

# KNOW YOUR CORI RIGHTS

## SEALING AND EXPUNGEMENT OF CRIMINAL OFFENDER RECORD INFORMATION (CORI)

By Greater Boston Legal Services CORI & Re-entry Project  
2024 Update



Photo courtesy of the Boston Workers Alliance

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**IMPORTANT.** This information is provided as a public service by Greater Boston Legal Services and does not constitute legal advice which can only be given to you by your own attorney. This information relates only to state court criminal and juvenile records in Massachusetts and laws in Massachusetts in effect as of June 2, 2024 when this booklet was last updated. You may print and share this booklet with others.

## WHAT IS CORI AND HOW TO GET YOUR CORI REPORT

### 1. What is Criminal Offender Record Information (CORI)?

Criminal offender record information (CORI) is a person's criminal record history in Massachusetts. Your CORI report is a summary of all your criminal cases in Massachusetts state courts. CORI does not include restraining orders or non-criminal matters such as Department of Children and Families "51A" reports of child abuse or neglect. However, a criminal case may be filed if a restraining order is violated, or a child is abused.

Criminal records make it hard to find a job, get housing, or get ahead. It is important to find out what is on your CORI report and whether the cases may be sealed.

### 2. Do I have a criminal record if I was found "not guilty" or my case was dismissed?

Yes. Criminal cases that end in your favor still leave you with a criminal record.

### IMPORTANT UPDATE

**Offenses that end in a not guilty finding are now automatically sealed.** On May 5, 2023, the Supreme Judicial Court (SJC) decided a case, [Commonwealth v. J.F.](#), 491 Mass. 824 (2023), which requires that offenses that end in a **not guilty** finding are subject to mandatory IMMEDIATE sealing under G.L. c. 276, § 100C (first paragraph). The Commissioner of Probation's office is working on finding and sealing older cases that ended in a not guilty finding. If your offense was not sealed, you can reach out to the [Commissioner's office](#), One Ashburton Place, Room 405, in Boston or call them at 617-727-5300.

The practice of immediately sealing offenses that end in a not guilty finding was suspended decades ago because of a past SJC opinion that immediate sealing violated constitutionally protected rights of access to court records by the public. The old SJC case is now overruled. For more information about the [J.F.](#) case and sealing cases that ended in a not guilty finding, see [Using expungement and sealing to mitigate racism](#), Boston Bar Journal (2023).

### 3. Where can I get a copy of my CORI report?

Getting a copy of your CORI report is an important first step in learning about your rights. You can get copy of your CORI report from the Department of Criminal Justice Information ([DCJIS](#)), the state agency charged with responding to requests from employers and others about a person's criminal record history. If you have a Massachusetts driver's license or a Massachusetts ID card, you can request your CORI report online from [DCJIS](#).

You also may request a CORI report by mailing a notarized [CORI request form](#) to DCJIS with a money order for \$25. If you are indigent, the fee can be waived if you also send in an Affidavit of Indigency. These forms are available online with self-help instructions on our [website](#).

**IMPORTANT.** If you have criminal records in other states or in federal court, these offenses will not appear on your CORI report. Please note that private background checking companies may check records in other states at federal courts. Federal agency jobs or some opportunities also may require an FBI record check.

## SEALING RECORDS

### 4. How do I seal my Massachusetts criminal records?

Most criminal records can be sealed eventually through an administrative process by mail after a waiting period, or by a judge without waiting.

#### Administrative Sealing Process by Mail

The administrative process involves filling in a [form](#) and mailing or delivering it to the Office of the Commissioner of Probation after a waiting period. (G.L. c. 276, §100A).

In 2018, legislation passed which reduced the waiting period to seal to **3 years for a misdemeanor** and **7 years for a felony** for most offenses.

- Offenses where you were found guilty can only be sealed through this administrative process, except for a first-time drug possession conviction. (G.L. c. 276, §100A; G.L. c. 94C, §34).
- Charges that ended favorably and were dismissed or ended in a nolle prosequi (a prosecutor dropped the case) can be sealed after the same waiting periods through the same administrative process (G.L. c. 276, §100A), **OR** by a court after a hearing without a waiting period (G.L. c. 276, §100C, paragraph 2).
- Offenses that ended in a not guilty should be automatically sealed, but if they were not, mailing in the form also will result in sealing if the charges. See Question 2 above.

#### Sealing by a Court

A judge has the power to seal cases that ended favorably in a dismissal or a nolle prosequi (meaning the prosecutor dropped the case) or not guilty finding **without any waiting period**. (G. L. c. 276, § 100C (second paragraph)). Judges also have the power to seal a first-time drug possession conviction as long as the person did not violate terms of probation or other court ordered requirements. (G.L. c. 94C, §34).

### 5. How does the administrative process work to seal my cases by mail?

You can only use the administrative process if ALL your cases are closed. This means that you cannot currently be on probation, parole, incarcerated, or have any open cases that are still going on.

The process to seal records by mail is free and involves filling in, signing, and mailing in or hand-delivering a [petition](#) form to the Commissioner of Probation after a waiting period. You can get the form from the Commissioner's office, One Ashburton Place, Room 405, Boston or [online](#).

**IMPORTANT.** It is very important to get certified copies of the complaint and docket sheets in each case BEFORE you seal your records because you may need copies in the future, especially if you are not a citizen or may apply for jobs that require a high security clearance. Questions 13, 17 and 27 discuss special concerns related to FBI checks, federal government jobs, and immigration matters.

## 6. When do the waiting periods start if I want to seal my criminal cases by mail?

You can seal most misdemeanor cases after a 3-year waiting period and most felony cases after a 7-year waiting period. The starting time for waiting periods vary and how it works is explained below.

**Starting the CORI clock.** Past probation or parole no longer adds extra time to the waiting period for most cases. But for any conviction, the waiting period starts from the date you were found guilty OR released from incarceration-- **whichever is later**. For example: Joe was found guilty of a misdemeanor on May 4, 2024, was on probation for a year, and his case closed on May 15, 2025. He can seal the case by mail 3 years after he was found guilty on May 4, 2027.

**Re-starting the CORI clock.** Every time you are convicted or incarcerated, the clock re-starts to add another 3 years for a misdemeanor, and 7 years for a felony. For example:

- Mac was found guilty of a felony on May 17, 2020, and again on May 17, 2021, but did not serve a jail sentence. He cannot seal either case until May 17, 2028— 7 years after the last felony conviction.
- Jack was found guilty of a misdemeanor and given a 1-year jail sentence on May 4, 2021. He got out of jail on May 4, 2022. He can seal the records on May 4, 2025— 3 years from his release from jail.

**Non-conviction clock.** If your case ended favorably and your case was dismissed or ended in a “nolle prosequi” (a dropped case), the waiting period runs from the date of this “disposition.” For example:

Mae’s felony case was dismissed on October 14, 2020. A 7-year waiting year applies and she can seal it by mail on October 14, 2027. If she does not want to wait that long, she can ask a judge to seal it. Courts can seal dismissed cases, cases that ended in a nolle prosequi (a prosecutor dropped the case), and a not guilty finding without a waiting period. See Question 8.

