
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2463 Session of
2018

INTRODUCED BY NELSON, JUNE 5, 2018

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 5, 2018

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 and for
5 Pennsylvania State Police.

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

8 Section 1. Sections 6105(c)(4), (f)(1) and (j) and 6111.1(f)
9 (3) of Title 18 of the Pennsylvania Consolidated Statutes are
10 amended to read:

11 § 6105. Persons not to possess, use, manufacture, control, sell
12 or transfer firearms.

13 * * *

14 (c) Other persons.--In addition to any person who has been
15 convicted of any offense listed under subsection (b), the
16 following persons shall be subject to the prohibition of
17 subsection (a):

18 * * *

19 (4) A person who has been adjudicated as an incompetent
20 or who has been involuntarily committed to a mental

1 institution for inpatient care and treatment under section
2 [302,] 303 or 304 of the provisions of the act of July 9,
3 1976 (P.L.817, No.143), known as the Mental Health Procedures
4 Act. [This paragraph shall not apply to any proceeding under
5 section 302 of the Mental Health Procedures Act unless the
6 examining physician has issued a certification that inpatient
7 care was necessary or that the person was committable.]

8 * * *

9 (f) Other exemptions and proceedings.--

10 [(1) Upon application to the court of common pleas under
11 this subsection by an applicant subject to the prohibitions
12 under subsection (c) (4), the court may grant such relief as
13 it deems appropriate if the court determines that the
14 applicant may possess a firearm without risk to the applicant
15 or any other person.]

16 (1) (i) Any person subject to the prohibitions under
17 subsection (c) (4), or who is prohibited from possessing
18 firearms under 18 U.S.C. § 922(d) (4) or (g) (4) (relating
19 to unlawful acts) as a result of actions taken under the
20 laws of this Commonwealth, may apply to the court of
21 common pleas for relief from any or all of the
22 prohibitions. The court shall grant relief if the court
23 determines by a preponderance of the evidence and makes
24 findings that the applicant does not present a risk of
25 harm to the applicant or any other person, will not be
26 likely to act in a manner dangerous to public safety and
27 that the granting of the relief would not be contrary to
28 the public interest. The court order, whether denying or
29 granting relief, shall also be supported by findings of
30 fact and conclusions of law. In making its decision, the

1 court shall receive and consider evidence relating to the
2 following:

3 (A) The circumstances of and the time elapsed
4 since the original commitment, appointment of a
5 guardian or other finding of incompetency or
6 incapacity.

7 (B) The applicant's mental health records,
8 including the original commitment application and any
9 related order, or other finding of incompetency or
10 incapacity and medical records relating to any
11 hospitalization resulting from the involuntary
12 commitment, if any.

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

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

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

17 (ii) The application shall be made to the court of
18 common pleas in either the applicant's county of
19 residence or the county of adjudication or commitment.

20 The applicant shall bear the burden of proof. The
21 applicant may commence a proceeding at any time, but in
22 no event may an application be made until two years have
23 elapsed from the date of the imposition of the
24 disability. The application shall be served upon the
25 following parties, who shall have standing to appear and
26 contest the application, but are not required to appear
27 or contest the application:

28 (A) The district attorney of the county where
29 the application is filed.

30 (B) The Firearms Division of the Pennsylvania

1 State Police.

2 (C) The county mental health agency where the
3 commitment or adjudication occurred.

4 (iii) Any party shall have the right of appeal to
5 Superior Court. Appeal shall be subject to a de novo
6 standard of review. A person may only file a subsequent
7 application under this paragraph after one year has
8 elapsed from the conclusion of the prior proceeding,
9 including any appeal, which resulted in a denial under
10 this paragraph.

11 (iv) Notwithstanding any law to the contrary, the
12 judges of the courts of common pleas, mental health
13 review officers and county mental health and mental
14 retardation administrators shall disclose to the district
15 attorney of the county where the application is filed and
16 to the Pennsylvania State Police any records in their
17 possession which are to be received by a court consistent
18 with subparagraph (i) when such request is made in
19 conjunction with a proceeding under this paragraph. The
20 district attorney of the county where the application is
21 filed and the Pennsylvania State Police may, in their
22 discretion, disclose the information to any person or
23 entity whenever necessary in accordance with this
24 paragraph.

25 * * *

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

27 (1) If [the court grants relief from the disabilities
28 imposed under this section] a court grants any relief
29 authorized by this section, a copy of the order shall be sent
30 by the prothonotary or Clerk of Court within ten days of the

1 entry of the order to the Pennsylvania State Police and shall
2 include the name, date of birth and Social Security number of
3 the individual.

4 (2) In all cases of relief authorized under this
5 section, the Pennsylvania State Police shall, upon the
6 expiration of any applicable appeal period, take all steps
7 necessary to comply with the order, including, when required,
8 notifying the Attorney General of the United States, the
9 Federal Bureau of Investigation and the National Instant
10 Check System, regarding the order.

11 § 6111.1. Pennsylvania State Police.

12 * * *

13 (f) Notification of mental health adjudication, treatment,
14 commitment, drug use or addiction.--

15 * * *

16 (3) Notwithstanding any law to the contrary, the
17 Pennsylvania State Police [may] shall, within 72 hours of
18 receipt, disclose, electronically or otherwise, to the United
19 States Attorney General or a designee, any record relevant to
20 a determination of whether a person is disqualified from
21 possessing or receiving a firearm under 18 U.S.C. § 922 (g)
22 (3) or (4) or an applicable state statute.

23 * * *

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