

COURT OF COMMON PLEAS OF CLINTON COUNTY, PENNSYLVANIA

**Guidance for Filing for Limited Access to Criminal Charges Pursuant to
18 Pa.C.S.A. § 9122.1
(Order for limited access):**

Note: These instructions are to be used as guidelines only and are not a substitute for trained legal counsel. The Court and its officers assume no liability for any inaccuracy of the information provided herein and such information is to be utilized at a Petitioner's own peril.

18 Pa.C.S.A. § 9122.1 provides circumstances under which a court may grant limited access to certain criminal charges in Pennsylvania.

The Pennsylvania Rules of Criminal Procedure govern the procedure by which the Court may be Petitioned for an Order for Limited Access. This rule is the Rule 791 Packet for "limited access". If the charges sought for limited access had a maximum sentence of two years or less, were three or fewer offenses, were not a violation of section 2701 graded as a misdemeanor of the second degree, were not a violation of sections 3129, 4912, 4952, 4953, 4958, or an offense which requires registration under 42 Pa.C.S. Ch. 97 Subch. H, complete and file this Packet.

Availability of Rule 791 Orders for Limited Access:

A Rule 791 Order for Limited Access is available for any individual who has been free of arrest or prosecution following conviction, final release from confinement, or supervision, whichever was last, for a minimum of 10 years. Limited access is only available for convictions of a misdemeanor of the second degree, a misdemeanor of the third degree, or for an ungraded offense.

The conviction for which limited access is sought may not have been an offense punishable by imprisonment for more than two years. Limited access also may not be sought for four or more offenses punishable by imprisonment for one or more years, a violation of section 2701 (relating to simple assault) except if the offense is graded as a misdemeanor of the third degree, a violation of section 3129 (relating to sexual intercourse with an animal), a violation of section 4921 (relating to impersonating a public servant), a violation of section 4952 (relating to intimidation of witnesses or victims), a violation of section 4953 (relating to retaliation against a witness, victim, or party), a violation of section 4958 (relating to intimidation, retaliation, or obstruction in child abuse cases), or an offense which requires registration under 42 Pa.C.S. Ch. 97 Subch. H.

Under Rule 791, **a current copy of Petitioner/Defendant's Pennsylvania State Police criminal record must be attached** to the Petition for Limited Access. To qualify as "current," such criminal record **must have been obtained no longer than sixty (60) days prior to filing** the Petition for Limited Access with the Clerk of Courts.

The complete Rule 791 packet should contain:

- a Form Order (2 pages),
- a Consent or Objection to be completed by the District Attorney (1 page), and
- a Petition for Limited Access to be completed by Defendant/Petitioner (1 page)

In **ALL** Rule 791 cases, it is the responsibility of the Defendant/Petitioner for Limited Access to do the following:

- (1) Complete all requested information on the Rule 791 Petition for Limited Access.
- (2) Fill in the name of the Defendant/Petitioner and Criminal Docket Number in caption (top portion of first page) of the Form Order for Limited Access.
- (3) Complete all requested demographic information (numbered 1-14) on the second page of the Form Order for Limited Access.
- (4) Obtain a copy of Defendant/Petitioner's criminal record from the Pennsylvania State Police. The criminal record check must not be more than sixty (60) days old at the time the Petition for Limited Access is filed.
Information on submitting a request for PSP records can be found at the following URL:
<http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>
- (5) Fill in the name of the Defendant/Petitioner and Criminal Docket Number on the sheet containing the "District Attorney's Consent or Objection."
- (6) Transmit a copy of the completed Petition, Form Order and State Police Criminal History Check along with the Consent or Objection Form to the District Attorney for his/her consent or objection to the requested Limited Access. The District Attorney will either consent or object to the limited access and transmit the completed Form back to you.
NOTE: If the District Attorney objects to the proposed Limited Access, after the limited access packet is filed, a hearing will be scheduled at which all parties will have an opportunity to be heard.
- (7) Once every part of the packet is complete, you must make eight (8) copies of the completed packet and file the original and the eight (8) copies with the Clerk of Courts. There will be a filing fee associated with this, please remember to bring cash or check at the time of filing. You may check with the Clerk of Courts as to the current filing fee amount prior to filing the documents. The phone number for the Clerk of Courts is (570) 893-4007.
- (8) Either request one of your time-stamped copies back from the Clerk of Courts and serve that copy upon the District Attorney or include with your filing a request that the Clerk of Courts transmit the eighth copy of your packet to the District Attorney.

No later than 14 days after the limited access packet is filed with the Clerk of Courts, the Court shall grant or deny the petition or shall schedule a hearing, affording all parties an opportunity to be heard.

Pursuant to Pennsylvania Rule of Criminal Procedure 791(B)(4)(b), once an Order for Limited Access has been entered by the Court, it must be stayed for thirty (30) days, pending appeal.

If the Court grants the Order for Limited Access, after the thirty (30) day appeal period has passed, the Clerk of Courts shall serve a certified copy of the Limited Access Order on each criminal justice agency and records repository identified in the Order.

If the Court denies the Petition for Limited Access, the Court shall enter an order denying the petition and stating the reasons for the denial.



Petition for Order for Limited Access Pursuant to Pa.R.Crim.P. 791

AND NOW, the petitioner avers the following and requests that this petition for order for limited access pursuant to Pa.R.Crim.P. 791 be granted for the reasons set forth below.

PETITIONER INFORMATION							
Full Name:		DOB:		Social Security Number:			
Address:		Alias(es):					
CASE INFORMATION							
List the name and address of the Court of Common Pleas, Magisterial District or Philadelphia Municipal Court Judge who accepted the guilty plea or heard the case:				List name and mailing address of the affiant as shown on the complaint, if available:			
Judge:				Name of Affiant:			
Address:				Address:			
Court of Common Pleas, Philadelphia Municipal Court or Magisterial District Docket Number:							
Date of Arrest or Complaint:		Name of Arresting Agency:			OTN:		
List specific charges, as they appear on the charging document, to be subject to limited access and the disposition of each charge (please attach additional sheet(s) of paper if necessary):							
PA Statute (Title)	Section	Subsection	Statute Description	Counts	Grade	Disposition	
If the sentence imposed included a fine, costs or restitution, has the amount due been paid?						Yes	No
List the reason(s) for the order for limited access (please attach additional sheet(s) of paper if necessary):							
I have attached a copy of my Pennsylvania State Police Criminal History Report obtained within 60 days before filing this petition.							
I have not attached a copy of my Pennsylvania State Police Criminal History Report because the attorney for the Commonwealth waives this requirement.							

I, the undersigned petitioner, aver that above case qualifies for a limited access order and none of the exceptions under 18 Pa.C.S. § 9122.1(b) are applicable.

I, the undersigned petitioner, aver that the facts set forth in this petition are true and correct to the best of my personal knowledge or information and belief, and are made subject to the penalties of unsworn falsification to authorities under 18 Pa.C.S § 4904.

Signature of Petitioner

Date

COURT OF COMMON PLEAS OF CLINTON COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
) NO. _____
v.)
) CRIMINAL-MISC.
_____)
(name of Petitioner/Defendant))

**DISTRICT ATTORNEY'S
CONSENT OR OBJECTIONS**

I, _____, Clinton County District Attorney, accept service of the attached Petition for Limited Access Pursuant to Pa.R.Crim.P. 791 of from Defendant's criminal record and I

_____ **DO NOT OBJECT**

_____ **OBJECT (Objections must be filed within 30 days after service of the petition and copies of the objections must be served on the petitioner's attorney or the petitioner if unrepresented.)**

Date: _____

BY: _____
District Attorney