

SENATE No. 758

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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 permitting the court to expunge the record of persons struggling with substance abuse or charged with possession of certain Class D controlled substances.

PETITION OF:

NAME:

Joseph A. Boncore

DISTRICT/ADDRESS:

First Suffolk and Middlesex

SENATE No. 758

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 758) of Joseph A. Boncore for legislation to permit the court to expunge the record of persons struggling with substance abuse or charged with possession of certain Class D controlled substances. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act permitting the court to expunge the record of persons struggling with substance abuse or charged with possession of certain Class D controlled substances.

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. Chapter 276 of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by adding the following new section:-

3 Section 100E. A court may order expungement of a criminal charge and other records
4 related to the charge if the court determines that expungement is in the interest of justice
5 because:

6 (a) the defendant successfully completed all the requirements imposed upon him or her
7 by the drug court and any other requirements of probation: or

8 (b) the defendant had been charged with possession of a Class D substance as defined
9 pursuant to clause (1) of subsection (b) of Class D of section 31 of chapter 94C.

10 The court, following a meaningful hearing in which the person seeking expungement
11 shall have a full opportunity to present evidence, shall enter written findings of fact when it

12 orders expungement of the records and provide a copy of the order and findings of fact to the
13 commissioner of probation forthwith.

14 The person seeking expungement under this section shall have the right to counsel at the
15 hearing to determine whether expungement shall be ordered.

16 The commissioner of probation shall expunge said court appearance and disposition
17 recorded in the commissioner's files and the clerk and the probation officers of the courts in
18 which the proceedings occurred or were initiated shall expunge the records of the proceedings
19 from their files. No individual or other entity, including but not limited to criminal justice
20 agencies as defined section 167 of chapter 6, shall have access to expunged criminal offender
21 record information related to the expunged charge or charges.

22 The court on request of the defendant shall order the expungement of records that directly
23 pertain to expunged case that are in the care, custody, and control of any other agencies,
24 departments, commissions, or entities, including but not limited to law enforcement agencies.
25 Such expunged records shall include, but not be limited to, arrest and other police records and
26 district attorney files.

27 For the purpose of this chapter, the words, expunge, expunged, or expungement, shall be
28 mean permanent erasure and destruction of records.