

HOUSE No. 1372

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 to permit purging of juveniles delinquency records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Gloria L. Fox	7th Suffolk
Willie Mae Allen	6th Suffolk
Christine E. Canavan	10th Plymouth
James Dwyer	30th Middlesex
William Lantigua	16th Essex
Matthew C. Patrick	3rd Barnstable

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1429 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PERMIT PURGING OF JUVENILES DELINQUENCY 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. Chapter 276 of the General Laws is hereby amended inserting after section 100C, a new
2 *Section 100D:*

3 Upon final disposition of a person's juvenile delinquency proceeding, and completion of any court-
4 ordered disposition, the person may petition the court for an order directing purging of all law
5 enforcement, court activity and probation records leading and related to the person's proceedings in
6 juvenile court. Records shall be considered purged when they are removed and destroyed and leave no
7 trace of a person's identifying information. Any person on his own behalf or by his attorney may seek to
8 have his delinquency record(s) purged by the juvenile court by filing a petition upon the completion of, or
9 otherwise after the delinquency proceedings and/or when the requirements of the court's disposition for
10 the juvenile has been met, whichever is later.

11 A person whose records have been purged may consider the purged case never to have occurred and may
12 so reply upon any inquiry. In any situation where a clerk is requested whether a purged record exists, the
13 clerk shall respond that no such record exists.

14 There shall be a rebuttable presumption in favor of purging records of juveniles who have been
15 exonerated, whose cases have been dismissed with prejudice, a *nolle prosequi* entered, terminated due to
16 absence of evidence, or when the court takes judicial notice that the person's arrest has been made
17 without probable cause or for constitutionally protected conduct. In making its determination whether a
18 person's law enforcement and juvenile court activity records should be purged, the court shall consider
19 the following factors: severity of the offense, probable adverse consequences to the person as a result of
20 maintenance of the record, any specific public safety need to maintain such a record, the person's
21 personal history and behavior since the juvenile proceedings were commenced and/or disposed of that
22 provides indicia of rehabilitation.

23 If the Court orders that a record be purged, it shall circulate its order to purge all personal, identifying
24 information from the person's record, which may include police booking reports or records, fingerprint

25 records, photographs, and all court activity records, probation records, electronically stored records of any
26 nature or description relating to the person's juvenile court proceeding, to local, public housing, public
27 school, college or University police agencies, the MBTA police, the state police, the office of the
28 Commissioner of Probation, the Criminal History Systems Board, as well as state and federal agencies,
29 officials or institutions known to collect and have information pertaining to delinquency or youthful
30 offender charges. Data from such records may be kept solely for the purpose of statistical and
31 administrative analysis of the agency holding such records. All agencies shall purge records within 30
32 days of receipt of the Court order.

33 Persons prosecuted as Youthful Offenders pursuant to Section 54 of Chapter 119 of the General Laws,
34 may similarly petition the Court for purging records containing their identity from court, police and
35 probation agencies, as well as indictments not resulting in a youthful offender trial, where there has been
36 a finding of not delinquent and/or not guilty and the person has been declared not a youthful offender.

37 The juvenile court shall inform a juvenile of his right to petition for purging or sealing his records as
38 provided for by law. The clerk of the juvenile court shall provide juveniles with a packet providing
39 information on sealing and purging juvenile records written in plain language which shall include a
40 sample petition.