

BOOKLET 7 EXPUNGEMENT OF DECRIMINALIZED MARIJUANA OFFENSES

IMPORTANT

- If you are not a citizen, a criminal record may be used to deport or exclude you from the United States.
- If you are not a citizen, do **NOT** expunge your records and instead, talk to an immigration lawyer about the effect of your criminal cases on your immigration status and how expungement may harm you.
- If your records are destroyed and there are no records about your case after expungement, you may be unable to prove to immigration officials how your case ended, or that that the case ended in your favor.
- There may be other situations where destruction of the records will interfere with exercise of other legal rights, such as getting reimbursed for fees you paid in a case dismissed due to the Dookhan or Farak drug lab scandals or filing a police brutality lawsuit related to your arrest.

1. What is the difference between sealing and expungement?

Sealing of a criminal case only limits who has access to the records. Expungement destroys the records of the case, and the Massachusetts court, probation, and related records are no longer available.

You should always get certified copies of the docket sheets for your case BEFORE you expunge or seal records.

IMPORTANT. A criminal record for a marijuana or other drug offense can be grounds for exclusion or deportation even if you received a pardon for the offense and/or the case was sealed. Get advice from an immigration lawyer about any criminal case if you are not a citizen.

2. When can I expunge my marijuana offense(s) and how much does it cost?

You can expunge both criminal and juvenile court decriminalized marijuana offenses under section 100K 1/4 of chapter 276 of the General Laws. **The process is free**, and you can expunge the following marijuana offenses:

- Possession of an amount of marijuana that is decriminalized which means, for example, an amount that is not over two ounces outside the home (G.L. c. 94G, § 7); or
- Possession of not more than 10 ounces of marijuana at home and cultivation (growing) of not more than two plants at home (G.L. c. 94G, § 7); or
- An offense for distribution or intent to distribute marijuana that arose out of same incident involving possession of a decriminalized amount of marijuana.

3. What do I need to file in court to expunge my offense(s)?

Step 1. First, get certified copies of the docket sheets for your cases because the records will be destroyed if the judge allows your petition to expunge records.

Step 2. Second, look at the attached sample of a **PETITION TO EXPUNGE** and then fill in the [blank form](#). You should change the wording to fit your situation. Make copies of the form after you fill it out for yourself **AND** the District Attorney's office.

Practice note. The law states a hearing is held if you or the District Attorney request it. But you also can write on the petition that you want the court to decide the expungement "on the papers" without your having to appear in-person. Some courts, however, schedule all petitions for a hearing before a judge.

Step 3. After you fill out the [petition form](#), you file it in the court that handled the case **AND** you must mail or

deliver a copy of the petition to the District Attorney's office that covers that court. The law states that a marijuana offense eligible for expungement will be expunged within 30 days after you file a petition for expungement. (G.L. c. 276, § 100K ¼). Courts usually give you a future hearing date at the time you file the petition or within a week or so. If you do not hear from the court, call the clerk's office.

Step 4. Show up for any hearing date. Bring copies of the paperwork you filed in case the judge asks something about it. **If the judge denies your petition, you should seek legal advice.**

IMPORTANT. In 2024, Governor Healey granted a blanket pardon that includes all Massachusetts **convictions** for simple possession of marijuana that happened before March 13, 2024. A pardon "has the effect of treating the [person] as if the offense had never been committed." Clemency Guidelines, § 2 (2023). This means, for example, if a law in Massachusetts makes you ineligible for a job or occupational license based on the conviction, the exclusion or disqualification no longer applies.

- If you have a marijuana conviction that was pardoned, you should request a Pardon Certificate **BEFORE** you file a petition to expunge to better ensure your records can be found so you can get a certificate. See Booklet 12: [How To Get A Pardon Certificate for a Cannabis \(Marijuana\) Offense](#).
- Remember, however, that the Governor's marijuana pardon does **NOT** remove or wipe out a conviction for purposes of immigration or solve problems as to the effect of a conviction on immigration status.

4. What are my rights after expungement?

The "Ban the Box" law prohibits most employers from asking about convictions and other cases on an initial job application whether or not the record is sealed or expunged. G. L. c. 151B, § 4, paragraph 9 ½.

After a record is expunged, the law states 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 a portion of it, in response to any inquiry made for any purpose. G. L. c. 276, § 100M.