**Exception for a CWOFF (Continuance without a finding).** If your case was dismissed after a CWOFF, the waiting period is shorter and starts on the CWOFF date, not the later date of the actual dismissal. For example:

A judge entered a CWOFF in Tom’s felony case on May 1, 2020, and his case was dismissed on May 1, 2021. He can seal the case by mail on May 15, 2027— 7 years after the CWOFF. If he does not want to wait that long, he can ask a judge to seal it because courts can seal a dismissed case. See Question 8.

**Convictions with Longer Waiting Periods.** Certain convictions have extended waiting periods.

- **Abuse prevention order and harassment order conviction exception.** Convictions for violations of abuse prevention or harassment prevention orders are treated as felonies for purposes of sealing records and have a 7-year waiting period. (Dismissed cases can be sealed after 3 years).

- **Sex offense conviction exception.** A sex offense that required registering with the Sex Offender Registry is not eligible for sealing until 15 years *after* the very last event in the case, *including* the end of supervision, probation, parole, or release from incarceration.

**IMPORTANT.** The felony larceny threshold was increased in 2018 from \$250 to \$1200 which means larceny cases involving amounts up to \$1200 now should be sealable after only a 3-year waiting period instead of a longer 7-year felony waiting period. G.L. c. 276, § 100A. The Commissioner of Probation does not check whether an older larceny charge listed on a CORI report should be treated as a misdemeanor due to the change in the law. If your petition to seal a larceny case involving an amount that was under or up to \$1200 gets denied and is still treated as a felony for purposes of sealing, you can call Greater Boston Legal Services (GBLS), or a program in your region for help if you live outside of the Boston area.

## 7. Are there convictions that can NEVER be sealed or other limits on sealing sex offense records?

Yes. There are several exceptions for certain types of offenses.

- **Public Justice Crime Conviction exceptions.** A conviction for a crime against public justice can NEVER be sealed. ([G.L. c. 268](#)). Examples of never sealable public justice crimes include convictions for witness intimidation, perjury, or escape from jail. Resisting arrest convictions used to be never sealable, but the law changed on October 13, 2018, to permit sealing of these convictions.
- **Certain state ethics or conflicts of interest law and firearms exceptions.** For example, convictions for bribery of an elected official ([G.L. c. 268A](#)), or giving false information on a firearms identification card application ([G.L. c. 140, § 129B](#)) can never be sealed.

The list of public justice crimes, state ethics, and conflicts of interest offenses are found in **chapters 268 and 268A** of the Mass. General Laws. The never sealable firearms convictions are found in Sections 121-131H of **chapter 140** of the Mass. General Laws.

**IMPORTANT.** Even if you have a never sealable conviction, you can seal other offenses that are eligible for sealing. Also, if your case for one of these never sealable crimes was dismissed or there was a “not guilty” finding or a nolle prosequi (dropping of the case), the case can be sealed. Only certain **convictions** can never be sealed.

- **Sex offense registry exception.** A person **presently** registered as a sex offender is NOT permitted to seal sex offense convictions by the mail-in administrative process. (G.L. c. 6, § 178G). However, the person can seal other offenses that are not sex offenses if these other offenses meet all the requirements for sealing.
- **Level 2 and 3 sex offender status exceptions.** Chapter 276 section 100A provides that any person, who is or was ever registered as a Level 2 or Level 3 sex offender, can NEVER seal convictions for certain sex offenses (*i.e.* rape, assault with intent to rape, and other offenses as defined by section 178C of Chapter 6 of the Mass. General Laws). In 2017, the Supreme Judicial Court found this exclusion unconstitutional *as applied* to a person who no longer had to register as a sex offender. See [Koe v. Comm'r of Probation](#), 478 Mass. 12 (2017). This means that if the 15- year waiting period has passed, a person who is no longer in the sex offender registry can try to seal the sex offense conviction through the Office of the Commissioner of



Probation at One Ashburton Place in Boston. There is no special form for such a request. At a minimum, a person should submit a sealing [petition](#) along with a letter or other document explaining they are no longer in the sex offender registry and therefore, have been found not to be a danger to the public.

## 8. When can I ask a court to seal my criminal cases and what is the process?

A judge in the court that handled the criminal case has the power to seal:

- any case where you were found not guilty if it was not already sealed (See Question 4);
- any case that was dismissed or ended in a nolle prosequi meaning it was dropped by the District Attorney (G.L. c. 276, §100C); or
- first time drug [possession](#) conviction if you did not violate orders related to probation or a “CWOFF” (continuance without a finding) such as going to treatment or community service. (G.L. c. 94C, §34).

### Burden of Proof

The Supreme Judicial Court (SJC) made it easier to seal criminal cases through the court process. In [Commonwealth v. Pon](#), 469 Mass. 296, 14 N.E.3d 182 (2014), the SJC threw out the old legal standard for sealing of cases that was very strict and based on the public’s First Amendment right to see your records. Under the new legal standard, you only have to show “good cause” to seal a record. To show there is “good cause” to seal records, there must be “credible” evidence of a “disadvantage” at the present time OR possibly in the future related to your CORI. Things a judge can consider are:

- Your CORI puts you at a disadvantage in applying for jobs or housing;
- You were denied a job, are at risk of rejections, unemployed or underemployed due to CORI;
- You have trouble getting housing, or are homeless, or at risk of homelessness due to CORI;
- Employers use CORI in your present occupation or an occupation you’d like to have;
- CORI reduces opportunities for promotion, internships, better or higher paying jobs;
- You and/or your family are on public assistance despite your efforts to get a job;
- You have trouble volunteering or doing community activities due to CORI;
- A lot of time has passed since the case was filed against you;
- You are sober and have made efforts to rehabilitate yourself;
- You have made efforts toward self-improvement (classes, programs, GED, degree, certificate);
- You do volunteer work and/or other work to help out in your community;
- You successfully completed probation in your case(s);
- You have had no further contact with the criminal justice system;
- You have other evidence of rehabilitation from the date of the offense or dismissal;
- Your situation at the time of the offense should be considered (*e.g.* you were a young adult);
- There is stigma or stereotypes related to the case that hurt your chances to get a job, etc.; or

- The reason for dismissal or nolle prosequi (dropping of a case) and other information relevant to sealing your case(s). For example, you were found not guilty, were wrongly identified by police, etc.

**Practice note.** If you were found not guilty, the SJC ruled that offenses ending in a **not guilty** finding must be sealed IMMEDIATELY. See Question 4.

### The Court Process

The process to seal cases in court is free. It involves filing a petition to seal and going to court for hearings. You are allowed to file support letters and other documents in support of your petition as well as an affidavit (a sworn statement) that explains the lost opportunities or disadvantages that you suffer or might suffer if your record is not sealed and tells the judge positive things about yourself.

**It is a good idea to get certified copies of the complaint and docket sheets before you seal records in case you need copies later on.** See Question 13 if you are not a citizen.

If you have already sealed some cases, and have a court hearing to seal other cases, the judge should not use your sealed records against you. The law (chapter 276, § 100A) permits sealed records only to be used against you for sentencing purposes after a later criminal conviction, or in certain civil cases such as an abuse prevention case and/or child custody case. See Questions 23 and 24 for more information.

**IMPORTANT.** In 2024, the trial court changed the [Petition form](#) used to request sealing of a record by a judges so be sure to use the most recently updated form.

