

HOUSE No. 3829

By Mr. Murphy of Peabody, petition of John E. Murphy, Jr., relative to delinquency files in the office of the Commissioner of Probation. Social Welfare.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO DELINQUENCY FILES IN THE OFFICE OF THE COMMISSIONER OF PROBATION.

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

1 Chapter 276 of the General Laws is hereby amended by
2 inserting after section 100 the following section: —
3 *Section 100A.* Any person having a record of entries of a
4 delinquency court appearance in the Commonwealth on file in
5 the office of the commissioner of probation may, on a form
6 furnished by said commissioner, signed under to penalties of
7 perjury, request that said commissioner seal such file. The
8 commissioner shall comply with such request provided (1) that
9 any court appearance or disposition including court supervision,
10 probation, commitment or parole, the records for which are to
11 be sealed, terminated not less than three years prior to said
12 request; (2) that said person has not been adjudicated delinquent
13 or found guilty of any criminal offense within the Common-
14 wealth in the three years preceding such request, except motor
15 vehicle offenses in which the penalty does not exceed a fine of
16 fifty dollars nor been imprisoned under sentence or committed as
17 a delinquent within the Commonwealth within the preceding
18 three years; and (3) said form includes a statement by the
19 petitioner that he has not been adjudicated delinquent or found
20 rulty of any criminal offense in any other state, United States
21 possession or in a court of federal jurisdiction, except such motor

22 vehicle offenses as aforesaid, and has not been imprisoned under
23 sentence or committed as a delinquent in any state or county
24 within the preceding three years.

25 When records of delinquency appearances and delinquency
26 dispositions are sealed by the Commissioner of Probation in his
27 files, the Commissioner shall notify forthwith the Clerk and the
28 Probation Officer of the courts in which the adjudications or
29 dispositions have occurred, or other entries have been made, and
30 the Department of Youth Services of such sealing, and said
31 Clerks, Probation Officers, and Department of Youth Services
32 likewise shall seal records of the same proceedings in their files.

33 Such sealed records of a person shall not operate to disqualify
34 him in any future examination, appointment or application or
35 public service under the government of the Commonwealth or of
36 any political subdivision thereof; nor shall such sealed records be
37 admissible in evidence or used in any way in any court
38 proceedings or hearings before any boards of commissioners,
39 except in imposing sentence for subsequent offenses in delin-
40 quency or criminal proceedings.

41 Notwithstanding any other provision to the contrary, the
42 Commissioner shall report such sealed delinquency record to
43 inquiring police and court agencies only as "sealed delinquency
44 record over three years old" and to other authorized persons who
45 may inquire as "no record". The information contained in said
46 sealed delinquency record shall be made available to a judge or
47 probation officer who affirms that such person, whose record has
48 been sealed, has been adjudicated a delinquent or has pleaded
49 guilty or has been found guilty of and is awaiting sentence for a
50 crime committed subsequent to sealing of such record. Said
51 information shall be used only for the purpose of consideration
52 in imposing sentence.