



SENATE OF PENNSYLVANIA BILL SUMMARY

Senate Bill 529 Printer's No. 854

Prime Sponsor: Senator Wagner
Committee: Judiciary

SYNOPSIS:

Amends Title 18 (Crimes and Offenses) to provide for sealing of criminal records.

SUMMARY:

Declaration of Policy

Declares that individuals with charges not leading to convictions may be harmed by the maintenance of the criminal record and have a constitutional presumption of innocence.

Declares that individuals who have served their court-imposed sentences and remained crime-free long enough to demonstrate their rehabilitation should have access restored to employment, housing, education, and other necessities of life.

Declares that a clean slate remedy will provide a strong incentive for avoidance of recidivism and save the Commonwealth money that must be spent in the administration of justice when offenders recidivate.

General Rule

Provides that only criminal justice agencies will have access to misdemeanor criminal records once ten years have passed since the offender's most recent misdemeanor or felony conviction and the offender has satisfied all court-ordered financial obligations.

Exempts the following classes of offenses from this relief:

- Offenses in Title 18, Part II, Article B involving danger to the person (*e.g.*, homicide, assault, kidnapping, human trafficking)
- Offenses in Title 18, Part II, Article D involving offenses against the family (*e.g.*, bigamy, incest, concealing the death of a child, endangering the welfare of a child)
- Offenses in Title 18, Chapter 61 relating to firearms
- Sexual offenses that require registration under Title 42, Chapter 97
- The following offenses: indecent exposure, failure to comply with registration requirements, weapons or implements of escape, cruelty to animals, corruption of minors

- Misdemeanor offenses when there is a felony conviction in the same case

Procedure

Requires criminal justice agencies to restrict access to eligible criminal records within 30 days of the eligibility without the requirement of a petition or a court order

Requires the Administrative Office of Pennsylvania Courts to transmit monthly to the Pennsylvania State Police central repository any case eligible for the relief in this legislation

Requires the Pennsylvania State Police to notify the Administrative Office of Pennsylvania Courts within 30 days whether the case is ineligible or does not match data held in the repository and requires the Administrative Office of Pennsylvania Courts to remove ineligible or non-matching cases from its list of eligible cases

Requires each court of common pleas to issue monthly an order granting limited access to any case within its judicial district for which no notification of ineligibility was received from the Pennsylvania State Police by the Administrative Office of Pennsylvania Courts

Authorizes District Attorneys or the Attorney General to petition the court to undo the limited access if the offender is subsequently convicted of a misdemeanor or felony

Effects of Limited Access

Declares that no individual for whom an order of limited access has been issued will be required to disclose information pertaining to the criminal records that have been sealed, unless federal law requires consideration of an applicant's criminal history for purposes of employment

Provides that criminal records subject to limited access remain available pursuant to a court order in proceedings relating to child custody or protection from abuse

Prohibits state agencies from considering criminal records subject to limited access when considering an application for a license, certificate, registration or permit

Employer Immunity

Provides immunity from liability in a civil action for any employer who employs or engages an individual whose criminal history has been expunged or subjected to limited access when the civil action is based on conduct by the employee that is related to the offense that was subjected to limited access

EFFECTIVE DATE:

Effective in 90 days for purposes of filing a petition for limited access to criminal records.

Effective in 270 days for all other aspects of this bill.

BILL HISTORY:

None.

COMMENT:

Act 5 of 2016 established the order of limited access for misdemeanors of the second and third degrees.

Prepared by: Cawley 6/2/2017