

**CRIMES CODE (18 PA.C.S.) - CRIME VICTIM RIGHT OF ACCESS****Act of Nov. 3, 2022, P.L. 1979, No. 134****Cl. 18**Session of 2022  
No. 2022-134

HB 2525

## AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information, providing for crime victim right of access.

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

Section 1. Chapter 91 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

**SUBCHAPTER F.1  
CRIME VICTIM RIGHT OF ACCESS**

**Sec.****9158. Definitions.****9158.1. Right to access.****9158.2. Access.****9158.3. Denial.****9158.4. Judicial review.****9158.5. Protection of information.****9158.6. Current dissemination not limited.****9158.7. Rules and regulations.****§ 9158. Definitions.**

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child abuse." As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

"Crime victim." As defined as "direct victim" in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Domestic violence." An offense under section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2709.1 (relating to stalking) or 2718 (relating to strangulation) perpetrated against a family or household member, as defined in 23 Pa.C.S. § 6102 (relating to definitions).

"Records information officer." The head of the criminal justice agency or a designee.

"Request for dissemination." A request under section 9158.2 (relating to access).

"Requesting party." A crime victim or a defendant in a civil action in which a crime victim is a party.

"Sexual abuse." Conduct which occurs in this Commonwealth and would constitute an offense under any of the following provisions:

Section 3011(a)(1) or (2) or (b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).  
Section 3126 (relating to indecent assault).  
Section 3127 (relating to indecent exposure).  
Section 4302 (relating to incest).  
Section 6312 (relating to sexual abuse of children).  
Section 6320 (relating to sexual exploitation of children).

"Third-party victim." A crime victim other than the crime victim making a request for dissemination and other than the crime victim who is the plaintiff in the underlying civil action.

§ 9158.1. Right to access.

A requesting party or a requesting party's legal representative may obtain criminal history investigative information under this subchapter for use in or investigation of an actual or potential civil action in this Commonwealth relating to that criminal history investigative information.

§ 9158.2. Access.

(a) General rule.--

(1) A requesting party may request the dissemination of criminal history investigative information that is directly related to a civil action pending in a court in this Commonwealth.

(2) A crime victim or the crime victim's representative may request the dissemination of criminal history investigative information that is material and necessary to the investigation or preparation of a civil action in this Commonwealth.

(b) Request.--A request for dissemination shall include an unsworn statement by the requesting party or the requesting party's legal representative, made subject to the penalties of section 4904 (relating to unsworn falsification to authorities), that the requested information is directly related to a civil action pending in a court in this Commonwealth or, if the requesting party is a crime victim or the crime victim's legal representative, material and necessary to the investigation or preparation of a civil action in this Commonwealth. A request for dissemination shall identify or describe the information sought with sufficient specificity to enable the criminal justice agency to ascertain which information is being requested.

(c) Service.--A request for dissemination shall be served on the records information officer. Service shall be effective upon receipt of the request by the records information officer or head of the criminal justice agency via personal service or certified mail with receipt.

(d) Dissemination.--Subject to section 9158.3 (relating to denial), a criminal justice agency shall disseminate criminal history investigative information in response to a request for dissemination within 60 days of receipt of the request for dissemination or by the date returnable on the request for dissemination, whichever is later. The criminal justice agency may impose reasonable fees for costs incurred to comply with the request.

(e) Receipt of information.--Dissemination of information under this section may be made to the requesting party or the requesting party's legal representative, or the attorney for the requesting party or the requesting party's legal representative, as directed by the request for information. Criminal history investigative dissemination obtained under this subchapter shall be discoverable in a civil action directly related to the crime, unless otherwise nondiscoverable or privileged from discovery.

(f) Subpoenas.--A criminal justice agency may, in its sole discretion, respond to a subpoena in a pending civil action seeking disclosure of criminal history investigative information as a request for dissemination under this subchapter. Nothing under this subchapter shall relieve a criminal justice agency of

also responding to a subpoena as otherwise required by law or court rule.

§ 9158.3. Denial.

