
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 578 Session of
2021

INTRODUCED BY SHUSTERMAN, GAINNEY, BURGOS, SANCHEZ, FRANKEL,
SCHWEYER, GALLOWAY, HOWARD, ISAACSON, SCHLOSSBERG, ROZZI,
HILL-EVANS, NEILSON, WARREN, CIRESI, LEE, FREEMAN, KRAJEWSKI,
MADDEN, KINKEAD, PARKER AND GUENST, FEBRUARY 22, 2021

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 22, 2021

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21 a plea of guilty, no contest or nolo contendere is withdrawn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) introductory paragraph and (4)
22 and (b) of Title 18, amended October 29, 2020 (P.L.718, No.83),
23 are amended and the section is amended by adding a subsection to
24 read:

25 § 9122. Expungement.

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

30 * * *

1 (4) a judicial determination has been made that a person
2 is acquitted or exonerated of an offense, if the person has
3 been acquitted or exonerated of all charges based on the same
4 conduct or arising from the same criminal episode following a
5 trial and a verdict of not guilty. This paragraph shall not
6 apply to a partial acquittal or exoneration. A judicial
7 determination under this paragraph may only be made after the
8 following:

9 (i) The court provides notice in writing to the
10 person and to the Commonwealth that the person's criminal
11 history record information will be automatically expunged
12 pursuant to this section.

13 (ii) Upon receipt of the notice under subparagraph
14 (i), the Commonwealth shall have 60 days to object to the
15 automatic expungement on the basis that the person has
16 not been acquitted or exonerated of all charges relating
17 to the same conduct, arising from the same criminal
18 episode or otherwise relating to a partial acquittal or
19 exoneration.

20 (iii) Upon the filing of an objection, the court
21 shall conduct a hearing to determine whether expungement
22 of the acquittal or exoneration relates to the same
23 conduct, arises from the same criminal episode or
24 otherwise relates to a partial acquittal or exoneration.
25 The hearing may be waived by agreement of both parties
26 and the court.

27 (iv) Following the hearing, or if no objection has
28 been filed or the hearing has been waived, the court
29 shall order that the person's criminal history record
30 information be automatically expunged unless the court

1 determines the expungement relates to the same conduct,
2 arises from the same criminal episode or otherwise
3 relates to a partial acquittal or exoneration.
4 Expungement shall occur no later than 12 months from the
5 date of acquittal or exoneration.

6 (b) Generally.--[Criminal] Notwithstanding any provision of
7 law to the contrary, criminal history record information may be
8 expunged when:

9 (1) An individual who is the subject of the information
10 reaches 70 years of age and has been free of arrest or
11 prosecution for ten years following final release from
12 confinement or supervision.

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

15 (3) (i) An individual who is the subject of the
16 information petitions the court for the expungement of a
17 summary offense and has been free of arrest or
18 prosecution for five years following the conviction for
19 that offense.

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

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

24 * * *

25 (b.2) Expungement fee waiver.--The following shall apply:

26 (1) The following shall be grounds for waiver of costs
27 to petition the court for an expungement when occurring as a
28 result of the presentation of deoxyribonucleic acid (DNA)
29 evidence:

30 (i) Reversal or vacation of a conviction.

1 (ii) Withdrawal of a guilty, no contest or nolo
2 contendere plea.

3 (iii) Dismissal of information or indictment.

4 (iv) Retrial where the defendant is found not
5 guilty.

6 (2) The county of the court having jurisdiction over the
7 matter shall bear the costs for all fees related to a
8 petitioner's expungement proceeding under this subsection.

9 * * *

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