

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, SCHEMEL, WEBSTER AND McCLINTON, MARCH 24, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 24, 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 OR A MAXIMUM SENTENCE OF 60 MONTHS OR MORE OF IMPRISONMENT was <--  
6 imposed on the offense.

7 \* \* \*

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

10 § 9121. General regulations.

11 \* \* \*

12 (b.2) Additional exceptions.--

13 \* \* \*

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

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

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

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

VERIFICATION OF INFORMATION AS REQUIRED BY LAW.

\* \* \*

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

§ 9122.1. Petition for limited access.

(a) General rule.--Subject to the exceptions in subsection (b) and notwithstanding any other provision of this chapter,

upon petition of a person who has been free from conviction for a period of [10] seven years for an offense punishable by one or more years in prison and has completed payment of all court-ordered restitution and the fee previously authorized to carry out the limited access and clean slate limited access

provisions, the court of common pleas in the jurisdiction where a conviction occurred may enter an order that criminal history record information maintained by a criminal justice agency pertaining to a qualifying misdemeanor or an ungraded offense which carries a maximum penalty of no more than five years be disseminated only to a criminal justice agency or as provided in section 9121(b.1) and (b.2) (relating to general regulations). A court may not enter an order under this subsection unless the person who filed the petition, upon payment of all court-ordered restitution, also paid the fee previously authorized to carry out the limited access and clean slate limited access provisions.

(a.1) Additional criteria.--Upon petition of a person who has been free from conviction for a period of 10 years for an offense punishable by one or more years in prison and has completed payment of all court-ordered restitution and the fee

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

15 (1) An offense under section 3304 (relating to criminal  
16 mischief).

17 (2) An offense under section 3503 (relating to criminal  
18 trespass).

19 (3) An offense under Chapter 39 (relating to theft and  
20 related offenses).

21 (4) An offense under Chapter 41 (relating to forgery and  
22 fraudulent practices).

23 (5) An offense under section 481 of the act of June 13,  
24 1967 (P.L.31, No.21), known as the Human Services Code.

25 ~~(6) An offense under section 13 of the act of April 14,~~ <--  
26 ~~1972 (P.L.233, No.64), known as The Controlled Substance,~~  
27 ~~Drug, Device and Cosmetic Act.~~

28 (6) A QUALIFYING OFFENSE. <--

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

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

5 (i) An offense under Article B of Part II (relating  
6 to offenses involving danger to the person). This  
7 paragraph shall not apply to a misdemeanor offense under  
8 section 2706 (relating to terroristic threats).

9 \* \* \*

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

11 \* \* \*

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

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

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

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

18 (III) an offense under Chapter 61; or

19 (IV) an offense specified in 42 Pa.C.S. §§  
20 9799.14 and 9799.55; [or]

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

23 (C) any of the following offenses:

24 (I) An offense under section 3127 (relating  
25 to indecent exposure).

26 (II) An offense under section 3129 (relating  
27 to sexual intercourse with animal).

28 (III) An offense under section 4915.1  
29 (relating to failure to comply with registration  
30 requirements) or 4915.2 (relating to failure to

1 comply with 42 Pa.C.S. Ch. 97 Subch. I  
2 registration requirements).

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

5 (V) An offense under section 5510 (relating  
6 to abuse of corpse).

7 (VI) An offense under section 5515 (relating  
8 to prohibiting of paramilitary training).

9 (iii) [Has, within the previous 15 years, been  
10 convicted of:

11 (A) two or more offenses punishable by more than  
12 two years in prison; or

13 (B) any of the following:

14 (I) An offense under section 3127 (relating  
15 to indecent exposure).

16 (II) An offense under section 3129 (relating  
17 to sexual intercourse with animal).

18 (III) An offense under section 4915.1  
19 (relating to failure to comply with registration  
20 requirements) or 4915.2 (relating to failure to  
21 comply with 42 Pa.C.S. Ch. 97 Subch. I  
22 registration requirements).

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

25 (V) An offense under section 5510 (relating  
26 to abuse of corpse).

27 (VI) An offense under section 5515 (relating  
28 to prohibiting of paramilitary training).] Has,

29 within the previous 10 years, been convicted of  
30 two or more offenses punishable by more than two

1                   years in prison.

2       (b.1) Consolidation.--For the purpose of this section, the  
3 conviction of two or more offenses charged in separate counts  
4 that are consolidated under one docket number and share the same  
5 offense tracking number shall be deemed to be one conviction.

6       \* \* \*

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

10 § 9122.2. Clean slate limited access.

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

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

28           (1.1) Subject to the exceptions under section 9122.3 or  
29 if a court has vacated an order for limited access under  
30 section 9122.4, criminal history record information

1 pertaining to a conviction of a qualifying offense if a  
2 person has been free for 10 years from conviction for any  
3 offense punishable by imprisonment of one or more years and  
4 if payment of all court-ordered restitution has occurred.  
5 Upon payment of all court-ordered restitution, the person  
6 whose criminal history record information is subject to  
7 limited access under this paragraph shall also pay the fee  
8 previously authorized to carry out the limited access and  
9 clean slate limited access provisions.

10 \* \* \*

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

20 \* \* \*

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

24 § 9122.3. Exceptions.

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

28 \* \* \*

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

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



1 \* \* \*

2 (a.1) Consolidation.--For the purpose of this section, the  
3 conviction of two or more offenses that are charged in separate  
4 counts, are consolidated under one docket number and share the  
5 same offense tracking number shall be deemed to be one  
6 conviction, except that the docket may not be deemed one  
7 conviction if it contains more than two felony convictions.

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

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

20 Section 6. Section 9122.5 of Title 18 is amended by adding  
21 subsections to read:

22 § 9122.5. Effects of expunged records and records subject to  
23 limited access.

24 \* \* \*

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

30 \* \* \*

1 (c.1) Use for eligibility for public office.--  
2 Notwithstanding any other provision of this chapter, a record  
3 subject to limited access under section 9122.1 or 9122.2 shall  
4 remain a part of the individual's criminal history record  
5 information and shall be self-disclosed for any relevant purpose  
6 required by section 7 of Article II of the Constitution of  
7 Pennsylvania.

8 \* \* \*

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

10 § 9122.6. Employer immunity from liability.

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

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

28 Section 8. This act shall take effect ~~in 180 days~~. AS <--  
29 FOLLOWS:

30 (1) THE AMENDMENT OR ADDITION OF 18 PA.C.S. §§ 9122.2(A)

1 (1), (1.1) AND (3) AND 9122.3(A) (2) (I), (A.1), (B) AND (C)  
2 SHALL TAKE EFFECT IN 180 DAYS.

3 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

4 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
5 DAYS.