice agency  
15 pertaining to a qualifying misdemeanor or an ungraded offense  
16 which carries a maximum penalty of no more than five years be  
17 disseminated only to a criminal justice agency or as provided in  
18 section 9121(b.1) and (b.2) (relating to general regulations). A  
19 court may not enter an order under this subsection unless the  
20 person who filed the petition, upon payment of all court-ordered  
21 restitution, also paid the fee previously authorized to carry  
22 out the limited access and clean slate limited access  
23 provisions.

24 (a.1) Additional criteria.--Upon petition of a person who  
25 has been free from conviction for a period of 10 years for an  
26 offense punishable by one or more years in prison and has  
27 completed payment of all court-ordered restitution and the fee  
28 previously authorized to carry out the limited access and clean  
29 slate limited access provisions, the court of common pleas in  
30 the jurisdiction where a conviction occurred may enter an order

1 that criminal history record information maintained by a  
2 criminal justice agency pertaining to a qualifying felony under  
3 this section be disseminated only to a criminal justice agency  
4 or as provided in section 9121(b.1) and (b.2). A court may not  
5 enter an order under this subsection unless the person who filed  
6 the petition, upon payment of all court-ordered restitution,  
7 also paid the fee previously authorized to carry out the limited  
8 access and clean slate limited access provisions. As used in  
9 this subsection, a qualifying felony is any of the following or  
10 an attempt, conspiracy or solicitation to commit any of the  
11 following, excluding felonies of the first and second degrees:

12 (1) An offense under section 3304 (relating to criminal  
13 mischief).

14 (2) An offense under section 3503 (relating to criminal  
15 trespass).

16 (3) An offense under Chapter 39 (relating to theft and  
17 related offenses).

18 (4) An offense under Chapter 41 (relating to forgery and  
19 fraudulent practices).

20 (5) An offense under section 481 of the act of June 13,  
21 1967 (P.L.31, No.21), known as the Human Services Code.

22 (6) An offense under section 13 of the act of April 14,  
23 1972 (P.L.233, No.64), known as The Controlled Substance,  
24 Drug, Device and Cosmetic Act.

25 (b) Exceptions.--An order for limited access under this  
26 section shall not be granted for any of the following:

27 (1) A conviction for an offense punishable by more than  
28 two years in prison which is any of the following or an  
29 attempt, conspiracy or solicitation to commit any of the  
30 following:

1 (i) An offense under Article B of Part II (relating  
2 to offenses involving danger to the person). This  
3 paragraph shall not apply to a misdemeanor offense under  
4 section 2706 (relating to terroristic threats).

5 \* \* \*

6 (2) An individual who meets any of the following:

7 \* \* \*

8 (ii) Has been convicted within the previous [20] 15  
9 years of:

10 (A) a felony or an offense punishable by  
11 imprisonment of seven or more years involving:

12 (I) an offense under Article B of Part II;

13 (II) an offense under Article D of Part II;

14 (III) an offense under Chapter 61; or

15 (IV) an offense specified in 42 Pa.C.S. §§

16 9799.14 and 9799.55; [or]

17 (B) four or more offenses punishable by  
18 imprisonment of two or more years[.]; or

19 (C) any of the following offenses:

20 (I) An offense under section 3127 (relating  
21 to indecent exposure).

22 (II) An offense under section 3129 (relating  
23 to sexual intercourse with animal).

24 (III) An offense under section 4915.1  
25 (relating to failure to comply with registration  
26 requirements) or 4915.2 (relating to failure to  
27 comply with 42 Pa.C.S. Ch. 97 Subch. I  
28 registration requirements).

29 (IV) An offense under section 5122 (relating  
30 to weapons or implements for escape).

1                   (V) An offense under section 5510 (relating  
2                   to abuse of corpse).

3                   (VI) An offense under section 5515 (relating  
4                   to prohibiting of paramilitary training).

5                   (iii) [Has, within the previous 15 years, been  
6                   convicted of:

7                   (A) two or more offenses punishable by more than  
8                   two years in prison; or

9                   (B) any of the following:

10                   (I) An offense under section 3127 (relating  
11                   to indecent exposure).

12                   (II) An offense under section 3129 (relating  
13                   to sexual intercourse with animal).

14                   (III) An offense under section 4915.1  
15                   (relating to failure to comply with registration  
16                   requirements) or 4915.2 (relating to failure to  
17                   comply with 42 Pa.C.S. Ch. 97 Subch. I  
18                   registration requirements).

19                   (IV) An offense under section 5122 (relating  
20                   to weapons or implements for escape).

21                   (V) An offense under section 5510 (relating  
22                   to abuse of corpse).

23                   (VI) An offense under section 5515 (relating  
24                   to prohibiting of paramilitary training).] Has,  
25                   within the previous 10 years, been convicted of  
26                   two or more offenses punishable by more than two  
27                   years in prison.

28                   (b.1) Consolidation.--For the purpose of this section, the  
29                   conviction of two or more offenses charged in separate counts  
30                   that are consolidated under one docket number AND SHARE THE SAME <--

1 OFFENSE TRACKING NUMBER shall be deemed to be one conviction.

2 \* \* \*

3 Section 4. Section 9122.2(a)(1) and (3) of Title 18 are  
4 amended and the subsection is amended by adding a paragraph to  
5 read:

6 § 9122.2. Clean slate limited access.

