

No. 2004-173

AN ACT

SB 72

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for aggravated assault and for expiration of chapter relating to wiretapping and electronic surveillance; further defining "criminal justice agency"; and further providing for expungement.

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

Section 1. Sections 2702(c) and 5781 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 2702. Aggravated assault.

* * *

(c) Officers, employees, etc., enumerated.—The officers, agents, employees and other persons referred to in subsection (a) shall be as follows:

- (1) Police officer.
- (2) Firefighter.
- (3) County adult probation or parole officer.
- (4) County juvenile probation or parole officer.
- (5) An agent of the Pennsylvania Board of Probation and Parole.
- (6) Sheriff.
- (7) Deputy sheriff.
- (8) Liquor control enforcement agent.
- (9) Officer or employee of a correctional institution, county jail or prison, juvenile detention center or any other facility to which the person has been ordered by the court pursuant to a petition alleging delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
- (10) Judge of any court in the unified judicial system.
- (11) The Attorney General.
- (12) A deputy attorney general.
- (13) A district attorney.
- (14) An assistant district attorney.
- (15) A public defender.
- (16) An assistant public defender.
- (17) A Federal law enforcement official.
- (18) A State law enforcement official.
- (19) A local law enforcement official.
- (20) Any person employed to assist or who assists any Federal, State or local law enforcement official.
- (21) Emergency medical services personnel.
- (22) Parking enforcement officer.
- (23) A district justice.
- (24) A constable.

(25) A deputy constable.

(26) A psychiatric aide.

(27) A teaching staff member, a school board member or other employee, including a student employee, of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

(28) Governor.

(29) Lieutenant Governor.

(30) Auditor General.

(31) State Treasurer.

(32) Member of the General Assembly.

(33) An employee of the Department of Environmental Protection.

(34) An individual engaged in the private detective business as defined in section 2(a) and (b) of the act of August 21, 1953 (P.L.1273, No.361), known as The Private Detective Act of 1953.

(35) An employee or agent of a county children and youth social service agency *or of the legal representative of such agency.*

(36) A public utility employee or an employee of an electric cooperative.

* * *

§ 5781. Expiration of chapter.

This chapter expires December 31, [2004] 2008, unless extended by statute.

Section 2. The definition of “criminal justice agency” in section 9102 of Title 18 is amended to read:

§ 9102. Definitions.

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

* * *

“Criminal justice agency.” Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards, *the facilities and administrative offices of the Department of Public Welfare that provide care, guidance and control to adjudicated delinquents*, and such agencies or subunits thereof, as are declared by the Attorney General to be criminal

justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions or both.

* * *

Section 3. Section 9122(a) of Title 18 is amended to read:

§ 9122. Expungement.

(a) Specific proceedings.—Criminal history record information shall be expunged in a specific criminal proceeding when:

(1) no disposition has been received or, upon request for criminal history record information, no disposition has been recorded in the repository within 18 months after the date of arrest and the court of proper jurisdiction certifies to the director of the repository that no disposition is available and no action is pending. Expungement shall not occur until the certification from the court is received and the director of the repository authorizes such expungement; **[or]**

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

or

(3) a person 21 years of age or older who has been convicted of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) petitions the court of common pleas in the county where the conviction occurred seeking expungement and the person has satisfied all terms and conditions of the sentence imposed for the violation, including any suspension of operating privileges imposed pursuant to section 6310.4 (relating to restriction of operating privileges). Upon review of the petition, the court shall order the expungement of all criminal history record information and all administrative records of the Department of Transportation relating to said conviction.

* * *

Section 4. This act shall take effect as follows:

(1) This section shall take effect immediately.

(2) The amendment of 18 Pa.C.S. § 5781 shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 29th day of November, A.D. 2004.

EDWARD G. RENDELL