### 9. What can most employers or landlords see on my CORI if my cases are NOT sealed?

Most employment, housing, and occupational licensing screeners with only a “standard” [level of CORI access](#) see only convictions and “open” criminal cases, meaning cases that are still going on (for example, you’re still on probation, have court hearings, or are on parole, and your case is not yet closed).

### 10. Is it true people no longer need to seal their records because of CORI reform?

No. The Department of Criminal Justice Information Services (DCJIS) automatically holds back cases from CORI reports given to private landlords, licensing screeners, and many employers with a low level of CORI access (“standard access”) IF the offenses are eligible for immediate sealing under the mail-in process after a 5 year waiting period for misdemeanors and a 10 year waiting period for felonies.<sup>1</sup> The fact that these offenses are held back from CORI given to some background screeners does not necessarily mean you should not seal these cases. The employer may use a private background checking company which looks at files at the courthouse instead of using DCJIS to check your history. This means cases that are not yet sealed will not be held back from view.

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<sup>1</sup> When waiting periods to seal felony and misdemeanor offenses by mail were reduced from 10 and 5 years to 7 and 3 years in 2018, it appears there may have been an oversight in drafting the legislation because these “hold back” provisions in Chapter 6, § 172 (a)(4) were not updated to match the new waiting periods.

There also are exceptions in the hold-back provisions that permit access to CORI from DCJIS even if a case is immediately eligible for sealing by mail. (G.L. c. 6, § 172).

- Manslaughter, murder, and sex offense convictions as well as not guilty by reason of insanity (NGI) verdicts also are treated differently as to what is held back from requestors with only a standard level of CORI access. All employer, housing and licensing screeners always see these types of convictions and NGI dispositions on CORI reports unless the cases are sealed.
- Convictions for violations of Chapter 209A or Chapter 258E restraining orders are also treated as felonies and if the cases are not sealed, they are not held back for 10 years unless they are sealed.
- A finding of not guilty by reason of insanity (NGI) is not held back from employers with a standard level of access until 10 years after the disposition or release from incarceration or custody **unless** the case is sealed.
- Many employers, including but not limited to schools, camps, nursing homes, and assisted living facilities are granted special access to old convictions, including offenses that ended favorably in dismissals, nolle prosequi or a not guilty finding – that is, **UNLESS** the offenses have been sealed. Your cases, including old or dismissed cases, may be included in CORI given to employers or agencies authorized to receive this information **UNLESS** you seal these records.

## JUVENILE RECORDS

### 11. Can an employer ask me about my juvenile court records?

A juvenile case is not considered a criminal record or part of CORI if the case was handled by the juvenile court. An employer is not permitted to ask about a juvenile court case **EXCEPT** when the juvenile was tried as an adult in an adult court (the district court, the superior court or Boston municipal court) or the case was transferred from the juvenile session to an adult court and as a result, the case became part of adult CORI. See G.L. c. 6, § 167 (definition of CORI was amended in 2018 to exclude all juvenile court cases except for juvenile cases transferred to an adult court such as superior court).

A form you can use to get a free copy of your juvenile record is available [online](#).

### 12. When and how can I seal my juvenile records?

The waiting period to seal juvenile charges is shorter than adult waiting periods. (G.L. c. 276, § 100B). You can seal a juvenile offense if

- at least 3 years have passed since your juvenile offense closed; and
- at least 3 years have passed since you were last adjudicated in Juvenile Court or last found guilty of a crime in any court, except for a motor vehicle offense with a fine of not more than \$50; and

- At least 3 years have passed since you were last incarcerated or committed in or outside of Massachusetts.

You can ask to seal your juvenile records at the same time you seal adult cases if you check off the juvenile sealing box on the same [form](#) used to seal adult cases by mail. Anyone eligible to seal adult CORI by mail is eligible to seal juvenile records at the same time because adult waiting periods are longer.

### **IMPORTANT.**

- In 2024, GBLS won a case in the SJC ([In the Matter of an Impounded Case](#)) which held that shorter 3 year juvenile sealing waiting periods apply not only to delinquency cases, but also to “youthful offender” cases. GBLS sued the Commissioner of Probation’s office because they were applying the adult sealing law to youthful offender charges which gave children NEVER SEALABLE records in some instances and longer 7 year waiting periods.
- GBLS and community groups across the state have requested that the Commissioner’s staff correct their mistakes and contact all people they sent erroneous letters to that had informed them they could never certain offenses or had to wait 7 instead of 3 years to seal their offenses. As of the date of this update, the Commissioner’s office, unfortunately, has done nothing to correct their mistakes and the harm caused by their erroneous interpretation of the law.
- In 2018, the Legislature enacted new laws to permit **expungement** of some juvenile and adult records. The new law is narrow, but your offense might also be eligible for expungement. Questions 13 to 17 explain expungement.

## **IMMIGRANTS AND CORI**

### **13. Should immigrants who are not citizens seal or expunge their records?**

Your criminal record history is reviewed when you apply for a “green card,” citizenship or try to change your immigration status. A criminal record can be grounds for exclusion from the U.S. or deportation.

**SEALING.** If you are not a citizen, talk to an immigration lawyer BEFORE sealing any records and ask whether you should seal any of your records. **At a minimum, get certified copies of the complaint and docket sheets.** Otherwise, you may have to go to each court where a record is sealed to ask a judge to unseal the case so you can get papers needed for purposes of immigration, or get help from the Commissioner of Probation’s office to unseal the cases by sending a notarized letter asking them to unseal the offense(s). You might not get the paperwork you need in time for an immigration hearing or to meet another deadline if your cases are sealed.

**EXPUNGEMENT.** A conviction, a continuance without a finding, or other criminal record may be grounds for deportation or exclusion. **If you are not a citizen, do NOT expunge your records until you get legal advice from an immigration lawyer about whether to expunge your records.** If your records are expunged, they are destroyed and no longer exist. You might not get the paperwork you need for an immigration hearing or an application if your criminal records are expunged. The FBI often has records of a criminal case even if the state court record was sealed or expunged. FBI records often do not include the final outcome of a case. This means

you may not be able to show how your case ended, or prove you were found not guilty, or that the case was dismissed if you expunge your records. You also might need certified copies of your criminal records for other reasons. See Question 14 below.

**IMPORTANT.** On April 13, 2024, Governor Healey pardoned marijuana convictions that occurred before that date for anyone who also was age 21 or older on that date. **A pardon, however, does NOT forgive a drug conviction for immigration purposes.** Any person who is not a citizen and has a drug conviction or other offense should seek help from an attorney related to their immigration status and conviction.

Massachusetts law requires that the FBI and Dept. of Justice (DOJ) be notified of sealing and expungement orders and that the state request that they seal or expunge their corresponding records. G.L. c. 276, § 100T. In practice, the FBI does not appear to withhold information about cases that were only sealed.

## EXPUNGEMENT

### 14. What is expungement and when should I get a case expunged?

Sealing of a case only limits who has access to the record of the criminal case. Expungement means records of the offense in Massachusetts are destroyed and are no longer available. Massachusetts has new expungement laws because criminal legal reform legislation passed in 2018. There are two categories of expungement:

- **Juvenile and under age 21 expungement.** A limited number of juvenile court cases or adult cases involving offenses that happened before the person was age 21 may be expunged in the discretion of a judge in the court that handled the cases after waiting periods. (G.L. c. 276, § 100F to 100H).
- **Section 100K -100K ¼ expungement.** Expungement of juvenile or adult cases is permitted where a person was innocent and misidentified or impersonated by another person; the offense was decriminalized; the case resulted from mistakes by police, court employees, witnesses, or others, or there was “fraud on the court.” (G.L. c. 276, §§ 100K-100K ¼).

