

HOUSE No. 1568

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 remove collateral consequences and protect the presumption of innocence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>2/19/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/20/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/1/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>4/27/2021</i>

HOUSE No. 1568

By Ms. Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 1568) of Brandy Fluker Oakley and others for legislation to remove collateral consequences and protect the presumption of innocence. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to remove collateral consequences and protect the presumption of innocence.

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 172(a)(3) of chapter 6, as appearing in the 2018 Official Edition, is
2 hereby amended by striking the number “10” in the second sentence in subsection (i) between
3 the words “reason of insanity for” and the word “years” and inserting in place thereof, the
4 following number:- 7.

5 SECTION 2. Section 172(a)(3) of chapter 6, as appearing in the 2018 Official Edition, is
6 hereby amended by striking the number “5” in subsection (ii) in the second sentence between the
7 words “misdemeanor convictions for” and ”years” and inserting in place thereof, the following
8 number:- 3.

9 SECTION 3. Section 172 of chapter 6, as appearing in the 2018 Official Edition, is
10 hereby amended by adding after the period in the last sentence in subsection (o), the following
11 paragraph:- (p) When the department provides any individual or entity with criminal offender
12 record information related to a pending charge or charge that did not result in a criminal

13 conviction or juvenile adjudication, the department shall include a written notice that the
14 individual or entity receiving this information shall consider the presumption of innocence
15 afforded to an individual with a pending charge or charge that did not result in a conviction or
16 adjudication when making any decision about the individual with such charges.

17 SECTION 4. Section 32 of chapter 121B, as appearing in the 2018 Official Edition, is
18 hereby amended by adding after the period in the last sentence in paragraph (g) and before
19 paragraph (h), the following sentences:- However, an applicant shall not be required to submit a
20 copy of the applicant's own criminal record as prohibited by section 172(d) of chapter 6. An
21 applicant shall not be required to submit copies of the applicant's own case information,
22 including but not limited to docket sheets.

23 SECTION 5. Section 100A of chapter 276, as appearing in the 2018 Official Edition, is
24 hereby amended by deleting the words in the second sentence "The commissioner shall comply
25 with the request" and inserting the following words in place thereof before the word "provided":-
26 Any charge that did not result in a conviction shall have no waiting period and be eligible for
27 immediate sealing upon request, and the commissioner shall also comply with a request to seal
28 any charge that resulted in a conviction or guilty file disposition.

29 SECTION 6. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
30 hereby amended by adding a new paragraph, before the first sentence of the first paragraph, as
31 follows:-(a) Whenever any youthful offender or other juvenile charge does not result in an
32 adjudication, the clerk and the commissioner shall seal all records related to the charge
33 immediately upon dismissal or other final disposition of the charge. The individual shall not be
34 required to file a petition or other request to seal the charge or charges. This sealing shall occur

35 in all instances unless the person with the offense files an objection to sealing the charge or
36 charges. A person with a record who objected to sealing of an offense that did not result in an
37 adjudication, or with a past charge before the effective date of this provision that did not result in
38 an adjudication, shall be allowed to request sealing of the charge without a waiting period, and
39 the commissioner shall seal any such eligible offense upon request.

40 SECTION 7. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
41 hereby amended, by adding before the first sentence of the first paragraph, the following
42 paragraph number:- (b)

43 SECTION 8. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
44 hereby amended, in the first line of the first sentence of the first paragraph by striking “court
45 appearance” and inserting in place thereof:- or youthful offender adjudication

46 SECTION 9. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
47 hereby amended, by striking the second sentence of the first paragraph and inserting in place
48 thereof:-

49 The commissioner shall comply with such request provided (1) that any court
50 adjudication including court supervision, probation, commitment or parole, the records for which
51 are to be sealed, terminated not less than three years prior to said request; (2) that said person has
52 not been adjudicated delinquent or a youthful offender or found guilty of any criminal offense
53 within the commonwealth in the three years preceding such request, except motor vehicle
54 offenses in which the penalty does not exceed a fine of fifty dollars nor been imprisoned under
55 sentence or committed as a delinquent or youthful offender within the commonwealth within the
56 preceding three years; and (3) said form includes a statement by the petitioner that he has not

57 been adjudicated delinquent or a youthful offender or found guilty of any criminal offense in any
58 other state, United States possession or in a court of federal jurisdiction, except such motor
59 vehicle offenses as aforesaid, and has not been imprisoned under sentence or committed as a
60 juvenile in any state or county within the preceding three years.

61 SECTION 10. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
62 hereby amended by striking in the first line of the first sentence in second paragraph, the words
63 “When records of delinquency appearances and delinquency dispositions” and inserting in place
64 thereof:- When records of delinquency or youthful offender appearances or dispositions

65 SECTION 11. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
66 hereby amended by striking in the third paragraph, the words “delinquency appearances and
67 delinquency dispositions” and inserting in place thereof:- delinquency and youthful offender
68 appearances and dispositions

69 SECTION 12. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
70 hereby amended by striking throughout the fourth paragraph, the word “delinquency” and “in the
71 first and second sentence and inserting in place thereof:- delinquency or youthful offender

72 SECTION 13. Section 100B of chapter 276, as appearing in the 2018 Official Edition, is
73 hereby amended by striking in the fourth paragraph, the words “a delinquent” in the last sentence
74 and inserting in place thereof:- a delinquent or youthful offender

75 SECTION 14. Section 100C of chapter 276, as appearing in the 2018 Official Edition, is
76 hereby amended by deleting the first and second paragraph and inserting two paragraphs in place
77 thereof as follows:-

78 (a) Whenever a criminal charge does not result in a conviction, the clerk and the
79 commissioner shall seal all records related to the charge immediately upon final disposition of
80 the charge or immediately upon the completion of any period of court-ordered supervision for
81 the charge if supervision was ordered. The individual shall not be required to file a petition or
82 other request to seal the charge or charges. This sealing shall occur in all instances unless the
83 individual files an objection to sealing the charge or charges. A person who objects to sealing of
84 an offense that did not result in a conviction shall be permitted to request sealing of the same
85 offense at a later time, and the commissioner shall seal any such eligible offense upon request.
86 Nothing in this section shall prohibit the commissioner from sealing any eligible offense
87 pursuant to section 100A of this chapter.

88 (b) For the purposes of this section, a disposition is not a conviction if the disposition is
89 less than a guilty finding, including but not limited to: not guilty, nolle prosequi, dismissed,
90 dismissed prior to arraignment, dismissed after continuance without a finding, dismissed after
91 indicted, bound over, no bill, no probable cause, and, including but not limited to, instances
92 when a court uses any of the following as a disposition without a guilty finding: court costs,
93 costs, filed, pre-trial supervision, community service, fines, fees, as well as any civil dispositions,
94 including those pursuant to section 70C of chapter 277.