

New PA Law Enables Criminal Investigative Information to be Obtained for Civil Cases

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On November 3, 2022, Governor Wolf signed House Bill No. 2525 (“HB 2525”) into law adding a new subchapter to Pennsylvania’s Criminal History Record Information Act (“CHRIA”) that implements a statutory process by which tort victims can obtain investigatory information gathered by a law enforcement agency to assist in preparing and filing a civil claim in Pennsylvania Courts. This law should have major implications in several areas of tort litigation including vehicular homicides, DUI’s, dram shop actions, and other catastrophic injury litigation.

Passing in the Pennsylvania Senate with a near-unanimous vote (48-1-1), HB 2525 requires any criminal history information requested to be “directly related” to a civil action pending in a Pennsylvania court, or be “material and necessary” to the investigation or preparation of a civil action to be filed in a Pennsylvania court. The request can be made serving the records information officer or head of the criminal justice agency personally or by certified mail. If the case is already pending, the law enforcement agency also has discretion to provide investigatory information if requested by subpoena.

Important to note, most criminal history investigative information will be discoverable in the underlying civil action unless privileged, or otherwise not discoverable. The law enforcement agency also has grounds to deny a request under certain circumstances, such as if the requested information would jeopardize public safety, or if it would disclose investigative techniques or procedures. However, any denial can be appealed by filing a petition of review in the court of common pleas in any judicial district where the criminal justice agency that issued the denial is located.

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