## SPECIAL CONSIDERATIONS

- **If you are not a citizen, do not expunge any records and talk to an immigration lawyer about any criminal cases and expungement.**
- There also may be other situations where destruction of your records will interfere with exercise of your other legal rights.
- If you decide to try to expunge any records, do not expunge any records **BEFORE** you get at least multiple certified copies of your records, and as many other copies as you might need later.

## FBI Record Flaws

The FBI usually has records related to criminal offenses even if you sealed or expunged your Massachusetts records. FBI records are often incomplete and frequently do not include the final outcome of a case. Once your records in Massachusetts are expunged, it is unlikely that you will be able to obtain copies of the court or other records that were destroyed. If there are no records, you may be unable to show how your case ended, or that your case ended favorably.

### When You Should Delay or Not Expunge Records

Even if you are a citizen, there are situations where you should not expunge records or at least, should postpone expunging your records.

**IMPORTANT.** In some instances, you may need access to the whole court file or other documents in and outside the courthouse, or in law enforcement and criminal justice agency databases that also get destroyed after a court orders expungement. Expunging records can interfere with the exercise of certain legal rights.

FBI records are often incomplete. If you are not able to show your case ended favorably, you may have a difficult time getting a high-level security clearance that you need for a job or appointed position, or some other opportunity.

**If you do decide to expunge any records, do not expunge the records until you at least get as many certified copies as you might need in the future.**

### Drug Lab Scandal Cases or Other Lawsuits

People whose cases were dismissed because of drug lab scandals involving chemists, such as Annie Dookhan or Sonia Farak, can seek reimbursement for fees and expenses they paid in their cases. If you want to get reimbursed for money you paid in the case before the disposition was vacated because of a drug lab scandal, it is best to hold off on expunging your case until you resolve the issues related to getting your money back. Records of payments and other paperwork that you may need will likely be destroyed if you expunge your records. Having only certified copies of docket sheets and the criminal complaint may or may not be enough.

There may be other situations or lawsuits where records of a criminal case may be helpful and should not be destroyed until you no longer need them. For example, if you file a lawsuit alleging civil rights violations or police brutality related to your arrest after your criminal case ends in a not guilty finding, the records of the criminal case from the same incident may be relevant and important to your lawsuit.

## JUVENILE AND UNDER AGE 21 OFFENSE EXPUNGEMENT

**15. Who is eligible to expunge a juvenile record or adult criminal record where the person was under age 21 at the time of the alleged offense?**

Juvenile and under age 21 expungement eligibility **under sections 100F through 100H of chapter 276** is complicated and waiting periods apply. To be eligible to request this first type of expungement (sometimes referred to as “time-based expungement”), the following restrictions and waiting periods apply:

- you can expunge up to 2 juvenile court records (cases) where you were found delinquent or adjudicated to be a youthful offender, but you cannot have no more than 2 records (cases) in total *although multiple offenses or charges arising out of the same incident shall be considered a single offense or record* (Section 100F);
- you can expunge up to 2 adult convictions that arose out of incidents that occurred before age 21 provided you have no more than 2 records (cases) in total, but multiple offenses or charges arising out of the same incident shall be considered a single record (Section 100G);
- you can expunge juvenile records that ended without an adjudication as a delinquent or as a youthful offender, or adult cases that were not convictions if you have not more than 2 records in total which also do not include an adjudication as a delinquent, an adjudication as a youthful offender or a conviction, provided, however, that multiple offenses arising out of the same incident shall be considered a single offense. (Section 100H);
- you also cannot have any later juvenile or criminal cases other than the charges, except for motor vehicle charges where the penalty did not exceed a fine of \$50;
- you cannot be the subject of an active criminal investigation;
- if a charge is a felony, it cannot be expunged until 7 years after the disposition (guilty or not guilty finding, dismissal, etc.) or release from incarceration –whichever happened later, or 3 years for a misdemeanor; and
- any charge(s) to be expunged cannot be one of over 20 categories of excluded offenses such as assault and battery with a dangerous weapon; robbery; offenses that caused or intended to cause death or serious bodily injury; any offense against an elderly or disabled person or while armed with a dangerous weapon; sex offenses involving children, violence or exploitation; restraining order convictions; assault and battery against a family or household member; certain firearms offenses, and many other offenses. See [G.L. c. 276 § 100J](#).<sup>2</sup>

Examples of some charges that might be expunged are larceny, disorderly conduct, tagging, drug possession or distribution, resisting arrest, trespass, prostitution, indecent exposure (e.g., public urination by homeless person), or misdemeanor assault and battery (excluding assault or assault and battery against a family or household member pursuant to Chapter 265, section 13M).

If you are not eligible under these provisions, you can check whether you might be eligible for expungement under section 100K or 100K ¼ (marijuana offenses) of chapter 276. See Questions 17-18.

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<sup>2</sup> The categories include (1) any offense resulting in death or serious bodily injury; (2) any offense committed with the intent to cause death or serious bodily injury; (3) any offense committed while armed with a dangerous weapon; (4) any offense against an elderly person; (5) any offense against a disabled person; (6) any sex offense as defined in section 178C of chapter 6; (7) any sex offense involving a child as defined in section 178C of chapter 6; (8) any sexually violent offense as defined in section 178C of chapter 6; (9) any offense in violation of section 24 of chapter 90 (OUI, reckless driving, leaving scene after collision); (10) any sexual offense as defined in section 1 of chapter 123A; (11) any offense in violation of sections 121 to 131Q of chapter 140 (firearms violations); (12) to (16) any offense in violation of a restraining order issued pursuant to section 18 or 34B of chapter 208; section 32 of chapter 209; chapter 209A; section 15 of chapter 209C; or chapter 258E; (17) any offense in violation of section 13M of chapter 265 (assault or assault and battery on a household or family member); (18) any felony offense in violation of chapter 265 (crimes against the person which includes about 48 felonies); (19) to (20) any violation of paragraph (a), (b), (c) or (d) of section 10 of ch. 269 (certain weapons offenses) ; or in violation of section 10E of ch. 269 (firearms, weapons).

**16. How does the process to expunge records under sections 100F through 100H of chapter 276 work where the person was under age 21 at the time of the alleged offense or involved a juvenile record?**

You must fill out, sign and mail (or deliver) a [petition](#) to expunge to the Commissioner of Probation's office at One Ashburton Place, Boston, MA 02118. The process is free.

After you file the [petition](#) (under sections 100F to 100H) to expunge your records, it is processed as follows:

- The Commissioner of Probation reviews your petition and if it appears you may be eligible to seal your records, a copy of the petition is sent to the District Attorney (D.A.) who has 30 days to object. If you were convicted, or adjudicated a delinquent or a youthful offender, the timeline is 60 days, not 30 days.
- If there no objection or no response from the D.A., the Commissioner sends the petition to the court that handled your case.
- If there is an objection from the D.A, the court holds a hearing within 21 days. If there is no objection, the court can allow your petition on the papers.
- A judge can allow or deny your petition based on the "best interests of justice" and has to make written findings of fact.
- If you requested a hearing on the petition you filed, the court will also give you a hearing.

