
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2294 Session of
2018

INTRODUCED BY ROEBUCK, DONATUCCI, FRANKEL, DEAN, ROTHMAN,
KINSEY, SCHLOSSBERG, V. BROWN, RABB, J. HARRIS, SIMS, THOMAS,
PASHINSKI, PHILLIPS-HILL, MURT, DAVIDSON, SCHWEYER, ROZZI,
RYAN, A. DAVIS, GAINNEY, McCARTER, J. McNEILL, KORTZ, STURLA,
FREEMAN, D. COSTA AND READSHAW, APRIL 23, 2018

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 23, 2018

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 and for
4 expungement.

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

7 Section 1. The definitions of "criminal justice agency" and
8 "expunge" in section 9102 of Title 18 of the Pennsylvania
9 Consolidated Statutes are amended and the section is amended by
10 adding a definition to read:

11 § 9102. Definitions.

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

15 * * *

16 "Criminal justice agency." Any court, including the minor
17 judiciary, with criminal jurisdiction or any other governmental

1 agency, or subunit thereof, created by statute or by the State
2 or Federal constitutions, specifically authorized to perform as
3 its principal function the administration of criminal justice,
4 and which allocates a substantial portion of its annual budget
5 to such function. Criminal justice agencies include, but are not
6 limited to: organized State and municipal police departments,
7 local detention facilities, county, regional and State
8 correctional facilities, probation agencies, district or
9 prosecuting attorneys, parole boards, pardon boards, the
10 facilities and administrative offices of the Department of
11 [Public Welfare] Human Services that provide care, guidance and
12 control to adjudicated delinquents, and such agencies or
13 subunits thereof, as are declared by the Attorney General to be
14 criminal justice agencies as determined by a review of
15 applicable statutes and the State and Federal Constitutions or
16 both.

17 * * *

18 "Exoneration." Whenever:

19 (1) a pardon is granted pursuant to section 9 of Article
20 IV of the Constitution of Pennsylvania; or

21 (2) a judgment of conviction is reversed or vacated, or
22 a plea of guilty, no contest or nolo contendere is withdrawn
23 by leave of court, and the indictment or information is
24 dismissed or, if a new trial is ordered, either the claimant
25 is found not guilty at the new trial or is not retried and
26 the indictment or information dismissed, provided that the
27 count or counts dismissed are the sole basis for the
28 imprisonment, and regardless of whether or not
29 deoxyribonucleic acid (DNA) evidence forms the basis of the
30 reversal, vacation, withdrawal, dismissal or pardon.

1 "Expunge."

2 (1) [To] to remove information so that there is no trace
3 or indication that such information existed;

4 (2) to eliminate all identifiers which may be used to
5 trace the identity of an individual, allowing remaining data
6 to be used for statistical purposes; [or]

7 (3) maintenance of certain information required or
8 authorized under the provisions of section 9122(c) (relating
9 to expungement), when an individual has successfully
10 completed the conditions of any pretrial or posttrial
11 diversion or probation program[.]; or

12 (4) the removal, destruction or erasure of records
13 possessed by the Commonwealth or any of its political
14 subdivisions, including, but not limited to:

15 (i) Fingerprints.

16 (ii) Photographs.

17 (iii) Photographic plates.

18 (iv) Criminal history record information data for
19 the criminal proceedings of which the individual has been
20 exonerated.

21 * * *

22 Section 2. Section 9122(a) and (b) of Title 18 are amended
23 and the section is amended by adding a subsection to read:

24 § 9122. Expungement.

25 (a) Specific proceedings.--[Criminal] Notwithstanding any
26 provision of law to the contrary, criminal history record
27 information shall be expunged in a specific criminal proceeding
28 when:

29 (1) no disposition has been received or, upon request
30 for criminal history record information, no disposition has

1 been recorded in the repository within 18 months after the
2 date of arrest and the court of proper jurisdiction certifies
3 to the director of the repository that no disposition is
4 available and no action is pending. Expungement shall not
5 occur until the certification from the court is received and
6 the director of the repository authorizes such expungement;

7 (2) a court order requires that such nonconviction data
8 be expunged; [or]

9 (3) a person 21 years of age or older who has been
10 convicted of a violation of section 6308 (relating to
11 purchase, consumption, possession or transportation of liquor
12 or malt or brewed beverages), which occurred on or after the
13 day the person attained 18 years of age, petitions the court
14 of common pleas in the county where the conviction occurred
15 seeking expungement and the person has satisfied all terms
16 and conditions of the sentence imposed for the violation,
17 including any suspension of operating privileges imposed
18 pursuant to section 6310.4 (relating to restriction of
19 operating privileges). Upon review of the petition, the court
20 shall order the expungement of all criminal history record
21 information and all administrative records of the Department
22 of Transportation relating to said conviction[.]; or

23 (4) a person 18 years of age or older who has been
24 convicted of a crime, which crime is later exonerated,
25 petitions the court of common pleas having jurisdiction over
26 the conviction seeking expungement. Upon review of the
27 petition, the court may order the expungement of all criminal
28 history record information and all administrative records
29 relating to said conviction. Expungement under this paragraph
30 shall not include a violation under section 6308.

1 (b) Generally.--[Criminal] Notwithstanding any provision of
2 law to the contrary, criminal history record information may be
3 expunged when:

4 (1) An individual who is the subject of the information
5 reaches 70 years of age and has been free of arrest or
6 prosecution for ten years following final release from
7 confinement or supervision.

8 (2) An individual who is the subject of the information
9 has been dead for three years.

10 (3) (i) An individual who is the subject of the
11 information petitions the court for the expungement of a
12 summary offense and has been free of arrest or
13 prosecution for five years following the conviction for
14 that offense.

15 (ii) Expungement under this paragraph shall only be
16 permitted for a conviction of a summary offense.

17 (4) An individual with a conviction that is the subject
18 of the information, which conviction has been exonerated.

19 * * *

20 (b.2) Expungement fee waiver.--

21 (1) The following shall be grounds for waiver of costs
22 to petition the court for an expungement when occurring as a
23 result of the presentation of deoxyribonucleic acid (DNA)
24 evidence:

25 (i) Reversal or vacation of a conviction.

26 (ii) Withdrawal of a guilty, no contest or nolo
27 contendere plea.

28 (iii) Dismissal of information or indictment.

29 (iv) Retrial where the defendant is found not
30 guilty.

1 (2) The county of the court having jurisdiction over the
2 matter shall bear the costs for all fees related to a
3 petitioner's expungment proceeding under this subsection.

4 * * *

5 Section 3. This act shall take effect in 60 days.