

HOUSE No. 1825

The Commonwealth of Massachusetts

PRESENTED BY:

Tram T. Nguyen

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 supporting survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/17/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/18/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/23/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/23/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/26/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>2/26/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/15/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/17/2021</i>

HOUSE No. 1825

By Ms. Nguyen of Andover, a petition (accompanied by bill, House, No. 1825) of Tram T. Nguyen and others relative expungement and sealing of records. The Judiciary.

The Commonwealth of Massachusetts

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

An Act supporting survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of 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 100K of chapter 276 of the General Laws, as so appearing, is
2 hereby amended by striking the word “or” at the end of paragraph (a)(5).

3 SECTION 2. Section 100K of chapter 276 of the General Laws, as so appearing, is
4 hereby amended by inserting after the sixth paragraph of subsection (a), the following
5 paragraph:-

6 (7) an offense that occurred while the petitioner was a victim of act(s) constituting (i)
7 abuse as defined in section 1 of chapter 209A (ii) human trafficking as defined by section 20M
8 of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 and/or (iii) act(s) that
9 by force, threat or duress causes another to involuntarily engage in sexual relations, and the
10 petitioner participated in the offense as a result of fear, duress, coercion or intimidation by a
11 perpetrator of said act(s) as outlined in sections (i), (ii) and (iii) above.

12 SECTION 3. Section 100K of chapter 276 of the General Laws, as so appearing, is
13 hereby amended by inserting after the first sentence of subsection (b), the following sentences:-

14 Any official documentation from any local, state or federal community-based or
15 governmental agency of the defendant's status as a victim of act(s) constituting abuse as defined
16 in section 1 of chapter 209A, human trafficking as defined by section 20M of chapter 233 or a
17 victim of trafficking in persons under 22 U.S.C. 7102 and/or act(s) that by force, threat or duress
18 causes another to involuntarily engage in sexual relations at the time of the offense shall create a
19 rebuttable presumption that the defendant's participation in the offense was a result of their
20 victimization, but shall not be required for granting a petition. For purposes of this subsection,
21 "official documentation" shall be defined as any document issued by a local, state or federal
22 community-based or government agency in the agency's official capacity, or any criminal justice
23 agency as defined by section 167 of chapter 6. A judge shall consider any credible evidence
24 including testimony of the petitioner in determining eligibility for relief.

25

26 SECTION 4. Chapter 276 of the General Laws is hereby amended by striking out section
27 100Q, as inserted by section 195 of said chapter 69, and inserting in place thereof the following
28 section:-

29 Section 100Q. Unless otherwise provided by law, no person shall make records sealed
30 pursuant to section 100A, 100B, or 100C or expunged pursuant to section 100F, 100G, section
31 100H, or section 100K available for inspection in any form by any person.

32 SECTION 5. Section 100C of chapter 276 of the General Laws, as so appearing, is
33 hereby amended by inserting after the second paragraph, the following paragraphs:-

34 “Notwithstanding other provisions in section 100A and 100C, a judge may without a
35 waiting period seal any court appearance or disposition where the offense occurred while the
36 petitioner was victim of act(s) constituting abuse as defined in section 1 of chapter 209A, human
37 trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under
38 22 U.S.C. 7102 and/or act(s) that by force, threat or duress causes another to involuntarily
39 engage in sexual relations, and the petitioner can establish a connection between the offense and
40 having been a victim of the aforementioned act(s) and it appears to the court that substantial
41 justice would best be served by the sealing of the record(s).

42 A judge shall consider any credible evidence including testimony of the petitioner in
43 determining eligibility for relief under this section. Any official documentation from any local,
44 state or federal community-based or governmental agency of the defendant’s status as a victim of
45 act(s) constituting abuse as defined in section 1 of chapter 209A, human trafficking as defined by
46 section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 and/or
47 act(s) that by force, threat or duress causes another to involuntarily engage in sexual relations, at
48 the time of the offense shall create a rebuttable presumption that the defendant’s participation in
49 the offense was connected to their victimization, but shall not be required for granting a petition.
50 For purposes of this subsection, “official documentation” shall be defined as any document
51 issued by a local, state or federal community-based or government agency in the agency’s
52 official capacity, or any criminal justice agency as defined by section 167 of chapter 6.”