**Burden of Proof and the Court Process**

The juvenile expungement law (under sections 100F to 100H) does not define when it is in the best interest of justice" to expunge records. However, age at the time of the offense should be a significant factor because the SJC recognizes that children have "diminished culpability and greater prospects for reform" than adults because the human brain is not fully developed until a person's mid-twenties. *Com. v. Diatchenko*, 466 Mass. 655, 660 (2013), quoting *Miller v. Alabama*, 567 U.S. 460, 471 (2012).

The SJC also has said a "cloud of prosecution" remains even if a case is sealed because some entities can access sealed records and make "inquiries concerning employment . . . or investigations concerning other criminal offenses." *Police Com'r of Bos. v. Mun. Ct. of Dorchester Dist.*, 374 Mass. 640, 659 (1978). See *Commonwealth v. Pon*, 469 Mass. 296 (2014) and Question 8 above.

If your petition is allowed, the court sends its order to the court clerk and the commissioners of both Probation and DCJIS. The records of the court and criminal justice agencies (police, probation, DYS, etc.) related to the case are then destroyed. It is a good idea to check whether all of the court and agency records were actually destroyed after the judge orders expungement of the records.

The law requires DCJIS to send the expungement order to the FBI and the Department of Justice (DOJ) with a request that they expunge their records related to the same case. G.L. c. 276, §§ 100T; G.L. c. 22C, § 36.

**If Your Petition is Denied**

You should seek advice from an attorney immediately if you wish to appeal the judge's decision.



**IMPORTANT.** If your juvenile or under age 21 adult petition to expunge records is denied, you may still be eligible for other types of expungements under section 100K or section 100k ¼ of chapter 276 as discussed below. You also can consider sealing your case as discussed above to limit who can find out about your case.

### SECTION 100K EXPUNGEMENT

#### 17. What other rights of expungement are available if a person was age 21 or older at the time of the offense or a person is not eligible for “time-based” expungement for an offense that occurred before age 21?

Section 100K expungement is a second type of expungement available **for both adult and juvenile cases** under section 100K of chapter 267. The process is free and a [petition](#) form must be filed in the court that handled the offense. The law provides that a hearing is held if a petitioner or the District Attorney requests a hearing.

You are eligible for section 100K expungement of “a record created as a result of a criminal court appearance, juvenile court appearance or dispositions” if the judge decides there is “clear and convincing evidence” that the record was created as the result of:

- false identification or the unauthorized use or theft of your identity (e.g., someone impersonated you or gave your name when they were arrested)
- an offense that is no longer a crime assuming the elements of the original criminal offense are not a crime under a different designation (e.g. decriminalized possession of 2 ounces or less, being in the presence of heroin, or fathering a child outside of marriage);
- demonstrable errors by law enforcement (e.g., a complaint filed without probable cause, named wrong person, wrongly filed by mistake or due to racial bias, racial profiling or misconduct);
- demonstrable errors by civilian or expert witnesses (e.g., a guilty finding vacated due to Annie Dookhan drug lab scandal, lack of an accepted scientific basis for expert opinion, witness mistakes or errors due to failed memory, other impairment, and arguably errors of judgment, racial bias, racial profiling, or other misconduct);
- demonstrable errors by court employees (e.g. complaints issued, or docket entry made in error that carries a stigma or has negative consequences); or
- demonstrable fraud perpetrated upon the court (e.g., bribery of a judge, court officer or court official, or similar fraud involving the court system itself).<sup>3</sup>

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<sup>3</sup> The examples we provide are not an exhaustive list and are our best guesses as to conduct that be “demonstrable error.” There is no case law interpreting the phrase “demonstrable errors” by witnesses or others as a basis for expungement. The phrase “fraud on the court” has been narrowly construed by the courts in other contexts and involves more than misstatements or omissions. *Paternity of Cheryl*, 434 Mass. 23, 35 (2001). *See e.g., B.C. v. F.C.*, 90 Mass. App. Ct. 345, 350, (2016), *review denied*, 476 Mass. 1108 (2017)(no fraud on the court where party did not perjure herself “throughout the proceedings as a ‘larger pattern of harassment’ or an ‘unconscionable scheme calculated to interfere with the judicial system’s ability impartially to adjudicate a matter’”); *Com. v. Moe*, 463 Mass. 370, 376 (2012) (false statement to police was not fraud on the court); *Comm. of Probation v. Adams*, 65 Mass. App. Ct., 725 (2006)(false statements under oath to retaliate against abuse victim seeking an abuse prevention order and using the court as a mechanism to perpetrate the fraud, were fraud on the court).

## Burden of proof

The SJC issued an opinion, [Commonwealth v. K.W.](#), 490 Mass. 619 (2022) that makes it easier to expunge records under section 100K.

- Under the *K.W.* case, any petition satisfying one of the six eligibility categories under section 100K “are entitled to a strong presumption in favor of expungement” and “may be denied only if a significant countervailing concern is raised in opposition to the petition.” *K.W.*, 490 Mass. at 620.
- Unless there is a “substantial countervailing” concern is raised by the Commonwealth, courts must allow the petition for expungement if one of the six grounds for expungement exists. *K.W.*, 490 Mass. at 620.
- The SJC did not specify what a substantial countervailing factor might be, but said “the existence of any other criminal record belonging to a petitioner, regardless of whether that record is sealed, may not factor into judges’ analyses regarding whether reason-based expungement is ‘in the best interests of justice’ under G.L. c. 276, § 100K(b).” *K.W.*, 490 Mass. at 632.
- “Judges, therefore, may not deny an otherwise-eligible, reason-based petition on the theory that a petitioner’s other records make negligible the benefits of expunging the reason-based record or records in question.” *K.W.*, 490 Mass. at 633.

The SJC also explained an important difference between the legal standard for expungement and the standard for sealing of records. The “good cause” showing required for *sealing* records, as detailed in *Commonwealth v. Pon*, 469 Mass. 296, 316-21 (2014), does **NOT** apply to expungement cases. The SJC said: “petitioners who clear the high bar of G.L. c. 276, § 100K(a), need not articulate the particular disadvantages they might confront as a result of their records remaining accessible to those who have access to sealed records.” *K.W.*, 490 Mass. at 632. For more detailed information, see [Using expungement and sealing to mitigate racism](#), Boston Bar Journal (2023).

**Required written findings.** Courts must now make detailed written findings explaining why it is not in the interest of justice to expunge records even if they deny the petition. *K.W.*, 490 Mass. at 633.

### Practice Tips.

1. If the court denies your petition, you should seek legal advice. You can also consider sealing the case.
2. If your offense was for a possession of marijuana and later decriminalized, you can also ask for expungement under section 100K ¼ and there is no discretion to deny the petition if the offense was decriminalized.

## NEW LAW FOR MARIJUANA OFFENSE EXPUNGEMENT

### 18. What is the new law on expungement of marijuana offenses and how is it affected by a pardon?

On August 11, 2022, legislation passed that makes it easier to expunge decriminalized marijuana cases and distribution offenses that arose out of the same incident involving decriminalized possession of marijuana can also be expunged. This law is broader than section 100K and provides that a “court shall, within 30 days of a petition being filed, order the expungement of a record created as a result of a “criminal court appearance, juvenile court appearance or disposition” for:

- the possession or cultivation of an amount of marijuana that is decriminalized;
- possession of marijuana with intent to distribute **based on an amount of marijuana** that is decriminalized; and
- distribution of marijuana **based on an amount of marijuana** that is decriminalized.

