

No. 2016-5

AN ACT

SB 166

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for general regulations and providing for order for limited access; and, in governance of the system, providing for petition for expungement or order for limited access fee.

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

Section 1. Section 9121(b)(2) of Title 18 of the Pennsylvania Consolidated Statutes is amended, subsection (b) is amended by adding a paragraph and the section is amended by adding a subsection to read:
 § 9121. General regulations.

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(b) Dissemination to noncriminal justice agencies and individuals.—Criminal history record information shall be disseminated by a State or local police department to any individual or noncriminal justice agency only upon request. Except as provided in subsection (b.1):

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(2) Before a State or local police department disseminates criminal history record information to an individual or noncriminal justice agency, it shall extract from the record **[all] the following**:

(i) All notations of arrests, indictments or other information relating to the initiation of criminal proceedings where:

[(i) three years have elapsed from the date of arrest;

(ii) no conviction has occurred; and

(iii) no proceedings are pending seeking a conviction.]

(A) three years have elapsed from the date of arrest;

(B) no conviction has occurred; and

(C) no proceedings are pending seeking a conviction.

(ii) All information relating to a conviction and the arrest, indictment or other information leading thereto, which is the subject of a court order for limited access as provided in section 9122.1 (relating to order for limited access).

(3) A court or the Administrative Office of Pennsylvania Courts may not disseminate to an individual, a noncriminal justice agency or an Internet website any information relating to a conviction, arrest, indictment or other information leading to a conviction, arrest, indictment or other information, which is the subject of a court order for limited access as provided in section 9122.1.

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(b.2) Additional exceptions.—Subsection (b)(2)(ii) and (3) shall not apply if the request is made by a State agency to be used only as authorized under section 9124 (relating to use of records by licensing agencies).

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Section 2. Title 18 is amended by adding a section to read:

§ 9122.1. Order for limited access.

(a) General rule.—The following shall apply:

(1) Notwithstanding any other provision of this chapter, upon petition of a person who has been free of arrest or prosecution following conviction or final release from confinement or supervision, whichever is later, for a period of 10 years, the court of common pleas in the jurisdiction where the conviction occurred may enter an order that criminal history record information maintained by any criminal justice agency pertaining to a conviction for a misdemeanor of the second degree, a misdemeanor of the third degree or an ungraded offense which carries a maximum penalty of no more than two years be disseminated only to a criminal justice agency or a government agency as provided in section 9121(b.1) and (b.2) (relating to general regulations).

(2) Except when requested or required by a criminal justice agency, or by and for the official use of a government agency described in section 9121(b.1) or 9124(a) (relating to use of records by licensing agencies), no individual shall be required nor requested to disclose information about the person's criminal history records that are the subject of a court order for limited access granted under this section.

(b) Exceptions.—An order for limited access under this section shall not be granted to an individual who has been convicted at any time of any of the following:

(1) An offense punishable by imprisonment of more than two years.

(2) Four or more offenses punishable by imprisonment of one or more years.

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

(4) A violation of section 3129 (relating to sexual intercourse with animal).

(5) A violation of section 4912 (relating to impersonating a public servant).

(6) A violation of section 4952 (relating to intimidation of witnesses or victims).

(7) A violation of section 4953 (relating to retaliation against witness, victim or party).

(8) A violation of section 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

(9) An offense which requires registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(c) Notice to district attorney.—The court shall provide notice of the filing of a petition under subsection (a) to the district attorney within 10 days. Within 30 days of receipt of notice, the district attorney may file objections to the petition. If no objection is timely filed, the court may grant the petition without further hearing if the requirements of this section have been met.

(d) Notice to central repository.—Notice of an order for limited access shall promptly be submitted to the central repository which shall notify all criminal justice agencies which have received criminal history record information related to such conviction that access to such criminal history record has been limited by order of the court.

Section 3. Title 42 is amended by adding a section to read:

§ 1725.7. Petition for expungement or order for limited access fee.

(a) General rule.—In addition to any other fee authorized by law, a person who files a petition for expungement under 18 Pa.C.S. § 9122 (relating to expungement) or a petition for an order for limited access under 18 Pa.C.S. § 9122.1 (relating to order for limited access) shall pay a fee of \$132 to the clerk of courts at the time of filing.

(b) Distribution.—The clerk of courts shall ensure that the fee is distributed as follows:

(1) One-quarter to the Administrative Office of Pennsylvania Courts.

(2) One-quarter to the Pennsylvania State Police.

(3) One-quarter to the district attorney of the county.

(4) One-quarter to the clerk of courts.

Section 4. This act shall take effect in 270 days.

APPROVED—The 16th day of February, A.D. 2016

TOM WOLF