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 THE GENERAL ASSEMBLY OF PENNSYLVANIA
 

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# SENATE BILL

No. **166** Session of  
2015

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INTRODUCED BY GREENLEAF, STACK, BREWSTER, KITCHEN, FONTANA,  
BAKER, BOSCOLA, WILEY, COSTA, TARTAGLIONE, HUGHES, VOGEL,  
LEACH, WHITE, RAFFERTY, PILEGGI, SCHWANK AND WILLIAMS,  
JANUARY 15, 2015

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 28, 2015

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## AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <--  
 2 ~~Consolidated Statutes, in criminal history record~~  
 3 ~~information, further providing for expungement of criminal~~  
 4 ~~history record.~~  
 5 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 42 (JUDICIARY AND <--  
 6 JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED  
 7 STATUTES, IN CRIMINAL HISTORY RECORD INFORMATION, FURTHER  
 8 PROVIDING FOR GENERAL REGULATIONS AND PROVIDING FOR ORDER FOR  
 9 LIMITED ACCESS; AND, IN GOVERNANCE OF THE SYSTEM, PROVIDING  
 10 FOR PETITION FOR EXPUNGEMENT OR ORDER FOR LIMITED ACCESS FEE.  
 11 The General Assembly of the Commonwealth of Pennsylvania  
 12 hereby enacts as follows:  
 13 ~~Section 1. Section 9122(b) of Title 18 of the Pennsylvania~~ <--  
 14 ~~Consolidated Statutes is amended by adding a paragraph to read:~~  
 15 ~~§ 9122. Expungement.~~  
 16 ~~\* \* \*~~  
 17 ~~(b) Generally. Criminal history record information may be~~  
 18 ~~expunged when:~~  
 19 ~~\* \* \*~~  
 20 ~~(4) (i) An individual who is the subject of the~~

1 ~~information petitions for expungement of the information~~  
2 ~~and the individual has been free of arrest or prosecution~~  
3 ~~following final release from confinement or supervision~~  
4 ~~for the following time periods:~~

5 ~~(A) In the case of a misdemeanor of the third~~  
6 ~~degree or an offense declared to be a misdemeanor,~~  
7 ~~without specification of degree, seven years.~~

8 ~~(B) In the case of a misdemeanor of the second~~  
9 ~~degree committed when the individual was less than 25~~  
10 ~~years of age, ten years.~~

11 ~~(ii) This paragraph shall not apply to any~~  
12 ~~individual who has been convicted of:~~

13 ~~(A) An offense punishable by imprisonment of~~  
14 ~~more than two years.~~

15 ~~(B) Four or more offenses punishable by~~  
16 ~~imprisonment of one or more years.~~

17 ~~(C) An offense under section 913 (relating to~~  
18 ~~possession of firearm or other dangerous weapon in~~  
19 ~~court facility) which is graded as a misdemeanor of~~  
20 ~~the third degree.~~

21 ~~(D) A violation of section 2701 (relating to~~  
22 ~~simple assault), except when the offense is graded as~~  
23 ~~a misdemeanor of the third degree.~~

24 ~~(E) A violation of section 3129 (relating to~~  
25 ~~sexual intercourse with animal).~~

26 ~~(F) A violation of section 4912 (relating to~~  
27 ~~impersonating a public servant).~~

28 ~~(G) A violation of section 4952 (relating to~~  
29 ~~intimidation of witnesses or victims).~~

30 ~~(H) A violation of section 4953 (relating to~~

1 ~~retaliation against witness, victim or party).~~

2 ~~(I) A violation of section 5511 (relating to~~  
3 ~~cruelty to animals).~~

4 ~~(J) A violation of any provision of Chapter 61~~  
5 ~~(relating to firearms and other dangerous articles).~~

6 ~~(K) An offense which requires registration under~~  
7 ~~42 Pa.C.S. Ch. 97 Subch. H (relating to registration~~  
8 ~~of sexual offenders).~~

9 \* \* \*

10 Section 2. ~~This act shall take effect in 60 days.~~

11 SECTION 1. SECTION 9121(B)(2) OF TITLE 18 OF THE <--  
12 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS  
13 AMENDED BY ADDING A SUBSECTION TO READ:

14 § 9121. GENERAL REGULATIONS.

