HOUSE DOCKET, NO. 429 FILED ON: 1/12/2009

HOUSE . . . . . No. 1372

The Commonwealth of Massachusetts

In the Year Two Thousand 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:

SECTION 1. Chapter 276 of the General Laws is hereby amended inserting after section 100C, a new Section 100D:

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

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

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

If the Court orders that a record be purged, it shall circulate its order to purge all personal, identifying information from the person's record, which may include police booking reports or records, fingerprint records, photographs, and all court activity records, probation records, electronically stored records of any nature or description relating to the person's juvenile court proceeding, to local, public housing, public school, college or University police agencies, the MBTA police, the state police, the office of the Commissioner of Probation, the Criminal History Systems Board, as well as state and federal agencies, officials or institutions known to collect and have information pertaining to delinquency or youthful offender charges. Data from such records may be kept solely for the purpose of statistical and administrative analysis of the agency holding such records. All agencies shall purge records within 30 days of receipt of the Court order.

Persons prosecuted as Youthful Offenders pursuant to Section 54 of Chapter 119 of the General Laws, may similarly petition the Court for purging records containing their identity from court, police and probation agencies, as well as indictments not resulting in a youthful offender

trial, where there has been a finding of not delinquent and/or not guilty and the person has been declared not a youthful offender.

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