You can say "I have no record" after expungement or sealing. G. L. c. 276, § 100N; G. L. c. 276, § 100A.


Massachusetts law also requires that the FBI and Dept. of Justice (DOJ) be notified of expungement orders and that the state ask them to expunge their corresponding records. G.L. c. 276, § 100T. For more information about sealing and expungement, read our other booklet: [KNOW YOUR CORI RIGHTS](#).

LEGAL RESOURCES

- Low-income people can find [free legal help](#) online at [Mass Legal Resource Finder](#).
- Bar associations that offer help for a reduced fee include the:
[Boston Bar Association Lawyer Referral Service](#) 617-742-0625 (No walk-ins)
[Massachusetts Bar Association Lawyer Referral Service](#) 617-654-0400 (No walk-ins).

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. Updated June 10, 2024.

[Blank petition](#) (Click to link to the form)

<p>PETITION FOR EXPUNGEMENT OF MARIJUANA OFFENSES G.L. c. 276, § 100K¼</p>	<p>DOCKET NO. (of the case in which you are seeking expungement)</p>	<p>Massachusetts Trial Court</p> 
<p>YOUR NAME, ADDRESS, AND PHONE NUMBER (Petitioner)</p>	<p>COURT DEPARTMENT</p> <p><input type="checkbox"/> Boston Municipal Court <input type="checkbox"/> Juvenile Court</p> <p><input type="checkbox"/> District Court <input type="checkbox"/> Superior Court</p> <p>COURT DIVISION</p>	
<p>You have the right to an interpreter at no cost to you.</p> <p><input type="checkbox"/> I request the assistance of an interpreter for the following language: _____</p>		
<p>I request that this Court order that the records of the following charges (marijuana only) be expunged:</p> <p><input type="checkbox"/> possession of marijuana — G.L. c. 94C, § 34</p> <p><input type="checkbox"/> cultivation of marijuana — G.L. 94C, § 32C(a)</p> <p><input type="checkbox"/> possession of marijuana with intent to distribute — G.L. c. 94C, § 32C(a)</p> <p><input type="checkbox"/> distribution of marijuana — G.L. c. 94C, § 32C(a)</p> <p><input type="checkbox"/> possession of marijuana, subsequent offense — G.L. c. 94C, § 34</p> <p><input type="checkbox"/> cultivation of marijuana, subsequent offense — G.L. c. 94C, § 32C(b)</p> <p><input type="checkbox"/> possession of marijuana with intent to distribute, subsequent offense — G.L. c. 94C, § 32C(b)</p> <p><input type="checkbox"/> distribution of marijuana, subsequent offense — G.L. c. 94C, § 32C(b)</p> <p>Counts: _____</p> <p>(Note: The court is to act within 30 days of the petition being filed.)</p>		
<p><input type="checkbox"/> I make this request because the criminal records noted above were created as a result of marijuana offense(s) that have now been decriminalized based on the amount of marijuana involved. (Check box and refer to Instructions on the next page.)</p> <p>Specifically (provide as much detail as possible explaining the reasons for your request):</p> 		
<p>Please attach additional pages if you need more space.</p> <p><input type="checkbox"/> I request that the Court hold a hearing on my petition.</p> <p><input type="checkbox"/> If you need more space to explain, check this box and continue in the space provided on the Instructions sheet. You may also attach additional pages if necessary.</p> <p><input type="checkbox"/> If you have documents that support your petition, check this box and attach them to this petition.</p>		
<p>I provided this petition and supporting documents to the District Attorney's Office of the county that prosecuted the case</p> <p><input type="checkbox"/> by delivering a copy in hand OR <input type="checkbox"/> by mailing a copy via first class mail to the District Attorney's Office on</p> <p>_____</p> <p>DATE</p>		
<p>I swear under the pains and penalty of perjury that all information I provided in this Petition is true to the best of my knowledge and belief.</p>		
<p>DATE:</p>	<p>PETITIONER'S SIGNATURE</p>	

INSTRUCTIONS TO PETITIONER:

Please type your responses on the form or use blue or black ink and write clearly.

Reasons for Expunging a Record Under G.L. c. 276, § 100K¼

Under Chapter 276, § 100K¼, you can directly ask a judge to permanently destroy, or "expunge," the official court records of marijuana offense(s), if the amount of marijuana involved has now been decriminalized. If there is more than one offense in your case, only the marijuana offense(s) may be expunged. There will still be a record of other offenses in your case.

