

SENATE No. 1002**The Commonwealth of Massachusetts**

PRESENTED BY:

Adam Gomez

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 supporting survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Adam Gomez</i>	<i>Hampden</i>	
<i>Liz Miranda</i>	<i>Second Suffolk</i>	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/9/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/9/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/9/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/3/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>3/7/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/15/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>6/9/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>11/30/2023</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>12/11/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>12/11/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>1/23/2024</i>

SENATE No. 1002

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 1002) of Adam Gomez, Liz Miranda, Rebecca L. Rausch, James K. Hawkins and other members of the General Court for legislation to support survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of records. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act supporting survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of 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. Section 100E of chapter 276 of the General Laws, as so appearing, is
2 hereby amended by adding the definition “victim of act(s) constituting abuse, human trafficking,
3 or involuntary sexual relations” as follows “a victim of act(s) constituting (i) abuse as defined in
4 section 1 of chapter 209A (ii) human trafficking as defined by section 20M of chapter 233 or a
5 victim of trafficking in persons under 22 U.S.C. 7102 and/or (iii) act(s) that by force, threat or
6 duress causes another to involuntarily engage in sexual relations.”

7 SECTION 1. Section 100K of chapter 276 of the General Laws, as so appearing, is
8 hereby amended by striking the word “or” at the end of paragraph (a)(5).

9 SECTION 2. Section 100K of chapter 276 of the General Laws, as so appearing, is
10 hereby amended by inserting after the sixth paragraph of subsection (a), the following
11 paragraph:-

(7) an offense that occurred as a result of the petitioner being a victim of act(s) constituting abuse, human trafficking, or involuntary sexual relations.

SECTION 3. Section 100K of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence of subsection (b), the following sentences:-

Any official documentation from any local, state or federal community-based or governmental agency of the defendant's status as a victim of act(s) constituting abuse as defined in section 1 of chapter 209A, human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 and/or act(s) that by force, threat or duress causes another to involuntarily engage in sexual relations at the time of the offense shall create a rebuttable presumption that the defendant's participation in the offense was a result of their victimization, but shall not be required for granting a petition. For purposes of this subsection, "official documentation" shall be defined as any document issued by a local, state or federal community-based or government agency in the agency's official capacity. A judge shall consider any credible evidence including testimony of the petitioner in determining eligibility for relief.

SECTION 4. Chapter 276 of the General Laws is hereby amended by striking out section 100Q, as inserted by section 195 of said chapter 69, and inserting in place thereof the following section:-

Section 100Q. Unless otherwise provided by law, no person shall make records sealed pursuant to section 100A, 100B, or 100C or expunged pursuant to section 100F, 100G, section 100H, or section 100K available for inspection in any form by any person.

SECTION 5. Section 100C of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph, the following paragraphs:-

Notwithstanding other provisions in section 100A—100C, a judge may without a waiting period seal any court appearance or disposition where the offense occurred as a result of the petitioner being a victim of act(s) constituting abuse as defined in section 1 of chapter 209A, human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 and/or act(s) that by force, threat or duress causes another to involuntarily engage in sexual relations, and the petitioner can establish a connection between the offense and having been a victim of the aforementioned act(s) and it appears to the court that substantial justice would best be served by the sealing of the record(s).

A judge shall consider any credible evidence including testimony of the petitioner in determining eligibility for relief under this section. Any official documentation from any local, state or federal community-based or governmental agency of the defendant's status as a victim of act(s) constituting abuse as defined in section 1 of chapter 209A, human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102 and/or act(s) that by force, threat or duress causes another to involuntarily engage in sexual relations, at the time of the offense shall create a rebuttable presumption that the defendant's participation in the offense was connected to their victimization, but shall not be required for granting a petition. For purposes of this subsection, "official documentation" shall be defined as any document issued by a local, state or federal community-based or government agency in the agency's official capacity, or any criminal justice agency as defined by section 167 of chapter 6.

SECTION 6. Sections 100A, 100B, and 100C of chapter 276 of the General Laws, as so appearing, are hereby amended by inserting the following language at the end of each section:

“The clerk’s office of any division of the trial court, the commissioner of probation, or any other criminal justice agency, upon request of a person whose offense or offenses are sealed, or the person’s legal representative, shall provide access to the information contained in the sealed records to the individual or the individual’s legal representative without first obtaining a court order.”

SECTION 7. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by changing the word “defendant” to “petitioner” throughout the section.

SECTION 8. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking the phrase “under section 26, subsection (a) of section 53 or subsection (a) of section 53A of chapter 272 or under section 34 of chapter 94C for simple possession of a controlled substance” from subsection (a).

SECTION 9. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking the phrase “of a reasonable probability that the defendant's participation in the offense was a result of having been a human trafficking victim as defined by section 20M of chapter 233 or a victim of trafficking in persons under 22 U.S.C. 7102” from subsection (a) and inserting the phrase “that petitioner was a victim of act(s) constituting abuse, human trafficking, or involuntary sexual relations as defined by Section 100E of chapter 276, and the petitioner participated in the offense as a result of fear, duress, coercion, or intimidation by a perpetrator of said act(s).”

SECTION 10. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting at the beginning of subsection (5) the following: A hearing on this petition is not required and the court may grant the petition without a hearing if the requirements are met or if the court finds justice so requires. If a hearing is conducted,”

SECTION 11. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting at the end of subsection (6) the following: “Any filings related to the petition shall be automatically filed under seal, and any hearings that take place shall be confidential, unless otherwise requested by the petitioner.

”SECTION 12. Section 59 of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph of subsection (b) the following: “The clerk shall forthwith notify the commissioner of probation and the probation officer of the courts in which the proceedings occurred or were initiated who shall likewise seal the records of the proceedings in their files.”

SECTION 13. Section 57 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking “charges of engaging in common night walking or common streetwalking in violation of section 53 of chapter 272 and to charges of violating section 26 or 53A of said chapter 272” and by inserting “any charges” in its place. Also, by striking “while a human trafficking victim” and by inserting “as a result of being a victim of human trafficking.”