#### Where to File for Expungement Under Section 100K 1/4

There is a new special [petition](#) form for expungement of marijuana offenses under section **100K 1/4** . The form must be filed in the court that handled the offense(s).

#### Expungement, Pardons, and Pardon Certificates

On March 13, 2024, Governor Healey granted a [blanket pardon](#) that includes any conviction for possession of marijuana that happened before March 13, 2024 for anyone who was age 21 or older on that date. A pardon “has the effect of treating the [person] as if the offense had never been committed.” Executive Clemency Guidelines, § 2 (Oct. 31, 2023). This means, for example, if a Massachusetts law or regulation makes you ineligible for a job based on the marijuana conviction, the exclusion no longer applies. Anyone with a pardoned offense, can obtain a [pardon certificate](#) that may help them get a job or access another opportunity.

**IMPORTANT.** Expungement destroys the records of a case. We suggest getting certified copies of the docket sheets in your case and requesting your pardon certificate **BEFORE** you expunge your record to better ensure your case can be found if you apply for a Pardon Certificate.

**IMPORTANT.** The Governor’s marijuana pardon does not affect a person’s immigration status and a pardon for a marijuana or other drug conviction by the Governor does not wipe away the federal consequences of the drug conviction for immigration purposes, including but not limited to deportation or exclusion. Any person who is not a citizen should seek legal help if they have marijuana or other drug offenses.

The record of a case that is pardoned or sealed also does not disappear and may be used against a person at the time of sentencing on a later conviction.

**Practice tip.** [Click here](#) to apply for a pardon certificate. When you apply for a certificate, you can off a box to request sealing of the conviction, but it is not known how long it will take for the Commissioner’s office to seal offenses and issue pardon certificates. It might be faster to seal your records on your own although the law appears to impose an obligation on Probation to seal records. See G.L. c. 127, § 152 (“Upon approval of a

petition for pardon, the governor shall direct all proper officers to seal all records relating to the offense for which the person received the pardon.”).

### **After Expungement of a Record**

If the court orders expungement, it sends the order to the commissioner of probation and the clerk’s office to expunge the records. G.L. c. 276, § 100K; G.L. c. 276, § 100K ¼. The clerk’s office is also required to provide a certified copy of the order and docket sheets to the person whose petition was allowed by the court. G.L. c. 276, § 100K ¼.

After a record is expunged, the law provides that no person whose record was expunged shall be held guilty of perjury or giving a false statement by reason of the person's failure to acknowledge such record, or portion thereof, in response to any inquiry made of him or her for any purpose. You can say you have “no record” after expungement. G. L. c. 276, § 100M-N.

### **CORI SELF-AUDITS**

#### **19. How can I use the “self-audit” process to find out who looked at my CORI?**

You can request a FREE CORI self-audit from the Department of Criminal Justice Information Services. (DCJIS) every 90 days which tells you who viewed your CORI. The self-audit will NOT tell you whether police, probation, courts, or other criminal justice agencies have looked at your CORI. You also can get the self-audit [form](#) online on the DCJIS website.

### **AFTER YOUR RECORDS ARE SEALED OR EXPUNGED**

#### **20. Once I seal or expunge all of my criminal cases, can I tell an employer or landlord or an occupational licenser I have no record?**

Yes. If present or future employers, housing screeners, or occupational licensing agencies ask for information that would involve your sealed or expunged offenses, you may answer that you have “no record” with regard to those sealed or expunged charges.

#### **21. Can someone who goes to the courthouse look at my sealed or expunged record?**

In general, most people cannot review your sealed court file. The law requires clerks and employees of the clerks’ offices of the courts and the Commissioner of Probation to report “no record exists” to all who ask about a record if a case is sealed, except for “any law enforcement agency,” “any court” or “appointing authority”-- meaning those given special access to sealed records under the law.

If the case was expunged, there should be no record of it at the courthouse.

#### **22. Will employers or others know that I have a sealed or expunged record?**

MOST employers and CORI requesters will NOT find out about your sealed records. **A myth persists that the CORI given to employers says whether a person has a sealed record.** This is untrue. In most cases, the CORI report they receive from the Department of Criminal Justice Information Services (DCJIS) will indicate you have no available record if all your cases are sealed.

If the case was expunged, there should be no record of it in the state database or at the courthouse. However, your case may remain in the FBI database and be revealed in situations where an FBI check is conducted in addition to a Massachusetts CORI background check. See Question 27.

### **23. Who can find out about my sealed or expunged records?**

Massachusetts law permits certain employers and state agencies to get information about sealed records.

- All criminal justice agencies (police, probation, firearms licensors, courts, etc.) get access to sealed record information.
- The Department of Early Education and Care screens childcare workers and has access to sealed record information in the hiring process.
- The Department of Children and Families (DCF) and the Department of Youth Services (DYS) get access to sealed cases when people try to adopt a child or become foster parents.

If the offense was expunged, there should be no record of it in the state database or at the courthouse. However, your offense may remain in the FBI database and be revealed, for example, when the FBI does a background check for a federal government job. See Questions 13, 14, 27.

## **USE OF RECORDS IN LATER COURT CASES**

### **24. Can my sealed record be used against me in a later criminal case?**

Yes and no. Juvenile records and most sealed adult criminal records may be considered at the time you are sentenced if you are found guilty in a later criminal case. However, a sealed record for an offense that ended in a finding of “not guilty,” a “no bill” from a Grand Jury, or a “no probable cause” finding cannot be used against you in a later criminal case.

If the offense was expunged, there should be no record of it in the state database or at the courthouse.

**IMPORTANT.** If you have already sealed some cases and are going to court to try to seal other offenses, the judge should not consider the sealed records. The law permits sealed records only to be used for sentencing after a later criminal conviction, or in limited civil cases-- child custody, abuse prevention cases and domestic relations cases involving safety of a person. (Chapter 276, Section 100A).

## 25. Can my sealed record be used against me in a later civil court case?

Yes and no. Most of the time, sealed criminal records cannot be used in civil cases. Because of CORI reform enacted in 2010, there are exceptions for certain civil cases which include: abuse prevention cases, divorce, paternity, separate support, guardianship, termination of parental rights, and care and protection cases when the records are relevant to the issues of abuse, safety of a person or custody or visitation of a child. In these types of cases, the records may be used in a closed private hearing if the judge decides they are relevant and could be put in evidence in the case. If the case was expunged, there should be no record of it in the state database or at the courthouse.

## EMPLOYMENT DISCRIMINATION

### 26. Can an employer refuse to hire all job applicants with criminal records?

This kind of hiring policy is usually illegal. The U.S. Equal Employment Opportunity Commission (EEOC) has said that blanket hiring policies that automatically reject any job applicant with a criminal record are discriminatory and violate civil rights laws. This is because using criminal records as a reason not to hire workers has a “disparate impact” (a greater effect) on racial minority groups.

Hiring or firing policies that reject all workers with criminal records violate Title VII of the Civil Rights Act of 1964 unless the employer can show it is necessary for the business to do so or a particular law makes the person ineligible for the job based on a criminal record.

