



Expungement

“Criminal records can make it difficult for young offenders to find a job, get into college, or borrow money. An expungement bill would create a process by which certain nonviolent juvenile offenses could be removed from a criminal record. It’s a way to reduce the likelihood that a teen who makes bad choices will become a career criminal.”

Boston Globe Editorial Board, Repeat after us: pass these worthy bills ¹

AN ACT RELATIVE TO THE EXPUNGEMENT OF RECORDS (H.4363)

This legislation would allow for the **expungement of records for individuals whose records are based on factually inaccurate information, or who have been victims of human trafficking.**

This bill would authorize a legislative remedy in response to Supreme Judicial Court rulings² stating that courts do not have the authority to expunge records of individuals who were falsely accused or whose records are a result of “fraud on the court”. This bill would allow the expungement of these records when the court finds “substantial justice would best be served”.

In addition, the bill creates protections for survivors of human trafficking. The bill would allow victims to vacate certain charges brought against them as a victim of human trafficking. Once these charges have been vacated, the survivor may seek the expungement of delinquency or criminal records that are directly tied to their victimization.

AN ACT PROMOTING TRANSPARENCY, BEST PRACTICES, AND BETTER OUTCOMES FOR CHILDREN AND COMMUNITIES (S.2424 §14)

This section of a larger bill would create a mechanism for the expungement of delinquency and criminal records for misdemeanor offenses committed prior to age 18 with judicial discretion.

Juvenile records undermine rehabilitative goals of the juvenile justice system. As the Massachusetts Supreme Judicial Court recognized in *Commonwealth v. Eric Anderson*, we distinguish between adult and juvenile offenders “partly to avoid the attachment of criminal stigma to children who may be amenable to rehabilitation”.³ A permanent court record that interferes with individuals’ access to education and employment decades later undermines the rehabilitative purpose of juvenile court proceedings by attaching precisely the stigma that our juvenile court system is intended to avoid.

Juvenile court records follow youth for the rest of their lives. Juvenile court records cannot be expunged even if the case was dismissed. Students can be expelled from school based on a juvenile court record.⁴ A juvenile record is a barrier to accessing higher education, employment, maintaining housing, or pursuing a career in the military. Even decades later, a juvenile court record can prevent an individual from becoming a foster parent⁵ or obtaining certain types of employment.⁶ Juvenile records are also available to local law enforcement agents, courts, and the armed forces.

¹ “Repeat after us: pass these worthy bills” Boston Globe Editorial, June 20, 2016. Available at <https://www.bostonglobe.com/opinion/editorials/2016/06/19/editorial-repeat-after-pass-these-worthy-bills/aMSwHoIPaTcIeoK68cPrpN/story.html>

² *Comm. v. Boe*, 456 Mass. 337 (2010) and *Comm. v. Moe*, 463 Mass. 370 (2012)

³ *Comm. v. Anderson*, 461 Mass. 616 (2012)

⁴ M.G.L. ch. 71, § 37H ½

⁵ M.G.L. ch. 6 §172B.

⁶ M.G.L. ch. 6 §172F&G.



Sealing does not provide adequate protection against the harmful impact of a permanent juvenile court record. While Massachusetts allows juvenile court records to be sealed under certain circumstances, sealed records are not destroyed, and still may be accessed in some situations.⁷ Furthermore, sealed records are reported to police and court agencies as “sealed delinquency record over three years old.”⁸ Because this indicates nothing about the nature or disposition of the case, individuals learning of a sealed record may assume that the child was adjudicated delinquent for a serious offense. For this reason, attorneys often advise clients against sealing a juvenile record that contains minor offenses or charges that were dismissed. Sealing therefore provides little protection against the harms of a permanent juvenile court record.

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⁷ M.G.L. ch. 6 §172B&F.

⁸ M.G.L. ch. 276 § 100B.