

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1220

Printer's No.: 1496

Sponsor: Senator Solobay

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 conviction data for certain misdemeanors of the third and second degrees.

Summary: Under this legislation, a person may ask the court to expunge his record of conviction for a misdemeanor of the third degree if the person has been free of arrest or prosecution for seven years or a misdemeanor of the second degree if the person has been free of arrest or prosecution for ten years following final release from confinement or supervision.

Even though the offense may be graded as a third or second degree misdemeanor, the legislation does not allow expungement for a person who has been convicted of an offense punishable by imprisonment for more than two years; four or more offenses punishable by imprisonment for one or more years; simple assault (18 Pa.C.S. §2701); an offense classified as a misdemeanor of the second degree committed when the individual was at least 25 years of age; indecent assault (18 Pa.C.S. §3126); sexual intercourse with an animal (18 Pa.C.S. §3129); cruelty to animals (18 Pa.C.S. §5511); or a violation of the Uniform Firearms Act (18 Pa.C.S. Ch. 61).

Effective date

This act takes effect in 60 days.

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

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.

Legislative history

In 2007 the Senate Judiciary Committee held a public hearing to receive testimony relating to the expungement of criminal records (Senate Bill 232) and the use of criminal records for employment (Senate Bill 1060 of the 2005-2006 session). Senate Bill 232, which expanded the grounds for expungement to summary offenses and certain misdemeanors, was amended by the Senate to apply to summary offenses only. The House of Representatives passed House Bill 1543 expanding the grounds for expungement to summary offenses and certain misdemeanors. Given the amendment to Senate Bill 232, the Senate Judiciary Committee amended House Bill 1543 to apply to summary offenses only. House Bill 1543 became 2008 Act 134. In addition to allowing expungement for summary offenses, the legislation made clear that the criminal record information could be maintained for investigative purposes and determining the grading of subsequent offenses.

Last session this legislation was introduced as House Bill 264. The House of Representatives passed House Bill 264 by a vote of 104 to 91. The Senate Judiciary Committee reported House Bill 264 from committee but the Senate re-referred the bill to the Senate Appropriations Committee where it remained for the rest of the session. House Bill 264 was limited to third degree misdemeanors and included provisions relating to the expungement of juvenile records.