Guidance from the EEOC cautions employers that they should conduct an individualized assessment. Factors to consider include the age of the offense, the nature and seriousness of the offense, the age of the person at the time of the offense and completion of the sentence, rehabilitation efforts, success in the same type of job without incident after the offense, and the relationship between the type of offense and the job. The EEOC [guidance](#) issued in 2012 explains this topic in more detail.

### 27. How does the law protect me from discrimination based on CORI?

*Ban the Box.* The “Ban the Box” law went into effect on November 10, 2010, and makes it illegal for most employers to ask about any criminal record on the initial job application. There is an EXCEPTION, however, when a state or federal law creates a legal presumption the person is disqualified for a job based on certain convictions or allows a particular type of employer to ask about the records. G. L. c. 151B, § 4, paragraph 9 1/2.

*Getting copies of your own CORI.* It is illegal for employers to ask you to give them a copy of your own CORI or arrest records at any stage of the hiring process. A CORI report sent to you may include cases that certain employers have no right to see. All cases appear on a CORI that you get for yourself, but not all cases will necessarily appear in the CORI that the employer sends for with your permission.

*Employment and housing rejections.* Employers, landlords, housing authorities, or professional licensing agencies that use CORI or a criminal history report and reject a person based on the report, must provide the person with a copy of the report. You should review the report carefully to see if there are errors that should be

corrected. You also can try to use this opportunity to explain why your CORI is not related to the job. If you think the employer has discriminated against you based on your criminal record, see the reply to Question 25.

**State government jobs.** The law provides that sealed and expunged 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 --meaning your sealed records cannot be used as basis to find that you are not qualified for a job. G. L. c. 276, §100A; G. L. c. 276, §100N.

**IMPORTANT.** If your records are sealed or expunged, you do not have to give information about any sealed or expunged offense at any stage of the hiring process. You may answer that you have “no record” as to any sealed or expunged criminal offense or case when interviewing for a job.

**Questions employers are not allowed to ask at any stage of hiring.** Whether or not criminal records are sealed, the anti-discrimination law (G. L. c. 151B, § 4, subsection 9) and the record sealing laws prohibit most employers at any stage of the hiring process from inquiring about an offense that is:

- (1) a criminal case that did NOT end in a conviction; or
- (2) an arrest or criminal detention (*e.g.*, being held at a police station) that did NOT end in a conviction; or
- (3) a first conviction for drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace; or
- (4) a conviction for a misdemeanor where the date of the conviction OR your release from incarceration was 3 or more years ago; or
- (5) a juvenile record, except for juvenile cases that transferred from the Juvenile Court to an adult court where the juvenile is tried and convicted as an adult; or
- (6) a sealed or expunged criminal record.

**What employers may ask at later stages.** At later stages in the hiring process after the initial job application, employers can ask about convictions. At this stage, they can ask you about:

- (1) any felony conviction that happened at any time if it is not sealed or expunged; AND
- (2) any misdemeanor conviction that was not a first-time conviction for drunkenness, simple assault, speeding, a minor traffic violation, affray, or disturbing the peace IF: (a) you were convicted OR released from incarceration for the misdemeanor conviction during the last 3 years AND (b) the case is not sealed or expunged.

If your convictions are sealed or expunged, you do NOT have to say anything about them. The law permits you to say “I have no record” regarding any conviction or offense that you have sealed or expunged. For more information about discrimination and questions employers can ask, go to the [Massachusetts Commission Against Discrimination](#) website.

The employer is required to give you a copy of your CORI or criminal background report BEFORE asking you about cases on the report.

**IMPORTANT.** Be aware that some employers get CORI reports that include more than convictions or pending cases. If you apply for a job at a school, nursing home, or similar job working with vulnerable people, your CORI will include dismissed and other favorably ending cases UNLESS these cases were sealed or expunged. The law requires fingerprinting of teachers and school employees who have unsupervised contact with children. This may link these employees to past criminal cases if they were fingerprinted in connection with their cases. Daycare and preschool employees also get CORI that includes sealed record information.

**Governor Patrick's Executive Order 495 and Human Services Regulations.** Governor Deval Patrick issued an [Executive Order 495](#) that human services agencies must require them to wait until the final stage of the hiring process (after they find you qualified for a job) to ask about criminal records.

## FEDERAL JOBS AND THE FBI

### 28. What if I apply for a job with the federal government or the FBI does a record check?

If a person with a sealed record applies for a job with the federal government, the agency has access to FBI criminal record reports. The FBI record may include offenses from a state court, including sealed cases. It is not unusual for the FBI record to have information that a case was filed, but no information about the outcome of the case such as a “not guilty” finding or dismissal. The FBI can add information about the outcome of a case and/or sealing of the case if you give them proper documentation such as certified copies of a complaint, docket sheet, or sealing order.

The contact for FBI records in Massachusetts is the Massachusetts State Police, 59 Horse Pond Road, Sudbury, MA 01776. The telephone number is 508-358-3170.

**Important.** Criminal legal reform enacted in 2018 has new requirements that may eventually begin to address some of the gaps in FBI records.

- Effective July 1, 2019, DCJIS is required to transmit juvenile and adult criminal history information as well as orders to expunge and/or seal records to the FBI AND if an order to seal and/or expunge is included, an order and request to similarly seal or expunge such information within the bureau if it transmitted juvenile or adult fingerprints to the FBI. G.L. c. 23C, § 36.
- Effective October 13, 2018, the law requires that the commissioner of DCJIS “shall notify” the FBI and Dept. of Justice (DOJ) of sealing and expungement orders and request that they seal or expunge the record. G.L. c. 276, § 100T.

**Practice tip.** Anecdotally, we hear that only sealing orders made by judges and expungement orders are sent for processing by the FBI. This means you have to send your sealing order to the state police as outlined above to have the FBI be on notice that your offense was sealed.

More information about FBI records and how to [obtain or correct FBI records](#) is available online.



## PRIVATE BACKGROUND CHECKS

### 29. Should I worry about private background checking companies or agencies?

Yes. People should be aware that employers and others are able to get information not only from the state CORI system, but from private data mining companies that make money collecting and selling this information. These private companies and consumer reporting agencies (CRA's) look at criminal records in clerk's offices and gather information from public sources. Their background reports are known to contain mistakes. They do not always update their records after a case is dismissed or ends in your favor.

**Important.** If employers, housing authorities, and landlords want to reject you based on your CORI (or other criminal background report) or ask questions about it, they must give you a copy of the report. They also must let you dispute errors in the report.

The Legislature has enacted laws that give incentives to employers to obtain records through the state CORI system instead of other background checkers. Use of the state CORI system for criminal background checking protects employers in certain circumstances from liability for negligent hiring decisions made within ninety days of receipt of CORI. G.L. c. 6, § 172 (e).

In 2018, the Legislature expanded these protections to add that in any claim for negligence, an employer or landlord shall be presumed to have no notice or ability to know of a record that: (i) was sealed or expunged; (ii) or where the employer was prohibited from inquiring these records under subsection 9 of section 4 of chapter 151B; or (iii) the crimes were offenses that the department of criminal justice information services cannot lawfully disclose to an employer or landlord. G.L. c. 276, §100S.