(a) Grounds.--A criminal justice agency shall deny a request for dissemination if the criminal justice agency determines:

(1) That, absent reasonable redactions, the dissemination of the requested information:

- (i) endangers a person or public safety;
- (ii) adversely affects an investigation or ongoing prosecution; or
- (iii) relates to law enforcement's use of confidential informants or discloses investigative techniques and procedures.

(2) Either that:

(i) The criminal history investigative information is not:

(A) directly relating to a civil action pending in a court in this Commonwealth; or

(B) material and necessary to the investigation or preparation of a civil action in this Commonwealth.

(ii) Dissemination of the requested information would identify a third-party victim of child abuse, domestic violence or sexual abuse, unless the criminal justice agency determines that reasonable redaction of the information will prevent identification of the third-party victim.

(b) Service of denial.--The criminal justice agency shall serve a denial in writing to the requesting party within 60 days of receipt of the request for dissemination or by the date returnable on the request for dissemination, whichever is later, identifying the grounds for denial.

§ 9158.4. Judicial review.

(a) Petition for review.--Subject to subsection (d), a requesting party may file a petition for review appealing a denial under section 9158.3(a)(2) (relating to denial), which shall include the following:

- (1) The request for dissemination.
- (2) Proof of service of the request for dissemination.
- (3) The denial.
- (4) Other information necessary to determine whether the criminal history investigative information should be disseminated under this subchapter.

(b) Time for petition.--A petition for review shall be filed within 45 days of service of a denial of a request for dissemination of information.

(c) Location of filing.--A petition for review shall be filed before the court of common pleas in any judicial district in which the criminal justice agency that issued the denial is located. For a criminal justice agency with Statewide jurisdiction, the petition for review shall be filed in Commonwealth Court.

(d) Judicial review.--A denial under section 9158.3(a)(1) shall not be subject to judicial review.

(e) Relief.--In a proceeding under this section, a court may award declaratory and injunctive relief only. The court shall direct a criminal justice agency to produce the requested information if the requesting party proves entitlement to access under this subchapter by a preponderance of the evidence.

§ 9158.5. Protection of information.

(a) General rule.--Nothing under this subchapter shall be construed to permit the dissemination of otherwise nondiscoverable or privileged information, including:

- (1) Grand jury investigative materials.
- (2) Medical, mental health or treatment information.

(3) Materials protected by an applicable attorney-client or work product privilege.

(4) Materials protected by 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(5) Materials subject to 42 Pa.C.S. Ch. 67A (relating to recordings by law enforcement officers).

(6) Information that is otherwise prohibited or protected from disclosure or dissemination by Federal or State law.

(b) Exemption.--The following personal identification information with respect to an individual other than the requesting party shall be exempt from dissemination:

(1) A person's Social Security number.

(2) A person's driver's license number.

(3) Personal finance information.

(4) A person's home, cellular or personal telephone numbers.

(5) A person's e-mail address, employee number or other confidential personal identification number.

(c) Protection.--A criminal justice agency shall be subject to protection under 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) and 42 Pa.C.S. §§ 8541 (relating to governmental immunity generally) and 8545 (relating to official liability generally) for dissemination of criminal history investigative information under this subchapter.

(d) Use of information.--Information obtained under this subchapter shall be used only in connection with an actual or potential civil action directly relating to that criminal history investigative information.

(e) Violation.--Use of information obtained under this subchapter to harass, intimidate or threaten another shall constitute a misdemeanor of the second degree.

§ 9158.6. Current dissemination not limited.

Nothing in this chapter shall:

(1) Prohibit a police department from furnishing, upon request, a certified copy of a full report of a police investigation to an insurance company for the purpose of processing a claim for coverage under an applicable policy.

(2) Prohibit notifications authorized by the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

§ 9158.7. Rules and regulations.

(a) Attorney General.--The Attorney General, in cooperation with appropriate criminal justice agencies, shall promulgate rules and regulations as necessary to implement this subchapter and establish reasonable fees.

(b) Supreme Court.--The Supreme Court shall promulgate rules as necessary to implement this subchapter.

Section 2. This act shall take effect in 180 days.

APPROVED--The 3rd day of November, A.D. 2022.

TOM WOLF