

Sealing or Expunging Criminal Record Information

Massachusetts General Laws, Chapter 276: Sections 100A, 100B, 100C

PROBATION OFFICERS

Chapter 276: Section 100A. Requests to seal files; conditions; application of section; effect of sealing of records

Section 100A. Any person having a record of criminal court appearances and dispositions in the commonwealth on file with the office of the commissioner of probation may, on a form furnished by the commissioner and signed under the penalties of perjury, request that the commissioner seal such file. The commissioner shall comply with such request provided (1) that said person's court appearance and court disposition records, including termination of court supervision, probation or sentence for any misdemeanor occurred not less than ten years prior to said request; (2) that said person's court appearance and court disposition records, including termination of court supervision, probation or sentence for any felony occurred not less than fifteen years prior to said request; (3) that said person had not been found guilty of any criminal offense within the commonwealth in the ten years preceding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars; (4) said form includes a statement by the petitioner that he has not been convicted of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been imprisoned in any state or county within the preceding ten years; and (5) said person's record does not include convictions of offenses other than those to which this section applies. This section shall apply to court appearances and dispositions of all offenses provided, however, that this section shall not apply in case of convictions for violations of sections one hundred and twenty-one to one hundred and thirty-one H, inclusive, of chapter one hundred and forty or for violations of chapter two hundred and sixty-eight or chapter two hundred and sixty-eight A.

In carrying out the provisions of this section, notwithstanding any laws to the contrary:

1. Any recorded offense which was a felony when committed and has since become a misdemeanor shall be treated as a misdemeanor.
2. Any recorded offense which is no longer a crime shall be eligible for sealing forthwith, except in cases where the elements of the offense continue to be a crime under a different designation.
3. In determining the period for eligibility, any subsequently recorded offenses for which the dispositions are "not guilty", "dismissed for want of prosecution", "dismissed at request of complainant", "nol prossed", or "no bill" shall not be held to interrupt the running of the required period for eligibility.
4. If it cannot be ascertained that a recorded offense was a felony when committed said offense shall be treated as a misdemeanor.

When records of criminal appearances and criminal dispositions are sealed by the commissioner in his files, he shall notify forthwith the clerk and the probation officer of the courts in which the convictions or dispositions have occurred, or other entries have been made, of such sealing, and said clerks and probation officers likewise shall seal records of the same proceedings in their files.

Such sealed records shall not operate to disqualify a person in any examination, appointment or application for public service in the service of the commonwealth or of any political subdivision thereof; nor shall such sealed records be admissible in evidence or used in any way in any court proceedings or hearings before any boards or commissions, except in imposing sentence in subsequent criminal proceedings.

An application for employment used by an employer which seeks information concerning prior arrests or convictions of the applicant shall include the following statement: "An applicant for employment with a sealed record on file with the commissioner of probation may answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions. An applicant for employment with a sealed record on file with the commissioner of probation may answer 'no record' to an inquiry herein relative to prior arrests or criminal court appearances. In addition, any applicant for employment may answer 'no record' with respect to any inquiry relative to prior arrests, court appearances and adjudications in all cases of delinquency or as a child in need of services which did not result in a complaint transferred to the superior court for criminal prosecution." The attorney general may enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

The commissioner, in response to inquiries by authorized persons other than any law enforcement agency, any court, or any appointing authority, shall in the case of a sealed record or in the case of court appearances and adjudications in a case of delinquency or the case of a child in need of services which did not result in a complaint transferred to the superior court for criminal prosecution, report that no record exists.

Chapter 276: Section 100B. Requests to seal delinquency files or records; conditions; sealing by commissioner; notice for compliance; effect of sealing; limited disclosure

Section 100B. Any person having a record of entries of a delinquency court appearance in the commonwealth on file in the office of the commissioner of probation may, on a form furnished by the commissioner, signed under the penalties of perjury, request that the commissioner seal such file. The commissioner shall comply with such request provided (1) that any court appearance or disposition including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than three years prior to said request; (2) that said person has not been adjudicated delinquent or found guilty of any criminal offense within the commonwealth in the three years preceding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars nor been imprisoned under sentence or committed as a delinquent within the commonwealth within the preceding three years; and (3) said form includes a statement by the petitioner that he has not been adjudicated delinquent or found guilty of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and has not been imprisoned under sentence or committed as a delinquent in any state or county within the preceding three years.

When records of delinquency appearances and delinquency dispositions are sealed by the commissioner in his files, the commissioner shall notify forthwith the clerk and the probation officer of the courts in which the adjudications or dispositions have occurred, or other entries have been made, and the department of youth services of such sealing, and said clerks, probation officers, and department of youth services likewise shall seal records of the same proceedings in their files.

Such sealed records of a person shall not operate to disqualify a person in any future examination, appointment or application for public service under the government of the commonwealth or of any political subdivision thereof; nor shall such sealed records be admissible in evidence or used in any way in any court proceedings or hearings before any boards of commissioners, except in imposing sentence for subsequent offenses in delinquency or criminal proceedings.

Notwithstanding any other provision to the contrary, the commissioner shall report such sealed delinquency record to inquiring police and court agencies only as "sealed delinquency record over three years old" and to other authorized persons who may inquire as "no record". The information contained in said sealed delinquency record shall be made available to a judge or probation officer who affirms that such person, whose record has been sealed, has been adjudicated a delinquent or has pleaded guilty or has been found guilty of and is awaiting sentence for a crime committed subsequent to sealing of such record. Said information shall be used only for the purpose of consideration in imposing sentence.

Chapter 276: Section 100C. Sealing of records or files in certain criminal cases; effect upon employment reports; enforcement

Section 100C. In any criminal case wherein the defendant has been found not guilty by the court or jury, or a no bill has been returned by the grand jury, or a finding of no probable cause has been made by the court, the commissioner of probation shall seal said court appearance and disposition recorded in his files and the clerk and the probation officers of the courts in which the proceedings occurred or were initiated shall likewise seal the records of the proceedings in their files. The provisions of this paragraph shall not apply if the defendant makes a written request to the commissioner not to seal the records of the proceedings.

In any criminal case wherein a nolle prosequi has been entered, or a dismissal has been entered by the court, except in cases in which an order of probation has been terminated, and it appears to the court that substantial justice would best be served, the court shall direct the clerk to seal the records of the proceedings in his files. The clerk shall forthwith notify the commissioner of probation and the probation officer of the courts in which the proceedings occurred or were initiated who shall likewise seal the records of the proceedings in their files.

Such sealed records shall not operate to disqualify a person in any examination, appointment or application for public employment in the service of the commonwealth or of any political subdivision thereof.

An application for employment used by an employer which seeks information concerning prior arrests or convictions of the applicant shall include in addition to the statement required under section one hundred A the following statement: "An applicant for employment with a sealed record on file with the commissioner of probation may answer 'no record' with respect to an inquiry herein relative to prior arrests or criminal court appearances." The attorney general may enforce the provisions of this section by a suit in equity commenced in the superior court.

The commissioner, in response to inquiries by authorized persons other than any law enforcement agency or any court, shall in the case of a sealed record report that no record exists. After a finding or verdict of guilty on a subsequent offense such sealed record shall be made available to the probation officer and the same, with the exception of a not guilty, a no bill, or a no probable cause, shall be made available to the court.