Some employers, nevertheless, may use credit reporting agencies whose reports contain mistakes. You have a right to: (1) a free copy of the report; and (2) a right to dispute and fix mistakes on it. The Federal Trade Commission enforces the Fair Credit Reporting Act and has a website with information about [how to correct errors](#) on these reports.

## FIXING CORI MISTAKES

### 30. What can I do if my CORI report has errors or cases that do not belong to me?

If an offense appears on your record that has nothing to do with you because of a mistake or clerical error, you can contact Probation at the court that handled the offense and ask them to remove it from your record. You also can ask the Department of Criminal Justice Information Services (DCJIS) to help you fix the errors.

A [complaint form](#) to request help from DCJIS to correct CORI mistakes is available online on the DCJIS website.

## SEALING CASES IN FEDERAL COURT OR OTHER STATES

### 31. Can Massachusetts state courts seal cases from federal court or other states?

No. The Massachusetts state courts have no power to seal cases in other states. Whether you can seal offenses in another state depends on the law of that state. Massachusetts state courts also have no power to seal federal court charges. Your ability to seal other offenses in federal court will depend on whether the particular

federal court or “circuit” (region) takes the position that the federal court has the power to seal other criminal cases.

**IMPORTANT.** There is no federal law similar to our Massachusetts law which permits sealing of most cases eventually. However, if you were under the age of 21 at the time of a first-time conviction under the Controlled Substances Act (18 U.S.C. § 3607), you may request expungement from the federal court that heard the case.

## TAX CREDITS

### **32. Are tax credits available to employers who hire people with criminal records?**

Yes. There is a federal [Work Opportunity Tax Credit](#) (WOTC) for employers who hire people convicted of a felony within a year of the conviction or the date of release from prison. The tax credit may be \$2400 but can be much more.

## BOSTON CORI ORDINANCE AND OTHER HIRING ORDINANCES

### **33. What does the Boston CORI ordinance or similar ordinances do to protect me from discrimination based on my CORI when I apply for a job working for the city or its vendors?**

The City of Boston is a large employer and has contracts with thousands of vendors for city services.

The City of Boston has a [CORI ordinance](#) and [regulations](#) aimed at providing job opportunities to people in Boston who may have criminal histories.

**Non-sensitive jobs.** Section 4.7 of the City of Boston Municipal Code provides that vendors are not allowed to check the CORI of a job applicant unless the employer determines “in good faith” that the nature of the job is “sensitive.” Regulations define sensitive jobs as positions involving unsupervised contact with children under age 18 or people who are elderly or disabled, or where a “good faith determination is made that the position is of such sensitivity that a CORI report is warranted.”

**Sensitive jobs.** If a job is sensitive, the employer is allowed to check CORI, but cannot do so until AFTER the job applicant is found to be qualified for the job. In reviewing the CORI, the employer must consider the seriousness of the offense, the relevance of the offense (whether the offense bears any connection to the job duties), how old the offense is, and “occurrences in the life of the applicant” since the time of the offense. “Occurrences in the life of the applicant” is not defined in the ordinance, but likely includes, but is not limited to evidence of rehabilitation, sobriety, educational achievements, self-improvement efforts, church and/or civic activities and/or volunteer work, and/or youth at the time of arrest. This is similar to the criteria set forth in EEOC guidance discussed above in response to Question 21.

If you are denied a job, the employer must tell you the reason for the denial and give you a copy of the CORI they received and a chance to correct any mistakes on it and to dispute the relevancy of the offense to the job. Section 4-7.3, City of Boston Municipal Code. If you believe the employer violated the ordinance, you can file a complaint with the City of Boston Office of Fair Housing and Equity. The City can require employers who fail to comply with the ordinance to attend trainings and the employers can lose their contracts for up to two years.

[Cambridge](#) and [Worcester](#) **CORI Ordinances and Hiring Protections.** The City of Cambridge and the City of Worcester have similar CORI ordinances that offer similar protections such as no CORI checks for non-sensitive jobs and review of CORI only after a person is found qualified for a sensitive job.

## **APPENDIX 1: LEGAL HELP FOR LOW INCOME PEOPLE**

**GBLS booklets and Masslegalhelp.org.** To get forms or send for your CORI or view easy-to-read information about CORI by GBLS, go to the [GBLS](#) or [Massachusetts legal services](#) websites.

**[Find Legal Help Outside of Boston.](#)** Find a legal services program for low-income people in your area.

**CORI help for Boston area residents.** GBLS has a CORI information table for Boston area residents **9 a.m. to noon** for walk-ins at the Roxbury Court, 85 Warren St., Roxbury (2<sup>nd</sup> floor) on the **3rd Thursday of the month**. A second walk-in clinic is at the Whittier Health Center on **2<sup>nd</sup> and 4<sup>th</sup> Thursdays** from **10 am to noon**. Call GBLS at other times at 617-371-1234 during business hours (9 a.m. to 5 p.m.).

**Massachusetts Bar Association Dial-a-Lawyer.** First Wed. 5:30 p.m. – 7:30 p.m. MBA attorneys answer criminal or civil law questions for free if you call 617-338-0610 or 877-686-0711 (toll-free). Calls only.

The [Trial Court Law Librarians website](#) has a lot of free and helpful information on many legal topics.

### **LEGAL HELP FOR DISCRIMINATION CLAIMS**

[Fair Employment Project Inc.](#)

777 Concord Ave, Suite 302, Cambridge MA 02138

617-902-0192

No walk-ins. Call or email [info@fairemploymentproject.org](mailto:info@fairemploymentproject.org)

[Massachusetts Commission against Discrimination \(MCAD\)](#)

One Ashburton Place, Room 601, Boston, MA 02108

617-994-6000 (Hours are M-F: 9 a.m. to 4 p.m.)

[U.S. Equal Employment Opportunity Commission \(EEOC\)](#)

John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203

1-800-669-4000 TTY:1-800-669-6820

### **REDUCED FEE LAWYERS**

[Boston Bar Association Lawyer Referral Service](#)

16 Beacon Street, Boston, MA 02108

617-742-0625 (No walk-ins)

[Massachusetts Bar Association Lawyer Referral Service](#)

20 West Street, Boston, MA 02111-1214 617-654-0400 or 617-338-0585 (TTY). (No walk-ins).

## APPENDIX 2: LINKS TO FORMS

Information about how to fill out many of these forms is on the [GBLS](#) or [masslegalhelp](#) websites.

1. [CORI Request Form](#) (to get report on yourself)
2. [Affidavit of Indigency](#) (for waiver of fee to get CORI report)
3. [CORI request form for an attorney](#) to request a client's CORI
3. [Petition to Seal](#) (by mail/ hand delivery to Commissioner's office))
4. [Petition to Court to Seal](#) (for use in court)
5. [Juvenile record request form](#) (link to GBLS booklet: link to probation form not working)
6. [CORI Self-Audit form](#) (to find out who checked your CORI)
7. [Complaint form \(to correct incorrect CORI\)](#)
8. [DCJIS Complaint for improper use or access to CORI](#)
9. [Petition to expunge time-based juvenile and under age 21 records](#) (sections 100F-100JH)
10. [Court Petition to Expunge](#) (Section 100K: Juvenile and adult records):
11. [Court petition to expunge marijuana offense](#) (Section 100K ¼: adult and juvenile records)