
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1052 Session of
2013

INTRODUCED BY SMITH, TEPLITZ, WASHINGTON, FONTANA, COSTA,
HUGHES, SOLOBAY, TARTAGLIONE, BOSCOLA, LEACH, STACK AND
WILLIAMS, JUNE 27, 2013

REFERRED TO JUDICIARY, JUNE 27, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in firearms and other dangerous
3 articles, further providing for persons not to possess, use,
4 manufacture, control, sell or transfer firearms and for
5 Pennsylvania State Police; and requiring mental health data
6 to be transmitted.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Sections 6105(f)(1) and (j) and 6111.1(f)(3) of
10 Title 18 of the Pennsylvania Consolidated Statutes are amended
11 to read:

12 § 6105. Persons not to possess, use, manufacture, control, sell
13 or transfer firearms.

14 * * *

15 (f) Other exemptions and proceedings.--

16 [(1) Upon application to the court of common pleas under
17 this subsection by an applicant subject to the prohibitions
18 under subsection (c)(4), the court may grant such relief as
19 it deems appropriate if the court determines that the

1 applicant may possess a firearm without risk to the applicant
2 or any other person.]

3 (1) (i) Any person subject to the prohibitions under
4 subsection (c) (4), or who is prohibited from possessing
5 firearms under 18 U.S.C. § 922(d) (4) or (g) (4) (relating
6 to unlawful acts) as a result of actions taken under the
7 laws of this Commonwealth, may apply to the court of
8 common pleas for relief. The court shall grant relief if
9 the court determines by clear and convincing evidence and
10 makes findings that the applicant does not present a risk
11 of harm to the applicant or any other person, will not be
12 likely to act in a manner dangerous to public safety and
13 that the granting of the relief would not be contrary to
14 the public interest. The court order, whether denying or
15 granting relief, shall also be supported by findings of
16 fact and conclusions of law. In making its decision, the
17 court shall receive and consider evidence relating to the
18 following:

19 (A) The circumstances of the original
20 commitment, appointment of a guardian or other
21 finding of incompetency or incapacity.

22 (B) The applicant's mental health records,
23 including the original commitment application and any
24 related order, or other finding of incompetency or
25 incapacity and medical records relating to any
26 hospitalization resulting from the involuntary
27 commitment, if any.

28 (C) The applicant's criminal history record.

29 (D) The applicant's character and reputation.

30 (E) Changes in the applicant's condition or

1 circumstances relevant to the relief sought.

2 (ii) The application shall be made to the court of
3 common pleas in either the applicant's county of
4 residence or the county of adjudication or commitment.
5 The applicant shall bear the burden of proof. No
6 application may be made until two years have elapsed from
7 date of the imposition of the disability. The application
8 shall be served upon the following parties, who shall
9 have standing to appear and contest the application:

10 (A) The district attorney of the county where
11 the application is filed.

12 (B) The Firearms Division of the Pennsylvania
13 State Police.

14 (C) The county mental health agency where the
15 commitment or adjudication occurred.

16 (iii) Any party shall have the right of appeal to
17 Superior Court. A person may only file a subsequent
18 application under this paragraph after three years have
19 elapsed from the conclusion of the prior proceeding,
20 including any appeal, which resulted in a denial under
21 this paragraph.

22 (iv) Notwithstanding any law to the contrary, the
23 judges of the courts of common pleas, mental health
24 review officers and county mental health and mental
25 retardation administrators shall disclose to the district
26 attorney of the county where the application is filed and
27 to the Pennsylvania State Police any records in their
28 possession which are to be received by a court consistent
29 with subparagraph (i) when such request is made in
30 conjunction with a proceeding under this paragraph. The

1 district attorney of the county where the application is
2 filed and the Pennsylvania State Police may, in their
3 discretion, disclose the information to any person or
4 entity whenever necessary in accordance with this
5 paragraph.

6 * * *

7 (j) Copy of order to State Police.--

8 (1) If [the court grants relief from the disabilities
9 imposed under this section] a court grants any relief
10 authorized by this section, a copy of the order shall be sent
11 by the prothonotary or Clerk of Court within ten days of the
12 entry of the order to the Pennsylvania State Police and shall
13 include the name, date of birth and Social Security number of
14 the individual.

15 (2) In all cases of relief authorized under this
16 section, the Pennsylvania State Police shall, upon the
17 expiration of any applicable appeal period, take all steps
18 necessary to comply with the order, including, when required,
19 notifying the Federal Bureau of Investigation and the
20 National Instant Check System, regarding the order.

21 § 6111.1. Pennsylvania State Police.

22 * * *

23 (f) Notification of mental health adjudication, treatment,
24 commitment, drug use or addiction.--

25 * * *

26 (3) Notwithstanding any law to the contrary, the
27 Pennsylvania State Police [may] shall, within 48 hours of
28 receipt, disclose, electronically or otherwise, to the United
29 States Attorney General or a designee, any record relevant to
30 a determination of whether a person is disqualified from

1 possessing or receiving a firearm under 18 U.S.C. § 922 (g)
2 (3) or (4) or an applicable state statute.

3 * * *

4 Section 2. Within 90 days of the effective date of this
5 section, the Pennsylvania State Police shall transmit to the
6 United States Attorney General all mental health data which
7 could have been transmitted to the United States Attorney
8 General under 18 Pa.C.S. § 6111.1(f)(3) prior to the effective
9 date of this section.

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