



**Testimony submitted to the Joint Committee on the Judiciary
In Support of S.900 An Act relative to expungement and H.1386 An Act relative to expungement,
sealing and criminal records provisions
By Colleen Kirby, LWVMA Specialist, Criminal Justice Reform
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Many young people come into contact with the juvenile justice system each year. Most are from poor neighborhoods and, more often than not, are children of color or children without means. Many have experienced mental illness, learning disabilities, or school failure. This bill allows for expungement for those up to age 21, beyond the restricted reforms the League supported that passed in the last session. This bill expands the number of charges eligible for expungement beyond “one court appearance,” making it possible for expungement of cases that do not result in conviction or adjudication (one step less than conviction). It will enable expungement of misdemeanors after 3 years and felonies after 5 years as long as there are no other convictions/adjudications in that time. It will also limit ineligible offenses to those offenses ineligible for sealing. It will allow sealing of juvenile records if the case has been disposed without adjudication. It also ends considering juvenile adjudications as equivalent to conviction so as not to trigger mandatory minimum sentences.

The brain is still developing up through the early 20s, and individuals are more likely to make mistakes in judgement during this time. Most young people who have offended do not go on to offend as adults.¹ Very few individuals are eligible for expungement based on the criteria passed in the 2018 reform bill. Expanding the use of expungement will help individuals with a record access education, employment,² mental health care,³ and housing. Expungement is about giving people second chances, especially young people and people whose offenses are not considered dangerous or whose records are based on offenses that did not require custody. Interacting with the criminal justice system should not result in a lifetime ban from bettering oneself or being able to take care of oneself or one’s family. By expanding the use of expungement, we will be giving young people second chances for getting caught doing the type of behaviors typical of many in this age group, and this move should reduce recidivism by encouraging socially beneficial integration.⁴

The League of Women Voters “opposes mandatory minimum sentences for drug offenses” and ascribes to government “the responsibility to provide equality of opportunity for education, employment and housing for all persons in the United States...federal programs to increase the education and training of disadvantaged people...efforts to prevent and/or remove discrimination in education, employment and housing” and to “secure equal rights and equal opportunity for all.”⁵

In addition, the League of Women Voters of Massachusetts is in favor of “the use of adequately funded and supervised alternative punishments for offenders where mitigating circumstances exist” and supports “measures to protect the civil and individual rights of the offender and to promote the offender's rehabilitation through individualized treatment” and programs “for prevention, detection and treatment of juvenile delinquency.”⁶

Indiana supported extensive expungement reforms in 2014. Since then, many thousands of people have gone through the process for expungement in Indiana, showing how important it is.⁷ There have not yet been good follow-up studies on the results, but anecdotally it appears that few return back into the

system.⁸ Employers, seeking a bigger workforce in South Carolina, encouraged the passage of extensive expungement laws in 2018⁹ which include retroactive application for youth who have committed offenses.¹⁰

