

HOUSE No. 1325

The Commonwealth of Massachusetts

PRESENTED BY:

Gloria L. Fox

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the sealing of youthful offender and the expungement of juvenile records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

HOUSE No. 1325

By Ms. Fox of Boston, a petition (accompanied by bill, House, No. 1325) of Gloria L. Fox and others relative to the sealing of youthful offender and the expungement of juvenile records. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the sealing of youthful offender and the expungement 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. Section 100B of chapter 276 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by adding at the end thereof the following:-

3 Notwithstanding the provisions of section 100A, any person having been adjudicated a
4 youthful offender as prescribed by section 58 of chapter 119 and having a record of criminal
5 court appearances and dispositions in the commonwealth on file with the office of the
6 commissioner of probation may, on a form furnished by the commissioner and signed under the
7 penalties of perjury, request that the commissioner seal such record.

8 The commissioner shall comply with such request provided: 1.) that said person’s court
9 appearance and court disposition records, including termination of court supervision, probation,
10 parole, or sentence, the records for which are to be sealed, terminated not less than five years
11 preceding such request; 2.) that said person has not been adjudicated delinquent or found guilty
12 of any criminal offense within the commonwealth within five years preceding such request,
13 except for a motor vehicle offense in which the penalty does not exceed a fine of fifty dollars;
14 and 3.) said form includes a statement by the petitioner that he has not been adjudicated
15 delinquent or found guilty of any criminal offense in any other state, U.S. possession, or in a
16 court of federal jurisdiction, except motor vehicle offenses as aforesaid, within the preceding five
17 years.

18 When records of youthful offender appearances and dispositions are sealed by the
19 commissioner in his files, he shall notify forthwith the clerk and the probation officer of the
20 courts in which the convictions or dispositions have occurred, or other entries have been made,

21 and the department of youth services, if necessary, of such sealing, and said clerks, probation
22 officers, and department of youth services shall each seal records of the same proceedings in
23 their files.

24 Such sealed records of a person shall not operate to disqualify a person in any future
25 examination, appointment, or application for public service under the government of the
26 commonwealth or of any political subdivision thereof; nor shall such sealed records be
27 admissible in evidence or used in any way in any court proceedings or hearings before any
28 boards of commissioners, except in imposing sentence for subsequent offenses in delinquency or
29 criminal proceedings.

30 Notwithstanding any other provision to the contrary, the commissioner shall report such
31 sealed record to inquiring police and court agencies only as “sealed youthful offender record
32 over five years old” and to other authorized persons who may inquire as “no record.” The
33 information contained in said sealed youthful offender record shall be made available to a judge
34 or probation officer who affirms that such person, whose record has been sealed, has been
35 adjudicated a delinquent or has pleaded guilty or has been found guilty of and is awaiting
36 sentence for a crime committed subsequent to sealing of such record. Said information shall be
37 used only for the purpose of consideration in imposing sentence.

38 An applicant for employment with a sealed record on file with the commissioner of
39 probation may answer “no record” to an inquiry herein relative to prior arrests or criminal court
40 appearances.

41 SECTION 2. Said chapter 276, as so appearing, is hereby further amended by inserting
42 after section 100C the following new section:-

43 Section 100D. A record sealed by the commissioner of probation pursuant to section
44 100B of this chapter shall be expunged by the commissioner five years from the date of such
45 sealing. The record of any person who has not petitioned to seal his record, but whose record is
46 determined by said commissioner to be eligible for sealing shall be expunged 10 years from the
47 date of such person’s eighteenth birthday.

48

49 Once the commissioner expunges the records within his possession, he shall forthwith
50 notify the clerk and probation officer of the courts in which the adjudications or dispositions
51 occurred, or other entries have been made, and the department of youth services of such
52 expungement, and said clerks, probation officers, and department of youth services shall each
53 expunge such records from their files.

54 In any application for employment, a person whose records have been expunged pursuant
55 to this section may answer “no record” in response to any inquiry regarding prior arrests,

56 delinquency appearances, delinquency adjudications, or delinquency dispositions that were
57 contained in such expunged record.

58 The charges, adjudications, and dispositions expunged shall not operate to disqualify
59 such person in any examination, appointment, or application for public employment in the
60 service of the commonwealth or any other subdivision thereof, nor shall such charges,
61 adjudications, or dispositions be used against such person in anyway in any court proceeding or
62 hearing before any court, board, or commission to which the person is a party to the proceeding.

63 For the purpose of this chapter the words, expunge, expunged, or expungement, shall
64 mean permanent erasure or destruction.