

By Mrs. Gray of Framingham, petition of Barbara E. Gray relative to the sealing of files in certain criminal cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Six.

AN ACT RELATIVE TO THE SEALING OF FILES IN CERTAIN CRIMINAL CASES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 100A of Chapter 276 of the General
2 Laws is hereby amended by striking out the first paragraph and
3 inserting in place thereof the following paragraph:—

4 Any person having a record of criminal court appearances and
5 dispositions in the commonwealth on file with the office of the
6 commissioner of probation may, on a form furnished by the
7 commissioner and signed under the penalties of perjury, request
8 that the commissioner seal such file. The commissioner shall
9 comply with such request provided (1) that said person's court
10 appearance and court disposition records, including termination
11 of court supervision, probation or sentence for any misdemeanor
12 occurred not less than five years prior to said request; (2) that said
13 person's court appearance and court disposition records,
14 including termination of court supervision, probation or sentence
15 for any felony occurred not less than ten years prior to said
16 request; (3) that said person had not been found guilty of any
17 criminal offense within the commonwealth in the five years
18 preceding such request, except motor vehicle offenses in which
19 the penalty does not exceed a fine of one hundred dollars; (4) said
20 person's record does not include convictions of offenses in this
21 commonwealth other than those to which this section applies.
22 This section shall apply to court appearances and dispositions of

23 all offenses in this commonwealth provided, however, that this
24 section shall not apply in case of convictions for violations of
25 sections one hundred and twenty one to one hundred and thirty
26 one H inclusive, of chapter one hundred and forty or for
27 violations of chapter two hundred and sixty eight or chapter two
28 hundred and sixty-eight A.

1 SECTION 2. Section 100A of Chapter 276 of the General
2 Laws is further amended by striking out the last two paragraphs
3 of said section and inserting in place thereof the following
4 paragraphs:—

5 An application for employment used by an employer which
6 seeks information concerning prior arrests or convictions of the
7 applicant shall include the following statement: "An applicant for
8 employment with a sealed record on file with the commissioner of
9 probation may answer 'no commonwealth record' with respect to
10 an inquiry herein relative to prior arrests, criminal court
11 appearances or convictions. An applicant for employment with a
12 sealed record on file with the commissioner of probation may
13 answer 'no commonwealth record' to an inquiry herein relative to
14 prior arrests or criminal court appearances". The attorney general
15 may enforce the provisions of this paragraph by a suit in equity
16 commenced in the superior court.

17 The commissioner, in response to inquiries by authorized
18 persons other than any law enforcement agency, any court, or any
19 appointing authority, shall in the case of a sealed record report
20 that no commonwealth record exists.