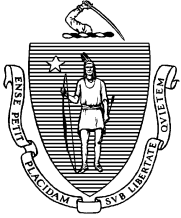


SENATE, NO. 2195



AN ACT TO PERMIT THE PURGING OF JUVENILE 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 SECTION 1. Chapter 276 of the General Laws is hereby amended inserting after section
2 100C, a new Section 100D:

3 Upon final disposition of a person's juvenile delinquency proceeding, and
4 completion of any court-ordered disposition, the person may petition the court for an
5 order directing purging of all law enforcement, court activity and probation records
6 leading and related to the person's proceedings in juvenile court. Records shall be
7 considered purged when they are removed and destroyed and leave no trace of a
8 person's identifying information. Any person on his own behalf or by his attorney may
9 seek to have his delinquency record(s) purged by the juvenile court by filing a petition
10 upon the completion of, or otherwise after the delinquency proceedings and/or when the
11 requirements of the court's disposition for the juvenile has been met, whichever is later.

12 A person whose records have been purged may consider the purged case never to
13 have occurred and may so reply upon any inquiry. In any situation where a clerk is
14 requested whether a purged record exists, the clerk shall respond that no such record
15 exists.

16 There shall be a rebuttable presumption in favor of purging records of juveniles
17 who have been exonerated, whose cases have been dismissed with prejudice, a nolle
18 prosequi entered, terminated due to absence of evidence, or when the court takes judicial
19 notice that the person's arrest has been made without probable cause or for
20 constitutionally protected conduct. In making its determination whether a person's law
21 enforcement and juvenile court activity records should be purged, the court shall
22 consider the following factors: severity of the offense, probable adverse consequences
23 to the person as a result of maintenance of the record, any specific public safety need to
24 maintain such a record, the person's personal history and behavior since the juvenile
25 proceedings were commenced and/or disposed of that provides indicia of rehabilitation.

26 If the Court orders that a record be purged, it shall circulate its order to purge all
27 personal, identifying information from the person's record, which may include police
28 booking reports or records, fingerprint records, photographs, and all court activity
29 records, probation records, electronically stored records of any nature or description
30 relating to the person's juvenile court proceeding, to local, public housing, public
31 school, college or University police agencies, the MBTA police, the state police, the
32 office of the Commissioner of Probation, the Criminal History Systems Board, as well as
33 state and federal agencies, officials or institutions known to collect and have information
34 pertaining to delinquency or youthful offender charges. Data from such records may be
35 kept solely for the purpose of statistical and administrative analysis of the agency
36 holding such records. All agencies shall purge records within 30 days of receipt of the
37 Court order.

38 Persons prosecuted as Youthful Offenders pursuant to Section 54 of Chapter 119
39 of the General Laws, may similarly petition the Court for purging records containing
40 their identity from court, police and probation agencies, as well as indictments not
41 resulting in a youthful offender trial, where there has been a finding of not delinquent
42 and/or not guilty and the person has been declared not a youthful offender.

43 The juvenile court shall inform a juvenile of his right to petition for purging or
44 sealing his records as provided for by law. The clerk of the juvenile court shall provide
45 juveniles with a packet providing information on sealing and purging juvenile records
46 written in plain language which shall include a sample petition.