15 \* \* \*

16 (B) DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES AND  
17 INDIVIDUALS.--CRIMINAL HISTORY RECORD INFORMATION SHALL BE  
18 DISSEMINATED BY A STATE OR LOCAL POLICE DEPARTMENT TO ANY  
19 INDIVIDUAL OR NONCRIMINAL JUSTICE AGENCY ONLY UPON REQUEST.  
20 EXCEPT AS PROVIDED IN SUBSECTION (B.1):

21 \* \* \*

22 (2) BEFORE A STATE OR LOCAL POLICE DEPARTMENT  
23 DISSEMINATES CRIMINAL HISTORY RECORD INFORMATION TO AN  
24 INDIVIDUAL OR NONCRIMINAL JUSTICE AGENCY, IT SHALL EXTRACT  
25 FROM THE RECORD [ALL] THE FOLLOWING:

26 (I) ALL NOTATIONS OF ARRESTS, INDICTMENTS OR OTHER  
27 INFORMATION RELATING TO THE INITIATION OF CRIMINAL  
28 PROCEEDINGS WHERE:

29 [(I) THREE YEARS HAVE ELAPSED FROM THE DATE OF  
30 ARREST;

1 (II) NO CONVICTION HAS OCCURRED; AND  
2 (III) NO PROCEEDINGS ARE PENDING SEEKING A  
3 CONVICTION.]

4 (A) THREE YEARS HAVE ELAPSED FROM THE DATE OF  
5 ARREST;

6 (B) NO CONVICTION HAS OCCURRED; AND

7 (C) NO PROCEEDINGS ARE PENDING SEEKING A  
8 CONVICTION.

9 (II) ALL INFORMATION RELATING TO A CONVICTION AND  
10 THE ARREST, INDICTMENT OR OTHER INFORMATION LEADING  
11 THERE TO, WHICH IS THE SUBJECT OF A COURT ORDER FOR  
12 LIMITED ACCESS AS PROVIDED IN SECTION 9122.1 (RELATING TO  
13 ORDER FOR LIMITED ACCESS).

14 \* \* \*

15 (B.2) ADDITIONAL EXCEPTION.--SUBSECTION (B) (2) (II) SHALL NOT  
16 APPLY IF THE REQUEST IS MADE BY A STATE AGENCY TO BE USED ONLY  
17 AS AUTHORIZED UNDER SECTION 9124 (RELATING TO USE OF RECORDS BY  
18 LICENSING AGENCIES).

19 \* \* \*

20 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:  
21 § 9122.1. ORDER FOR LIMITED ACCESS.

22 (A) GENERAL RULE.--THE FOLLOWING SHALL APPLY:

23 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,  
24 UPON PETITION OF A PERSON WHO HAS BEEN FREE OF ARREST OR  
25 PROSECUTION FOLLOWING FINAL RELEASE FROM CONFINEMENT AND  
26 SUPERVISION FOR A PERIOD OF 10 YEARS, THE COURT OF COMMON  
27 PLEAS IN THE JURISDICTION WHERE THE CONVICTION OCCURRED MAY  
28 ENTER AN ORDER THAT CRIMINAL HISTORY RECORD INFORMATION  
29 MAINTAINED BY ANY CRIMINAL JUSTICE AGENCY PERTAINING TO A  
30 CONVICTION FOR A MISDEMEANOR OF THE SECOND DEGREE, A

1 MISDEMEANOR OF THE THIRD DEGREE OR AN UNGRADED OFFENSE WHICH  
2 CARRIES A MAXIMUM PENALTY OF NO MORE THAN TWO YEARS BE  
3 DISSEMINATED ONLY TO A CRIMINAL JUSTICE AGENCY OR A  
4 GOVERNMENT AGENCY AS PROVIDED IN SECTION 9121(B.1) AND (B.2)  
5 (RELATING TO GENERAL REGULATIONS).

6 (2) EXCEPT WHEN REQUESTED OR REQUIRED BY A CRIMINAL  
7 JUSTICE AGENCY, OR BY AND FOR THE OFFICIAL USE OF A  
8 GOVERNMENT AGENCY DESCRIBED IN SECTION 9121(B.1) OR 9124(A)  
9 (RELATING TO USE OF RECORDS BY LICENSING AGENCIES), NO  
10 INDIVIDUAL SHALL BE REQUIRED NOR REQUESTED TO DISCLOSE  
11 INFORMATION ABOUT THE PERSON'S CRIMINAL HISTORY RECORDS THAT  
12 ARE THE SUBJECT OF A COURT ORDER FOR LIMITED ACCESS GRANTED  
13 UNDER THIS SECTION.

