

Few taking advantage of juvenile expungement law

By Christian M. Wade Statehouse Reporter | Jan 20, 2019

BOSTON — Manoushka Gaston escaped a troubled past to attend school to become a nursing assistant in Lawrence with dreams of landing a job at an assisted living facility.

A felony domestic assault charge from a fight with an ex-boyfriend years ago has prevented her from finding a job since she graduated from the Notre Dame Education Center.

"It's like a Catch-22," said Gaston, 25, a mother of two who lives in Lowell. "You do the right thing, go to school to get on the right path, but something like this holds you back."

Gaston said she hoped for help from a new law allowing individuals with prior convictions to expunge their records, but hers is one of many charges not covered.

The law, which went into effect last year, allows juvenile records and some crimes committed between ages 18 and 21 -- including felonies -- to be expunged, along with convictions for marijuana possession now that recreational pot is legal for adults. Expungement clears the charges in question from a person's official criminal record. But the limited scope of the law means few have taken advantage of it, advocates say.

To date, only 61 requests for criminal records expungement have been received by the Massachusetts Probation Service, according to department spokeswoman Coria Holland.

Criminal justice advocates say the biggest problem with the law is that it gives people with criminal records only one bite of the apple. Individuals seeking to expunge a previous conviction can only get one charge removed, which advocates say does little to help those with multiple offenses in their past.

"The expungement law has been a disaster, especially when it comes to juvenile records," said Pauline Quirion, a lawyer and director of

the criminal records sealing project at Greater Boston Legal Services, an advocacy group that represents low-income clients.

"This wasn't what we envisioned when we were working on the law," she said.

Juvenile records can haunt people long past their punishments, she said, preventing them from getting jobs or housing, or from getting into college.

"It really hurts young people who've gotten their lives together and want to be on the right path," said Sana Fadel, executive director of the advocacy group Citizens for Juvenile Justice, which is pushing for changes to the expungement law. "It basically tells them that they can't be members of society."

Fadel's group wants lawmakers to update the law to allow multiple charges to be expunged and to expand the list of offenses that it covers.

The new law, signed by Gov. Charlie Baker as part of the most extensive overhaul of the state's criminal procedures in decades, also allowed criminal records to be sealed more quickly. Unlike expungement, sealing a record means it is no longer visible to employers or the public but is still available to law enforcement officials and the courts.

For individuals found guilty of misdemeanor offenses, the wait time for asking for a case to be sealed was shortened from five years to three, and from 10 years to seven for felonies convictions. That change has prompted a surge in records being sealed, according to data from Probation Services. Last year the state sealed about 65,720 criminal records, an increase of more than 6,000 from 2017, the agency said. Since Jan. 1, more than 4,000 records have been sealed, putting the number on track to hit 95,000 by the end of the year.

The Probation Services department doesn't

keep tabs on which offenses were involved in sealed records, and didn't say how many of the 61 requests for expungement had been approved or denied. It pointed out that numbers of sealed cases represent individual charges.

Major convictions — murder, felony assault, drunken driving, domestic battery rape and other sexual offenses, among others — cannot be expunged or sealed.

But criminal justice reform advocates say Massachusetts is particularly unforgiving when it comes to allowing people to get beyond a conviction for minor offenses.

Besides using the expungement law, people who want to clear their records can petition the Parole Board and governor to pardon them, but executive clemency is seldom granted. Baker, a Republican who took office in 2015, has yet to recommend any pardons or commutations to the Governor's Council, despite receiving hundreds of requests. His predecessor, Gov. Deval Patrick, a Democrat, only approved four pardons and a single commutation during eight years in office.

Even the star power of Boston-born actor Mark Wahlberg isn't enough to get a governor's pardon. Several years ago, the state's Parole Board declined to grant his request to clear a 1988 felony assault conviction from his record. Lawmakers have filed several bills in the House and Senate to amend the expungement law, but it remains unclear if they will be taken up by legislative leaders.

Gaston, who works on policy issues at the Lowell-based group UTEC -- which works with at-risk young people -- said she hopes the Legislature expands the scope of the law.

"If someone makes a mistake when they're young, it shouldn't ruin their whole life," she said. "Everyone deserves a second chance."