

By Ms. Fox of Boston, petition of Gloria L. Fox and other members of the General Court relative to the expungement of court records of certain juveniles. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT PERMIT EXPUNGEMENT OF JUVENILES' RECORDS.

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

1 Amend M.G.L. Chapter 276 Section 100B title to read instead:
2 "Requests to seal and expunge delinquency files, conditions,
3 notice for compliance, effect of expungement and sealing, limited
4 disclosure."

5 Amend first paragraph to insert:
6 "100B (1)(a) records are expunged when they are removed and
7 destroyed and leave no trace of the information which had for-
8 merly been contained in them.

9 (b) Juvenile shall have their delinquency records immediately
10 expunged by the court without the filing of a petition when their
11 case is dismissed or withdrawn, and nolle prosequi'd, acquittal,
12 on delinquency and/or youthful offender charges, and where other
13 factors have exonerated the arrested youth. The court shall circu-
14 late an order of expungement of the juvenile arrest records, all
15 arrest and police reports, booking reports of records, fingerprint
16 records, booking photographs, and all electronically stored
17 records of any nature or description, to local police, school police
18 agencies, the state police and the office of the Commissioner of
19 Probation as well as state and federal agencies, officials or institu-
20 tions known to collect and have information pertaining to alleged
21 delinquency or youthful offender charges.

22 (c) Juveniles adjudicated delinquent of a first offense for a mis-
23 demeanor or non violent offense are presumptively entitled to
24 expungement of their records upon completion of any period of

25 probation resulting from adjudication, when no subsequent charge
26 had been filed against them. Juveniles adjudicated delinquent on a
27 first offense may move for expungement while other charges are
28 pending by filing notice of their intention to expunge the record of
29 their first offense. Such notice must be filed 30 days prior to a
30 hearing with the prosecutor, the clerk of the court, and the Com-
31 missioner of Probation. In deciding whether to expunge, the court
32 must consider the nature of the first offense, the pending charge,
33 the juvenile's personal history and record of ties to school and the
34 community, adverse consequences to the juvenile economically
35 and within the criminal justice system, and the necessity of main-
36 taining the record for public safety. The court shall circulate an
37 order of expungement of the juveniles' arrest records, all arrest
38 and police reports, booking reports of records, fingerprint records,
39 booking photographs, and all electronically stored records of any
40 nature or description, to local police, school police agencies, the
41 state police and the office of the Commissioner of Probation as
42 well as state and federal agencies, officials or institutions known
43 to collect and have information pertaining to alleged delinquency
44 or youthful offender charges.

45 (d) Juveniles whose records have been expunged may consider
46 the case never to have occurred and may properly reply accord-
47 ingly upon any inquiry. Persons charged with maintenance of such
48 records shall state, "No record exists," and not disclose to any
49 person information pertaining to the expunged records.

50 (e) Youths prosecuted as youthful offenders pursuant to M.G.L.
51 Chapter 119, Section 54, may petition the court for expungement
52 of court, police and probation records containing their identity, 36
53 months after the court order adjudicating them youthful offender
54 and only if the youth has no pending proceeding involving a
55 felony or misdemeanor being instituted against him and no new
56 charge has been brought in the intervening 36 months. The
57 youth's attorney shall apply for expungement to the court and pro-
58 vide the prosecutor and to the victim written notice at least 30
59 days prior to a hearing. Such notice must be filed 30 days prior to
60 a hearing with the prosecutor, the clerk of the court, and the Com-
61 missioner of Probation. In deciding whether to expunge, the court
62 must consider the nature of the first offense, the pending charge,
63 the juvenile's personal history and record of ties to school and the

64 community, the adverse consequences to the juvenile economi-
65 cally and within the criminal justice system, and the necessity of
66 maintaining the record for public safety. The court shall circulate
67 an order of expungement of the youth's arrest complaint, referrals,
68 petitions, reports to all persons, agencies, officials or institutions
69 known to have information pertaining to the case.

