

SENATE No. 2412

The Commonwealth of Massachusetts

—————
In the One Hundred and Ninetieth General Court
(2017-2018)
—————

SENATE, Thursday, April 12, 2018

The committee on Children, Families and Persons with Disabilities, to whom was referred the petition (accompanied by bill, Senate, No. 77) of Bruce E. Tarr for legislation relative to expungement from central registry,- reports the accompanying bill (Senate, No. 2412).

For the committee,
Joan B. Lovely

SENATE No. 2412

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to expungement from central registry.

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 21 of chapter 119 as so appearing in the 2016 Official Edition is
2 hereby amended by inserting after the definition for “parent” the following:-

3 “Qualified mental health professional”, a psychiatrist licensed to practice medicine under
4 M.G.L. c. 112, s. 2; a psychologist licensed under M.G.L. c. 112, s. 118 through 121; or an
5 independent clinical social worker licensed under M.G.L. c. 112, s. 130 through 132; provided
6 that he or she has at least 1,000 hours of experience over a minimum of two years involving
7 assessment, treatment and consultation concerning individuals with behavior that presents a risk
8 of harm to others in the community, in the workplace, in treatment settings, or in correctional
9 facilities; provided further that he or she has not provided treatment to the individual.”

10 SECTION 2. Section 51F of Chapter 119 is hereby amended by inserting at the end
11 thereof the following:-

12 A person whose name has been placed on the Registry and has been listed on the Registry
13 for at least seven years may file a written request with the Commissioner or the Commissioner's

14 designee seeking a review for the purpose of expunging an individual Registry record unless the
15 allegation or substantiation of serious physical or emotional injury resulting from abuse or
16 neglect was referred to a District Attorney.

17 The Commissioner or the Commissioner's designee shall grant a review upon request.

18 The person shall have the burden of proving that he or she no longer presents a risk to the
19 safety or well-being of children. Factors to be considered by the Commissioner or the authorized
20 designee shall include:

21 (1) the nature of the substantiation that resulted in the person's name being placed on the
22 Registry;

23 (2) the number of substantiations, if more than one, and the age of the person at the time
24 of the substantiations;

25 (3) the amount of time that has elapsed since the substantiation;

26 (4) the circumstances of the substantiation that would indicate whether a similar incident
27 would be likely to occur;

28 (5) whether the substantiation was committed in association with a dependence on drugs
29 or alcohol from which the individual has since recovered;

30 (6) any activities that would reflect upon the person's changed behavior or circumstances,
31 such as therapy, employment, or education;

32 (7) references that attest to the person's good moral character: and,

33 (8) written determination from a qualified mental health professional that the person does
34 not pose an unacceptable risk of harm to others.

35 At the review, the person who requested the review shall be provided with the
36 opportunity to present any evidence or other information, including witnesses that support his or
37 her request for expungement. Upon the person's request, the review may be held by
38 teleconference.

39 A person may seek a review under this section no more than once every 36 months.

40 Within 30 days of the date on which the Commissioner mailed notice of the decision
41 which documents the factors considered and the rationale for the decision pursuant to this section,
42 a person may appeal the decision in accordance with Chapter 30A. A copy of such written
43 determination shall be maintained by the Department.

44 The Department shall take steps to provide reasonable notice to persons on the Registry
45 of their right to seek an expungement under this section. Actual notice is not required.
46 Reasonable steps may include activities such as the production of an informative fact sheet about
47 the expungement process, posting of such information on the Department website, and other
48 approaches typically taken by the Department to inform the public about the Department's
49 activities and policies. The Department shall send notice of the expungement process to any
50 person listed on the Registry for whom a Registry check has been requested.”