

SENATE No. 980

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 relative to expungement of juvenile and young adult records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/25/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/26/2021</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>3/2/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/4/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/15/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>4/26/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>6/29/2021</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>1/31/2022</i>

SENATE No. 980

By Ms. Creem, a petition (accompanied by bill, Senate, No. 980) of Cynthia Stone Creem, Jack Patrick Lewis, Kay Khan, Christopher Hendricks and other members of the General Court for legislation to expunge juvenile and young adult records. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to expungement of juvenile and young adult 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. The first paragraph of Section 60A of chapter 119 of the General Laws, as
2 appearing in the 2016 Official Edition, is hereby amended by striking out the first sentence.

3 SECTION 2. The first paragraph of Section 60A of chapter 119 of the General Laws, as
4 so appearing, is hereby further amended by striking out in line 4 of the second sentence the word
5 “other” and by inserting between the words “delinquency” and “arising” in lines 4 and 5, the
6 following words:-

7 and youthful offender proceedings

8 SECTION 3. Section 100E of chapter 276 of the General Laws is hereby amended by
9 inserting between the definition of “Attorney general” and the definition of “Commissioner” the
10 following paragraph:-

“Best interests of justice”, circumstances by which a judge may order expungement of a record or records based on circumstances that include, but are not limited to any of the following:

a) age is a mitigating factor because the offense or offenses occurred before the petitioner attained age 25;

b) the petitioner was a victim of trafficking at the time of the offense as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102

c) the petitioner has been denied or is at risk of denial of employment, housing, training or another opportunity due to the offense or offenses;

d) the petitioner has completed a drug, alcohol, or substance use program or participated in other treatment;

e) the petitioner has engaged in volunteer work or other community public service;

f) the petitioner has engaged in efforts at self-improvement that may include but are not limited to completion of education, training, or other academic or trade related programs;

g) significant passage of time since the offense;

h) elimination of stigma and stereotyping related to the particular offense; or

i) a compelling circumstance or disadvantage related to the offense or offenses.

SECTION 4. Section 100E of chapter 276 of the General Laws is hereby further amended by striking the words “or disposition of an offense” in the definition of “record” and inserting in place there of the following words:- “or disposition of any offense”

SECTION 5. The first sentence of subsection (a) of section 100F of chapter 276 of the General Laws, as appearing in section 95 of Chapter 253 of the Acts of 2020, is hereby amended by striking the following words:- “not more than 2”

SECTION 6. The first sentence of subsection (a) of section 100H of chapter 276 of the General Laws, as appearing in Section 97 of Chapter 253 of the Acts of 2020 is hereby amended by striking the following words, “who has not more than 2 records that do not include an adjudication as a delinquent, an adjudication as a youthful offender or a conviction” and inserting in place thereof the following words:- “who has any criminal or juvenile record where the disposition did not include an adjudication or conviction”

SECTION 7. Clause (a)(3) of section 100I of chapter 276 of the General Laws, as appearing in Section 98 of Chapter 253 of the Acts of 2020 is hereby amended by striking the clause and inserting in place thereof the following words:-

(3) all offenses that are the subject of the petition to expunge the record or records, including any period of incarceration, custody or probation, occurred not less than 7 years before the date on which the petition was filed if the record or records that are the subject of the petition include a felony unless the offense was an offense tried in juvenile court, and not less than 3 years before the date on which the petition was filed if the record or records that are the subject of the petition only include a misdemeanor or misdemeanors or offenses tried in juvenile court;

SECTION 8: Section 100J of chapter 276 of the General Laws, is hereby amended by striking out, section 100J, and inserting in place thereof the following section:

Section 100J. None of the following offenses are eligible for expungement under section 100F, 100G, or 100H:

(1) conviction for any offense resulting death or serious bodily injury as defined pursuant to section 13K of chapter 265; or

(2) any sex offense that can never be sealed under section 178G of chapter 6 of the General Laws.

SECTION 9. Chapter 276 of the General Laws is hereby amended by inserting after section 100U, the following two sections:-

Section 100V. Notwithstanding any other provision to the contrary, after an arrest of a person under the age of criminal majority, law enforcement and criminal justice agencies shall no longer transmit fingerprints and any records related to the arrest or filing of a court case against the person to the Federal Bureau of Investigation or the Department of Justice for any offense that occurred before the age of criminal majority, except for purposes of requesting that the Federal Bureau of Investigation or the Department of Justice seal or expunge its records as required by section 100T of this chapter and section 36 of chapter 22C of the General laws.

Section 100W. The office of the commissioner of probation shall collect and annually report on:

a) the number of petitions and number of allowances and denials on petitions for sealing, pursuant to sections 100B and 100C, separately, of Chapter 276 of the General Laws;

b) the number of petitions and number of allowances and denials of petitions for expungement, pursuant to sections 100F, 100G and 100H, separately, of Chapter 276 of the General Laws

73 c) the number of petitions and number of allowances and denials of petitions for
74 expungement, pursuant to section 100K of Chapter 276 of the General Laws; and

75 d) the number of petitions and number of allowances and denials on petitions for
76 sealing, pursuant to section 100A of Chapter 276 of the General Laws.

77 e) the number of denials pursuant to sections 100I and 100J, separately, of Chapter
78 276 of the General Laws.

79 Said report shall submitted to the joint committee chairs of the joint committee on the
80 judiciary and the clerks of the house of representatives and senate to the house and senate no
81 later than 75 days after the end of the fiscal year and made available to the public.