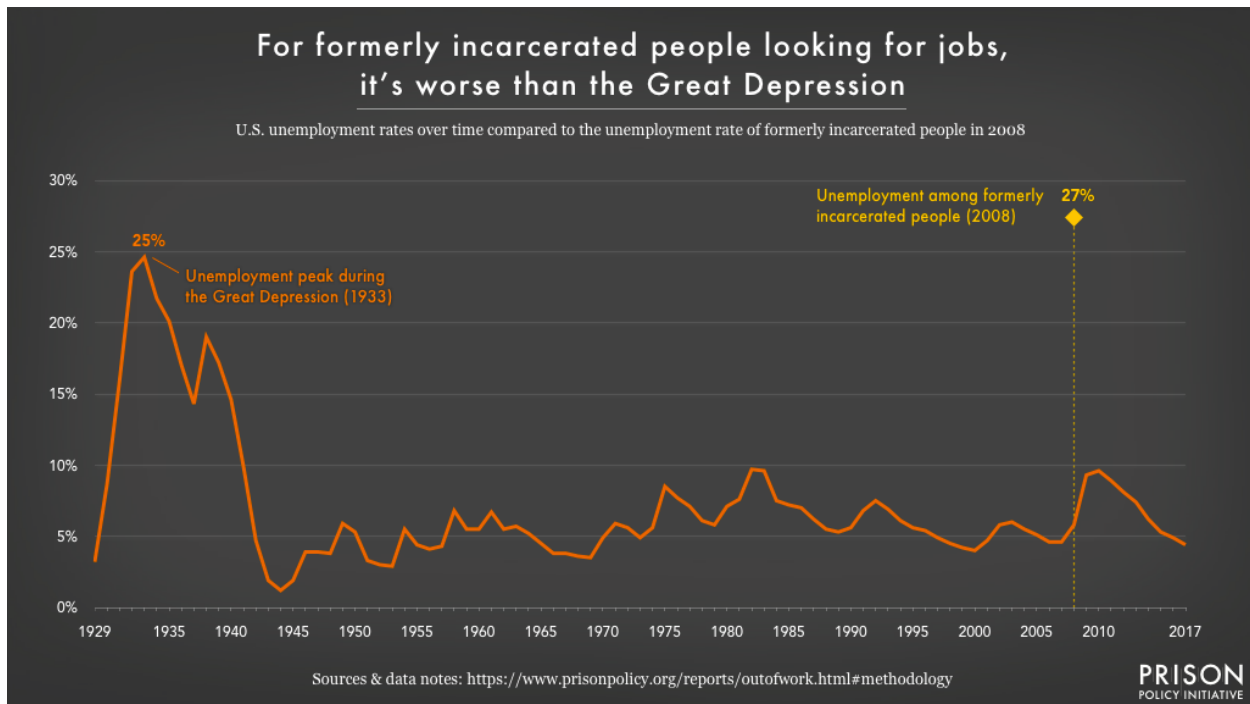
In the last few years, more than 20 states have expanded or added laws to keep people from being held back by their records, including limited reforms in Massachusetts. In Indiana, Latosha Poston of Indianapolis worked in home health care for nearly 20 years making just over \$11 an hour. Once her records were sealed, she landed a hospital job as an operating room assistant. "I felt like something was lifted off," she said, "because now I kind of felt like a human."

Background checks are required for jobs, schools, mortgage applications and more, and records follow people for years so they end up in permanent second-class status.¹¹ Many summer jobs for youth are off limits if they are found to have a record. Nationally, the unemployment rate for formerly incarcerated people is worse than the Great Depression. (see Figure 1) Keeping people from being productive after they leave custody is a drain on the resources of the Commonwealth. Second chances work.¹²

The League of Women Voters of Massachusetts, with 47 local Leagues from Cape Cod to the Berkshires, urges you to report this bill favorably.

Thank you for your consideration.

Figure 1. Unemployment among formerly incarcerated people.
<https://www.prisonpolicy.org/reports/outofwork.html>





1. <https://www.cfjj.org/expungement/>
2. https://www.nytimes.com/2015/03/19/opinion/job-hunting-with-a-criminal-record.html?ref=opinion&_r=1
3. Health Impact Assessment: Massachusetts Proposed Expungement Bill, July 2016, MIT and MAPC
4. <https://www.themarshallproject.org/2017/01/24/what-we-can-learn-from-the-amazing-drop-in-juvenile-incarceration>
5. Impact on Issues <https://lwwma.org/advocacy/league-positions/>
6. Where We Stand <https://lwwma.org/advocacy/league-positions/>
7. <https://www.nytimes.com/2018/10/07/us/expungement-criminal-justice.html>
8. <https://ccresourcecenter.org/2017/12/21/expungement-in-indiana-a-radical-experiment-and-how-it-is-working-so-far/>
9. <https://www.fisherphillips.com/resources-alerts-south-carolinas-new-expungement-law-could-increase>
10. <https://www.wjbf.com/news/south-carolina-news/sc-lawmakers-override-governors-veto-of-expungement-law-amendment/>
11. <https://www.npr.org/2019/02/19/692322738/scrubbing-the-past-to-give-those-with-a-criminal-record-a-second-chance>
12. <https://www.expungema.org/supporters>