

HOUSE No. 1531

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker and Kay Khan

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 adoption of the accompanying bill:

An Act relative to expungement of juvenile and young adult records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/17/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/22/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/23/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/23/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/24/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/26/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/26/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/26/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>3/2/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>3/4/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/7/2021</i>

<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/8/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>3/8/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/8/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/11/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>3/12/2021</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>3/12/2021</i>
<i>Jacob R. Oliveira</i>	<i>7th Hampden</i>	<i>3/23/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/31/2021</i>

HOUSE No. 1531

By Representatives Decker of Cambridge and Khan of Newton, a petition (accompanied by bill, House, No. 1531) of Marjorie C. Decker, Kay Khan and others relative to the expungement of juvenile and young adult records. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to expungement of juvenile and young adult 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. The first paragraph of Section 60A of chapter 119 of the General Laws, as
2 appearing in the 2016 Official Edition, is hereby amended by striking out the first sentence.

3 SECTION 2. The first paragraph of Section 60A of chapter 119 of the General Laws, as
4 so appearing, is hereby further amended by striking out in line 4 of the second sentence the word
5 “other” and by inserting between the words “delinquency” and “arising” in lines 4 and 5, the
6 following words:-

7 and youthful offender proceedings

8 SECTION 3. Section 100E of chapter 276 of the General Laws is hereby amended by
9 inserting between the definition of “Attorney general” and the definition of “Commissioner” the
10 following paragraph:-

11 “Best interests of justice”, circumstances by which a judge may order expungement of a
12 record or records based on circumstances that include, but are not limited to any of the
13 following:

14 age is a mitigating factor because the offense or offenses occurred before the petitioner
15 attained age 25;

16 the petitioner was a victim of trafficking at the time of the offense as defined by section
17 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102

18 the petitioner has been denied or is at risk of denial of employment, housing, training or
19 another opportunity due to the offense or offenses;

20 the petitioner has completed a drug, alcohol, or substance use program or participated in
21 other treatment;

22 the petitioner has engaged in volunteer work or other community public service;

23 the petitioner has engaged in efforts at self-improvement that may include but are not
24 limited to completion of education, training, or other academic or trade related programs;

25 significant passage of time since the offense;

26 elimination of stigma and stereotyping related to the particular offense; or

27 a compelling circumstance or disadvantage related to the offense or offenses.

28 SECTION 4. Section 100E of chapter 276 of the General Laws is hereby further amended
29 by striking the words “or disposition of an offense” before the word “offense” in the definition of
30 “record” and inserting in place there of the following words :- “or disposition of any offense”

31 SECTION 5. The first sentence of subsection (a) of section 100F of chapter 276 of the
32 General Laws, as appearing in section 95 of Chapter 253 of the Acts of 2020, is hereby amended
33 by striking the following words:- “not more than 2”

34 SECTION 6. The first sentence of subsection (a) of section 100G of chapter 276 of the
35 General Laws, as appearing in section 96 of chapter 253 of the Acts of 2020, is hereby amended
36 by striking the following words:- “not more than 2”

37 SECTION 7. The first sentence of subsection (a) of section 100H of chapter 276 of the
38 General Laws, as appearing in Section 97 of Chapter 253 of the Acts of 2020 is hereby amended
39 by striking the following words, “who has not more than 2 records that do not include an
40 adjudication as a delinquent, an adjudication as a youthful offender or a conviction” and
41 inserting in place thereof the following words:- “who has any criminal or juvenile record where
42 the disposition did not include an adjudication or conviction”

43 SECTION 8. Clause (a)(3) of section 100I of chapter 276 of the General Laws, as
44 appearing in Section 98 of Chapter 253 of the Acts of 2020 is hereby amended by striking the
45 clause and inserting in place thereof the following words:-

46 (3) all offenses that are the subject of the petition to expunge the record or records,
47 including any period of incarceration, custody or probation, occurred not less than 7 years before
48 the date on which the petition was filed if the record or records that are the subject of the petition
49 include a felony unless the offense was an offense tried in juvenile court, and not less than 3
50 years before the date on which the petition was filed if the record or records that are the subject
51 of the petition only include a misdemeanor or misdemeanors or offenses tried in juvenile court;

52 SECTION 9: Section 100J of chapter 276 of the General Laws, is hereby amended by
53 striking out, section 100J, and inserting in place thereof the following section:

54 Section 100J. None of the following offenses are eligible for expungement under section
55 100F, 100G, or 100H:

56 conviction for any offense resulting death or serious bodily injury as defined pursuant to
57 section 13K of chapter 265; or

58 any sex offense that can never be sealed under section 178G of chapter 6 of the General
59 Laws.

60 SECTION 10. Chapter 276 of the General Laws is hereby amended by inserting after
61 section 100U, the following two sections:-

62 Section 100V. Notwithstanding any other provision to the contrary, after an arrest of a
63 person under the age of criminal majority, law enforcement and criminal justice agencies shall
64 no longer transmit fingerprints and any records related to the arrest or filing of a court case
65 against the person to the Federal Bureau of Investigation or the Department of Justice for any
66 offense that occurred before the age of criminal majority, except for purposes of requesting that
67 the Federal Bureau of Investigation or the Department of Justice seal or expunge its records as
68 required by section 100T of this chapter and section 36 of chapter 22C of the General laws.

69 Section 100W. The office of the commissioner of probation shall collect and annually
70 report on:

71 the number of petitions and number of allowances and denials on petitions for sealing,
72 pursuant to sections 100B and 100C, separately, of Chapter 276 of the General Laws;

73 the number of petitions and number of allowances and denials of petitions for
74 expungement, pursuant to sections 100F, 100G and 100H, separately, of Chapter 276 of the
75 General Laws

76 the number of petitions and number of allowances and denials of petitions for
77 expungement, pursuant to section 100K of Chapter 276 of the General Laws; and

78 the number of petitions and number of allowances and denials on petitions for sealing,
79 pursuant to section 100A of Chapter 276 of the General Laws.

80 the number of denials pursuant to sections 100I and 100J, separately, of Chapter 276 of
81 the General Laws.

82 Said report shall submitted to the joint committee chairs of the joint committee on the
83 judiciary and the clerks of the house of representatives and senate to the house and senate no
84 later than 75 days after the end of the fiscal year and made available to the public.