
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 866 Session of
2019

INTRODUCED BY ROEBUCK, RABB, KINSEY, MURT, SCHLOSSBERG,
ISAACSON, SOLOMON, YOUNGBLOOD, HILL-EVANS, READSHAW, DeLUCA,
FREEMAN, McNEILL, NEILSON, McCLINTON, SIMS, BULLOCK,
SCHWEYER, WARNER, DAVIDSON AND GILLEN, MARCH 18, 2019

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 18, 2019

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
18 agency, or subunit thereof, created by statute or by the State

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

16 * * *

17 "Exoneration." Whenever:

18 (1) a pardon is granted under section 9 of Article IV of
19 the Constitution of Pennsylvania; or

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21 a plea of guilty, no contest or nolo contendere is withdrawn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

30 "Expunge." Any of the following:

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

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

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

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

14 (i) Fingerprints.

15 (ii) Photographs.

16 (iii) Photographic plates.

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

20 * * *

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

23 § 9122. Expungement.

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

28 (1) no disposition has been received or, upon request
29 for criminal history record information, no disposition has
30 been recorded in the repository within 18 months after the

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

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

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

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

30 (b) Generally.--[Criminal] Notwithstanding any provision of

1 law to the contrary, criminal history record information may be
2 expunged when:

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

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

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

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

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

18 * * *

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

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

24 (i) Reversal or vacation of a conviction.

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

27 (iii) Dismissal of information or indictment.

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

30 (2) The county of the court having jurisdiction over the

1 matter shall bear the costs for all fees related to a
2 petitioner's expungement proceeding under this subsection.

3 * * *

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