

HOUSE No. 1867

The Commonwealth of Massachusetts

PRESENTED BY:

Lindsay N. Sabadosa

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 to promote the health and safety of people in the sex trade.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/16/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/16/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/19/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/16/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>3/17/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>3/19/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>3/25/2021</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/30/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>4/26/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>9/3/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>1/28/2022</i>

HOUSE No. 1867

By Ms. Sabadosa of Northampton, a petition (accompanied by bill, House, No. 1867) of Lindsay N. Sabadosa and others relative to the expungement of certain marijuana and prostitution-related records. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to promote the health and safety of people in the sex trade.

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. Subsection (a) of section 53 of chapter 272 of the General Laws is hereby
2 amended by striking out the words “Common night walkers, common street walkers, both male
3 and female.”

4 SECTION 2. Subsections (a) and (b) of section 53A of chapter 272 are hereby repealed.

5 SECTION 3. Section 8 of chapter 272 of the General Laws is hereby repealed.

6 SECTION 4. Section 62 of chapter 272 of the General Laws is hereby repealed.

7 SECTION 5. Section 100E of chapter 276 of the General Laws is hereby stricken and
8 replaced with the following:

9 Section 100E: Expungement of records of marijuana and prostitution-related arrests,
10 detentions, conviction and incarceration.

11 (a) Expungement of marijuana and prostitution-related records. Any person having a
12 record of criminal court appearances and dispositions in the commonwealth on file with the
13 office of the commissioner of probation, or the Department of Criminal Justice Information
14 Services established by c. 6, sec. 167A et seq., for a marijuana offense as defined by c. 94C or
15 other provisions of law committed before the enactment of c. 334 of the Acts of 2016, or
16 prostitution-related offenses as defined in chapter 127 sections 8, 53, and 53A (a) and (b), shall
17 have all such records expunged forthwith from all criminal record information systems collected
18 or distributed by any state agency, court or municipality. Any person with a criminal record
19 eligible for expungement hereunder may apply to the commissioner, the department or the clerk
20 of court where an expunged record exists, for expedited expungement in compliance with the
21 provisions hereunder, and have the application acted on forthwith.

22 (b) Notice of expungement. When records of criminal appearances and criminal
23 dispositions are expunged by the commissioner or department in their files, the commissioner or
24 department shall notify forthwith the clerk and the probation officer of the courts in which the
25 convictions or dispositions have occurred, or other entries have been made, of such
26 expungement, and said clerks and probation officers likewise shall expunge records of the same
27 proceedings in their files.

28 (c) Effect of expungement. Such expunged records shall not operate to disqualify a
29 person in any examination, appointment or application for public service in the service of the
30 commonwealth or of any political subdivision thereof; nor shall such expunged records be
31 admissible in evidence or used in any way in any court proceedings or hearings before any
32 boards or commissions. Anyone with an expunged marijuana record whose license to operate a
33 motor vehicle remains under suspension pursuant to G.L. c. 90, sec. 22 or other provision of law,

34 due to a marijuana infraction unrelated to a conviction for operation under the influence, is
35 entitled to have the suspension terminated forthwith, and to have their license to operate restored
36 forthwith.

37 (d) Employment applications. An application for employment used by an employer which
38 seeks information concerning prior arrests or convictions of the applicant shall include the
39 following statement:

40 “An applicant for employment with an expunged record on file with the commissioner of
41 probation may answer ‘no record’ with respect to an inquiry herein relative to prior arrests,
42 criminal court appearances or convictions. An applicant for employment with an expunged
43 record on file with the commissioner of probation may answer ‘no record’ to an inquiry herein
44 relative to prior arrests or criminal court appearances. In addition, any applicant for employment
45 may answer ‘no record’ with respect to any inquiry relative to prior arrests, court appearances
46 and adjudications in all cases of delinquency or as a child in need of services which did not result
47 in a complaint transferred to the superior court for criminal prosecution.”

48 The attorney general may enforce the provisions of this paragraph by a suit in equity
49 commenced in the superior court.

50 (e) “No record” report of expunged records. The commissioner or the department, in
51 response to inquiries by authorized persons, shall in the case of an expunged record or in the case
52 of court appearances and adjudications in a case of delinquency or the case of a child in need of
53 services, report that no record exists.

54 (f) Prisoners serving sentences for expunged offenses. The commissioner of correction,
55 and the sheriffs and masters of all county Houses of Correction shall forthwith review the

56 sentencing mittimus' of all prisoners in their custody to identify any prisoner held (i) pursuant to
57 a conviction for a marijuana offense as defined by c. 94C, committed before the enactment of c.
58 334 of the Acts of 2016; or (ii) pursuant to a conviction for a prostitution-related offense as
59 defined by chapter 127 sections 8, 53, and 53A (a) and (b); (iii) the revocation of probation or
60 parole regardless of the nature of the underlying offense, where the only ground for revocation
61 was the prisoner's use of marijuana committed before the enactment of c. 334 of the Acts of
62 2016, or engaging in prostitution. Any prisoner so identified shall be reported to the committee
63 for public counsel services, and the district attorney for the county of the sentencing court, along
64 with a copy of the sentencing mittimus. Any prisoner being held only for sentence under an
65 expunged marijuana or prostitution-related offense, or held on a probation or parole surrender
66 based only on drug testing or other probation or parole violation regarding the parolee or
67 probationer's use of marijuana or engagement in prostitution, may apply to the sentencing court
68 for an order of discharge and release. An initial hearing shall be held within ten days of court
69 application, to determine whether any basis other than a marijuana or prostitution-related law
70 violation exists for the prisoner's continued detention. If no other basis exists the prisoner shall
71 be released forthwith at the initial hearing; if other non-marijuana related cause for custody
72 appears to exist, the prisoner may seek a continuance of the initial hearing to further investigate
73 and present evidence regarding a claim that the only basis for the prisoner's custody is a
74 conviction or probation or parole surrender for the violation of an expunged or other marijuana
75 or prostitution-related offense or the prisoner's use of marijuana or engagement in prostitution
76 while on probation or parole.