

SENATE No. 757

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 relative to permitting the court to expunge the records of innocent persons, persons not connected to an alleged offense.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Leonard Mirra</i>	<i>2nd Essex</i>	<i>2/3/2017</i>

SENATE No. 757

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 757) of Joseph A. Boncore and Leonard Mirra for legislation relative to permitting the court to expunge the records of innocent persons, persons not connected to an alleged offense. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to permitting the court to expunge the records of innocent persons, persons not connected to an alleged offense.

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 criminal complaint issued against the named defendant because of
7 misidentification or other errors by law enforcement, civilian and expert witnesses or court
8 employees; or

9 (b) the named defendant had no connection to the alleged criminal activity; or

10 (c) the named defendant was prosecuted because another person impersonated him or her,
11 or used his or her name when arrested by police; or

12 (d) there was fraud on the court related to the claim that the defendant committed the
13 offense; or

14 The court, following a meaningful hearing in which the person seeking expungement
15 shall have a full opportunity to present evidence, shall enter written findings of fact when it
16 orders expungement of the records and provide a copy of the order and findings of fact to the
17 commissioner of probation forthwith.

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

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

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

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