

## **COMMITTEE BILL ANALYSIS**

**Bill:** Senate Bill 328

**Printer's No.:** 251

**Sponsor:** Senator Kitchen

**Prepared by:** Gregg Warner

**Synopsis:** This bill amends the provision of the Criminal History Record Information Act relating to expungement, section 9122 of the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, to permit the expungement of a nonviolent offense and the individual has been free from arrest or prosecution for at least five years.

**Summary:** Under this legislation an individual who is the subject of the information may petition the court for expungement of a nonviolent offense if that individual has been free from arrest or prosecution for at least five years following conviction for that offense.

### **Nonviolent offense**

A nonviolent offense is a criminal offense graded as a felony or misdemeanor that is not a crime of violence listed in 42 Pa.C.S. §9714(g) or a personal injury crime as defined under the Crime Victims Act, 1998 Act 111. The term shall not include a criminal offense where the victim was a minor or any offense punishable under Chapter 63 of the Crimes Code, relating to minors.

### **Effective date**

This act takes effect in 60 days.

**Background:** The sponsor calls this bill her “second chance legislation.” According to the sponsor “The intent of this legislation is to enable those that have fulfilled their obligations for the commission of a nonviolent offense to gain post-incarceration employment. This important legislation will allow these individuals to make a positive contribution to society thereby furthering the goals of the reentry movement which is significant to reducing recidivism in Pennsylvania.”

### **Not automatic**

Expungement is not automatic; it would still be granted solely at the discretion of the court.

**Current law**

Under 18 Pa.C.S. §9122, a person's criminal history record information may be expunged, at the court's discretion, when the person reaches age 70 and the person has been arrest and prosecution-free for ten years following his release from confinement or the end of his probation or parole; the person has been dead for three years; or when an individual petitions the court for the expungement of a summary offense and has been free of arrest or prosecution for five years following the conviction for that offense.

**Referenced statutes**

42 Pa.C.S. §9714 provides sentences for second and subsequent offenses. It is known as Pennsylvania's "two or three strikes law." Subsection (g) defines "crime of violence" by listing what would generally be considered the most serious criminal offenses. If a person commits a subsequent crime of violence mandatory prison sentences may apply.

The Crime Victims Act, 1998 Act 111, governs the rights of crime victims. Section 103 defines "personal injury crime" by listing numerous offenses which generally involve bodily injury. If a person is the victim of a personal injury crime certain rights under the act apply to the person such as notice of proceedings involving the case.

Chapter 63 of the Crimes Code includes criminal offenses in which minors are the victims including, as examples, offenses such as the corruption of minors, the sale or lease of weapons and explosives to minors, violations relating to minors and the possession of alcohol, the sexual abuse of children, the solicitation of minors to traffic drugs, and the sexual exploitation of children.