7 (a) General rule.--The following shall be subject to limited  
8 access:

9 (1) Subject to the exceptions under section 9122.3  
10 (relating to exceptions) or if a court has vacated an order  
11 for limited access under section 9122.4 (relating to order to  
12 vacate order for limited access), criminal history record  
13 information pertaining to a conviction of a misdemeanor of  
14 the second degree, a misdemeanor of the third degree or a  
15 misdemeanor offense punishable by imprisonment of no more  
16 than two years if a person has been free for [10] seven years  
17 from conviction for any offense punishable by imprisonment of  
18 one or more years and if payment of all court-ordered  
19 restitution has occurred. Upon payment of all court-ordered  
20 restitution, the person whose criminal history record  
21 information is subject to limited access under this paragraph  
22 shall also pay the fee previously authorized to carry out the  
23 limited access and clean slate limited access provisions.

24 (1.1) Subject to the exceptions under section 9122.3 or  
25 if a court has vacated an order for limited access under  
26 section 9122.4, criminal history record information  
27 pertaining to a conviction of a qualifying offense if a  
28 person has been free for 10 years from conviction for any  
29 offense punishable by imprisonment of one or more years and  
30 if payment of all court-ordered restitution has occurred.

1 Upon payment of all court-ordered restitution, the person  
2 whose criminal history record information is subject to  
3 limited access under this paragraph shall also pay the fee  
4 previously authorized to carry out the limited access and  
5 clean slate limited access provisions.

6 \* \* \*

7 (3) Criminal history record information pertaining to a  
8 conviction for a summary offense when [10] five years have  
9 elapsed since entry of the judgment of conviction and payment  
10 of all court-ordered restitution has occurred. Upon payment  
11 of all court-ordered restitution, the person whose criminal  
12 history record information is subject to limited access under  
13 this paragraph shall also pay the fee previously authorized  
14 to carry out the limited access and clean slate limited  
15 access provisions.

16 \* \* \*

17 Section 5. Section 9122.3(a)(2)(i), (b) and (c) of Title 18  
18 are amended and the section is amended by adding a subsection to  
19 read:

20 § 9122.3. Exceptions.

21 (a) Limited access not applicable.--Limited access to  
22 records under section 9122.2(a)(1) (relating to clean slate  
23 limited access) shall not be granted for any of the following:

24 \* \* \*

25 (2) An individual who at any time has been convicted of:

26 (i) A felony, excluding a qualifying offense.

27 \* \* \*

28 (a.1) Consolidation.--For the purpose of this section, the  
29 conviction of two or more offenses that are charged in separate  
30 counts and, ARE consolidated under one docket number AND SHARE <--

1 THE SAME OFFENSE TRACKING NUMBER shall be deemed to be one  
2 conviction, except that the docket may not be deemed one  
3 conviction if it contains more than two felony convictions.

4 (b) Limited access to same case.--Limited access under this  
5 section shall not apply to an otherwise qualifying conviction if  
6 a conviction for an offense punishable by imprisonment of five  
7 or more years or an offense enumerated in subsection (a) arose  
8 out of the same case. This subsection shall not apply to a  
9 qualifying offense.

10 (c) Filing.--Nothing in this section shall preclude the  
11 filing of a petition for limited access under section 9122.1  
12 (relating to petition for limited access) if limited access is  
13 available under [that] this section. An offense eligible for  
14 clean slate limited access under this section shall also be  
15 eligible for petition for limited access under section 9122.1.

16 Section 6. Section 9122.5 of Title 18 is amended by adding  
17 subsections to read:

18 § 9122.5. Effects of expunged records and records subject to  
19 limited access.

20 \* \* \*

21 (a.1) Use of information.--Except if required by Federal  
22 law, criminal history record information that has been expunged  
23 or provided limited access may not be used by any individual or  
24 noncriminal justice agency for employment, housing or school  
25 matriculation purposes.

26 \* \* \*

27 (c.1) Use for eligibility for public office.--  
28 Notwithstanding any other provision of this chapter, a record  
29 subject to limited access under section 9122.1 or 9122.2 shall  
30 remain a part of the individual's criminal history record

1 information and shall be self-disclosed for any relevant purpose  
2 required by section 7 of Article II of the Constitution of  
3 Pennsylvania.

4 \* \* \*

5 Section 7. Section 9122.6 of Title 18 is amended to read:

6 § 9122.6. Employer immunity from liability.

7 (a) General rule.--An employer who employs or otherwise  
8 engages an individual whose criminal history record has been  
9 expunged or to which limited access has been applied under  
10 section 9122.1 (relating to petition for limited access) or  
11 9122.2 (relating to clean slate limited access) shall be immune  
12 from liability for any claim arising out of the misconduct of  
13 the individual, if the misconduct relates to the portion of the  
14 criminal history record that has been expunged or provided  
15 limited access.

16 (b) Voluntary disclosure.--An employer to whom an individual  
17 voluntarily discloses the individual's criminal history record  
18 information shall be immune from liability for any claim arising  
19 under section 9122.5(a.1) (relating to effects of expunged  
20 records and records subject to limited access) related to the  
21 employer's otherwise lawful use or consideration of the criminal  
22 history record information in connection with any employment  
23 decision.

24 Section 8. This act shall take effect in ~~60~~ 180 days.

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