

HOUSE No. 3443

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 Privacy of Juvenile Records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>

HOUSE No. 3443

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 3443) of Kay Khan and others relative to the sealing or expunging of records of youthful offenders. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act Relative to Privacy of Juvenile 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. Subsection (m) of section 172 of chapter 6 of the General Laws is hereby
2 amended by adding the following sentence:- ; provided, however, that any such record relating
3 to a child set forth in sections 52 to 60, inclusive, of chapter 119 shall not be a public record.

4 SECTION 2. Chapter 119 of the General Laws is hereby amended by striking out
5 sections 60 and 60A and inserting in place thereof the following 2 sections:-

6 Section 60. (a) An adjudication of any child as a delinquent child, youthful offender or
7 any disposition thereunder of any child so adjudicated pursuant to the general laws, or any
8 evidence given in any case arising against any child under the general laws, or any records in
9 cases arising against any child under the general laws shall not be received in evidence or used
10 against such child for any purpose in any proceedings in any court except in subsequent
11 delinquency, youthful offender or any criminal proceedings against the same person; nor shall
12 such adjudication or disposition or evidence operate to disqualify a child in any future
13 examination, appointment, or application for public service under the government either of the

14 commonwealth or of any political subdivision thereof; provided, however, that adjudication of
15 delinquency or youthful offender by reason of the child having committed an offense against the
16 commonwealth may be used for impeachment purposes in subsequent delinquency, youthful
17 offender or any criminal proceedings in the same manner and to the same extent as prior criminal
18 convictions.

19 (b) A state agency or a political subdivision of the commonwealth, including a
20 district, school district, county or municipality, shall not disclose on a public access web site
21 maintained by it any information concerning the following: (i) an arrest or detention of a child;
22 (ii) delinquency or youthful offender proceedings for a child; (iii) an adjudication of a child; or
23 (iv) an adult sentence imposed on a child, except information required to be disclosed pursuant to
24 the Sex Offender Registration and Notification Act.

25 (c) All records pertaining to the child, obtained by the juvenile court, office of
26 probation, parole officers or in possession of any agency department of the commonwealth
27 relative to delinquency or youthful offenders, are confidential and shall not be disclosed directly
28 or indirectly to the public.

29 (d) Whoever intentionally and unlawfully releases any information or records closed
30 to the public pursuant to this section or releases or makes other unlawful use of records in
31 violation of this section shall be punishable by a fine of not more than \$5,000 or by
32 imprisonment for not more than 2½ years in a house of correction or by both such fine and
33 imprisonment.

34 Section 60A. (a) Inspection of the files and records of a delinquency or youthful offender
35 proceeding, or the release of information in such records until and if the files are sealed or
36 expunged may thereafter be permitted by the court only:

37 (1) upon motion by the person who is the subject of the records

38 and only to those persons named in the motion; and

39 (2) in its discretion, in an individual case, to any clinic, hospital or

40 agency that has the person under care or treatment or to other persons engaged in fact
41 finding or research.

42 The inspection or release of such files and records shall be subject to the confidentiality
43 provisions of section 60 and other applicable federal and state laws.

44 (b) A child who is determined by the court not to be a delinquent or

45 youthful offender shall have the child's files and records in the instant proceeding

46 automatically expunged by the court upon motion by the child's attorney at the conclusion of the
47 proceedings.

48 (c) After sealing, the office of probation or the department

49 of youth services may store and use a person's records for research and reporting

50 purposes, subject to the confidentiality provisions of section 60 and other applicable federal and
51 state laws.

52 SECTION 3. Section 90 of chapter 276 of the General Laws, as appearing in the 2012
53 Official Edition, is hereby amended by striking out, in line 8, the words “fifty-nine” and inserting
54 in place thereof the following figure:- 60.