

# SENATE . . . . . No. 998

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Adam Gomez*

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*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.

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PETITION OF:

| NAME:                     | DISTRICT/ADDRESS:            |                  |
|---------------------------|------------------------------|------------------|
| <i>Adam Gomez</i>         | <i>Hampden</i>               |                  |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i>      | <i>2/14/2023</i> |
| <i>Lydia Edwards</i>      | <i>Third Suffolk</i>         | <i>2/28/2023</i> |
| <i>Sal N. DiDomenico</i>  | <i>Middlesex and Suffolk</i> | <i>6/8/2023</i>  |
| <i>Liz Miranda</i>        | <i>Second Suffolk</i>        | <i>11/1/2023</i> |

# SENATE . . . . . No. 998

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By Mr. Gomez, a petition (accompanied by bill, Senate, No. 998) of Adam Gomez, Patricia D. Jehlen and Lydia Edwards for legislation to remove collateral consequences and protect the presumption of innocence. The Judiciary.

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## The Commonwealth of Massachusetts

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

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 2020 Official Edition, is  
2 hereby amended by striking the number “10” in the second sentence in subsection (i) and  
3 inserting in place thereof, the following number:- 7.

4           SECTION 2. Section 172(a)(3) of chapter 6, as appearing in the 2020 Official Edition, is  
5 hereby amended by striking the number “5” in subsection (ii) and inserting in place thereof, the  
6 following number:- 3.

7           SECTION 3. Section 100A of chapter 276, as appearing in the 2020 Official Edition, is  
8 hereby amended by inserting after the second sentence the following sentence:- “The  
9 commissioner shall also comply with the request for sealing without imposing a waiting period  
10 for any offense that did not result in a conviction or “guilty file” disposition.

11           SECTION 4. Section 100B of chapter 276, as appearing in the 2020 Official Edition, is  
12 hereby amended after the last sentence in the first paragraph, the following two paragraphs:-

13           The words "delinquent" and "delinquency" as used in this section shall include and  
14   pertain to any juvenile offense, including where the juvenile is charged as or adjudicated a  
15   youthful offender, as long as the juvenile offense was not transferred from the juvenile court or a  
16   juvenile session to another court, or not filed in superior court.

17           Notwithstanding the above provisions, the clerk and the commissioner shall seal all  
18   records related to any offense immediately if the offense did not result in an adjudication, absent  
19   an objection from the juvenile upon final disposition of the offense, including completion of any  
20   period of court-ordered supervision or other court ordered conditions related to the offense. The  
21   juvenile shall not be required to file a petition or other request to seal the offense or offenses. A  
22   juvenile who objected to sealing of an offense or who otherwise has an unsealed offense that did  
23   not result in an adjudication shall be permitted to request sealing of the same offense at a later  
24   time, and the commissioner shall seal any such eligible offense upon request.

25           SECTION 5. Section 100C of chapter 276, as appearing in the 2020 Official Edition, is  
26   hereby amended by striking the first and second paragraph and inserting in place thereof the  
27   following paragraphs:-

28           (a) Whenever a criminal court offense does not result in a conviction, the clerk and the  
29   commissioner shall seal all records related to the offense immediately absent an objection from  
30   the defendant upon final disposition of the offense, including completion of any period of court-  
31   ordered supervision or other court ordered conditions for the offense. The individual shall not be  
32   required to file a petition or other request to seal the charge or charges. A person who objects to  
33   sealing or who otherwise has an unsealed offense that did not result in a conviction shall be  
34   permitted to request sealing of the same offense at a later time, and the commissioner shall seal

any such eligible offense upon request. Nothing in this section shall prohibit the commissioner from sealing any eligible offense pursuant to section 100A of this chapter.

(b) For the purposes of this section, a conviction is defined only as a finding of guilt, and does not include a continuance without a finding.

SECTION 6. Section 172 of chapter 6, as appearing in the 2020 Official Edition, is hereby amended by adding after subsection (o), the following new subsection :- (p) When the department provides any requestor with criminal offender record information about any pending charge or any offense that did not result in a criminal conviction, the department shall provide a written statement to the requestor that “A presumption of innocence applies to an individual with an offense that did not result in a conviction or is still pending,”

SECTION 7. Section 100Q of chapter 276, as appearing in the 2020 Official Edition, is hereby amended by inserting after the first sentence the following two sentences:-

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 sealed records to the individual or the individual’s legal representative without said person or legal representative obtaining a court order to unseal the record or taking other action. Immediately prior to sealing or expungement, the clerk’s office of any division of the trial court or the commissioner of probation shall provide a certified copy of the criminal offender record information to the individual for personal use.