14 (B) EXCEPTIONS.--AN ORDER FOR LIMITED ACCESS UNDER THIS  
15 SECTION SHALL NOT BE GRANTED TO AN INDIVIDUAL WHO HAS BEEN  
16 CONVICTED AT ANY TIME OF ANY OF THE FOLLOWING:

17 (1) AN OFFENSE PUNISHABLE BY IMPRISONMENT OF MORE THAN  
18 TWO YEARS.

19 (2) FOUR OR MORE OFFENSES PUNISHABLE BY IMPRISONMENT OF  
20 ONE OR MORE YEARS.

21 (3) A VIOLATION OF SECTION 2701 (RELATING TO SIMPLE  
22 ASSAULT), EXCEPT WHEN THE OFFENSE IS GRADED AS A MISDEMEANOR  
23 OF THE THIRD DEGREE.

24 (4) A VIOLATION OF SECTION 3129 (RELATING TO SEXUAL  
25 INTERCOURSE WITH ANIMAL).

26 (5) A VIOLATION OF SECTION 4912 (RELATING TO  
27 IMPERSONATING A PUBLIC SERVANT).

28 (6) A VIOLATION OF SECTION 4952 (RELATING TO  
29 INTIMIDATION OF WITNESSES OR VICTIMS).

30 (7) A VIOLATION OF SECTION 4953 (RELATING TO RETALIATION

1 AGAINST WITNESS, VICTIM OR PARTY).

2 (8) A VIOLATION OF SECTION 4958 (RELATING TO  
3 INTIMIDATION, RETALIATION OR OBSTRUCTION IN CHILD ABUSE  
4 CASES).

5 (9) AN OFFENSE WHICH REQUIRES REGISTRATION UNDER 42  
6 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL  
7 OFFENDERS).

8 (C) NOTICE TO DISTRICT ATTORNEY.--THE COURT SHALL PROVIDE  
9 NOTICE OF THE FILING OF A PETITION UNDER SUBSECTION (A) TO THE  
10 DISTRICT ATTORNEY WITHIN 10 DAYS. WITHIN 30 DAYS OF RECEIPT OF  
11 NOTICE, THE DISTRICT ATTORNEY MAY FILE OBJECTIONS TO THE  
12 PETITION. IF NO OBJECTION IS TIMELY FILED, THE COURT MAY GRANT  
13 THE PETITION WITHOUT FURTHER HEARING IF THE REQUIREMENTS OF THIS  
14 SECTION HAVE BEEN MET.

15 (D) NOTICE TO CENTRAL REPOSITORY.--NOTICE OF AN ORDER FOR  
16 LIMITED ACCESS SHALL PROMPTLY BE SUBMITTED TO THE CENTRAL  
17 REPOSITORY WHICH SHALL NOTIFY ALL CRIMINAL JUSTICE AGENCIES  
18 WHICH HAVE RECEIVED CRIMINAL HISTORY RECORD INFORMATION RELATED  
19 TO SUCH CONVICTION THAT ACCESS TO SUCH CRIMINAL HISTORY RECORD  
20 HAS BEEN LIMITED BY ORDER OF THE COURT.

21 SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
22 § 1725.7. PETITION FOR EXPUNGEMENT OR ORDER FOR LIMITED ACCESS  
23 FEE.

24 (A) GENERAL RULE.--IN ADDITION TO ANY OTHER FEE AUTHORIZED  
25 BY LAW, A PERSON WHO FILES A PETITION FOR EXPUNGEMENT UNDER 18  
26 PA.C.S. § 9122 (RELATING TO EXPUNGEMENT) OR A PETITION FOR AN  
27 ORDER FOR LIMITED ACCESS UNDER 18 PA.C.S. § 9122.1 (RELATING TO  
28 ORDER FOR LIMITED ACCESS) SHALL PAY A FEE OF \$100 TO THE CLERK  
29 OF COURTS AT THE TIME OF FILING.

30 (B) DISTRIBUTION.--THE CLERK OF COURTS SHALL ENSURE THAT THE

1 FEE IS DISTRIBUTED AS FOLLOWS:

2 (1) ONE-THIRD TO THE ADMINISTRATIVE OFFICE OF  
3 PENNSYLVANIA COURTS.

4 (2) ONE-THIRD TO THE PENNSYLVANIA STATE POLICE.

5 (3) ONE-THIRD TO THE DISTRICT ATTORNEY OF THE COUNTY.

6 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.