Under this law, the judge can order expungement of the court record only if the judge determines by clear and convincing evidence that the amount of marijuana underlying the offense(s) was two ounces or less, or, if the marijuana was in your primary residence, that it was ten ounces or less, or consisted of six or fewer marijuana plants for personal use or twelve or fewer marijuana plants on the premises.

Expungement may also be available in circumstances other than the ones identified above. To learn about those other circumstances and the requirements for seeking expungement under them, visit this webpage:

[Expunge Your Criminal Record | Mass.gov \(https://www.mass.gov/expunge-your-criminal-record\)](https://www.mass.gov/expunge-your-criminal-record)

What You Must Show

You must demonstrate to the judge that the amount of marijuana involved in the underlying offense(s) was either: (1) two ounces or less; (2) was within your primary residence and was ten ounces or less; or (3) consisted of six or fewer marijuana plants for personal use or twelve or fewer marijuana plants on the premises. When you fill out this petition, you should provide as much detail as possible. You may give the judge copies of documents that support your reasons for asking for expungement. On the petition, there is a box to check for a hearing. At a hearing, you can tell the judge why you think the marijuana record(s) should be expunged. Even if you don't request a hearing, the judge could still hold a hearing where you must be present. If a hearing is scheduled, the clerk's office will notify you of the hearing date and time where you must be present.

Multiple Charges

On this petition, you must include all of the eligible marijuana charges connected to the case that you are asking the judge to expunge. The judge may only expunge eligible marijuana charges, as listed in the petition. If you would like to ask a judge to expunge records in different cases, with different docket numbers, you must file separate petitions for each case.

Where to File the Petition

You must file this petition in the clerk's office in the court where the criminal case was heard.

Providing a Copy of the Petition to the District Attorney's Office

You must provide a copy of this petition and any documents that you file with the petition to the District Attorney's Office that prosecuted the case on or before the day that you file this petition in court. You can do this by bringing a copy to the District Attorney's Office or by mailing a copy to the District Attorney's Office by first-class mail. You are not required to provide proof of hand delivery or mailing at this time, but may want to obtain and preserve proof of delivery or mailing for your records.

Records will be Permanently Destroyed


An order of expungement requires the clerk of the court where the record was created and the Commissioner of Probation to destroy or permanently erase the trial court records of eligible marijuana offenses within their care, custody, or control, except for information contained in the domestic violence record keeping system. An order of expungement also requires criminal justice agencies to destroy or permanently erase the record from all publicly available police logs maintained pursuant to G.L. c. 41, § 98F, within the agencies' care, custody, or control. Further, criminal justice agencies are required to respond to inquiries from any party, including criminal justice agencies, a county agency, a municipal agency, or a state agency that no record of eligible marijuana offenses exists.

If the judge allows your petition for expungement, the clerk will provide you with a certified copy of the expungement order, the docket sheets and the criminal complaint related to the expungement. If you want copies of the police report, any documents that you filed, or the petition, you must make copies *before* the court orders expungement. Once the record is destroyed, you will not be able to get a copy from the court.

Additional Information:

SAMPLE PETITION

Page 1 of 2

PETITION FOR EXPUNGEMENT OF MARIJUANA OFFENSES G.L. c. 276, § 100K½		DOCKET NO. (of the case in which you are seeking expungement) 0102CR123456789	Massachusetts Trial Court	
YOUR NAME, ADDRESS, AND PHONE NUMBER (Petitioner) John E. Doe 123 Jump St. # 1234 Boston, MA 01234 123-456-7891		COURT DEPARTMENT <input checked="" type="checkbox"/> Boston Municipal Court <input type="checkbox"/> Juvenile Court <input type="checkbox"/> District Court <input type="checkbox"/> Superior Court		
		COURT DIVISION ROXBURY		
You have the right to an interpreter at no cost to you. <input type="checkbox"/> I request the assistance of an interpreter for the following language: _____				
I request that this Court order that the records of the following charges (marijuana only) be expunged: <input checked="" type="checkbox"/> possession of marijuana — G.L. c. 94C, § 34 <input type="checkbox"/> cultivation of marijuana — G.L. c. 94C, § 32C(a) <input checked="" type="checkbox"/> possession of marijuana with intent to distribute — G.L. c. 94C, § 32C(a) <input type="checkbox"/> distribution of marijuana — G.L. c. 94C, § 32C(a) <input type="checkbox"/> possession of marijuana, subsequent offense — G.L. c. 94C, § 34 <input type="checkbox"/> cultivation of marijuana, subsequent offense — G.L. c. 94C, § 32C(b) <input type="checkbox"/> possession of marijuana with intent to distribute, subsequent offense — G.L. c. 94C, § 32C(b) <input type="checkbox"/> distribution of marijuana, subsequent offense — G.L. c. 94C, § 32C(b) Counts: _____ (Note: The court is to act within 30 days of the petition being filed.)				
<input checked="" type="checkbox"/> I make this request because the criminal records noted above were created as a result of marijuana offense(s) that have now been decriminalized based on the amount of marijuana involved. (Check box and refer to Instructions on the next page.) Specifically (provide as much detail as possible explaining the reasons for your request): 1. There is a presumption that my offenses should be expunged because the possession offense did not involve more than two ounces. 2. These records carry a stigma and create a "cloud of prosecution" even if they are sealed. 3. These records contribute to negative stereotypes which could affect any future contact I have with police.				
Please attach additional pages if you need more space.				
<input type="checkbox"/> I request that the Court hold a hearing on my petition. <input checked="" type="checkbox"/> If you need more space to explain, check this box and continue in the space provided on the Instructions sheet. You may also attach additional pages if necessary. <input type="checkbox"/> If you have documents that support your petition, check this box and attach them to this petition.				
I provided this petition and supporting documents to the District Attorney's Office of the county that prosecuted the case <input type="checkbox"/> by delivering a copy in hand OR <input checked="" type="checkbox"/> by mailing a copy via first class mail to the District Attorney's Office on June 10, 2024. <small>DATE</small>				
I swear under the pains and penalty of perjury that all information I provided in this Petition is true to the best of my knowledge and belief.				
DATE: June 10, 2024		PETITIONER'S SIGNATURE John Doe		

INSTRUCTIONS TO PETITIONER:

Page 2 of 2

Please type your responses on the form or use blue or black ink and write clearly.

Reasons for Expunging a Record Under G.L. c. 276, § 100K¼

Under Chapter 276, § 100K¼, you can directly ask a judge to permanently destroy, or "expunge," the official court records of marijuana offense(s), if the amount of marijuana involved has now been decriminalized. If there is more than one offense in your case, only the marijuana offense(s) may be expunged. There will still be a record of other offenses in your case.

Under this law, the judge can order expungement of the court record only if the judge determines by clear and convincing evidence that the amount of marijuana underlying the offense(s) was two ounces or less, or, if the marijuana was in your primary residence, that it was ten ounces or less, or consisted of six or fewer marijuana plants for personal use or twelve or fewer marijuana plants on the premises.

Expungement may also be available in circumstances other than the ones identified above. To learn about those other circumstances and the requirements for seeking expungement under them, visit this webpage:

[Expunge Your Criminal Record | Mass.gov \(https://www.mass.gov/expunge-your-criminal-record\)](https://www.mass.gov/expunge-your-criminal-record)

What You Must Show

You must demonstrate to the judge that the amount of marijuana involved in the underlying offense(s) was either: (1) two ounces or less; (2) was within your primary residence and was ten ounces or less; or (3) consisted of six or fewer marijuana plants for personal use or twelve or fewer marijuana plants on the premises. When you fill out this petition, you should provide as much detail as possible. You may give the judge copies of documents that support your reasons for asking for expungement. On the petition, there is a box to check for a hearing. At a hearing, you can tell the judge why you think the marijuana record(s) should be expunged. Even if you don't request a hearing, the judge could still hold a hearing where you must be present. If a hearing is scheduled, the clerk's office will notify you of the hearing date and time where you must be present.

Multiple Charges

On this petition, you must include all of the eligible marijuana charges connected to the case that you are asking the judge to expunge. The judge may only expunge eligible marijuana charges, as listed in the petition. If you would like to ask a judge to expunge records in different cases, with different docket numbers, you must file separate petitions for each case.

Where to File the Petition

You must file this petition in the clerk's office in the court where the criminal case was heard.

Providing a Copy of the Petition to the District Attorney's Office

You must provide a copy of this petition and any documents that you file with the petition to the District Attorney's Office that prosecuted the case on or before the day that you file this petition in court. You can do this by bringing a copy to the District Attorney's Office or by mailing a copy to the District Attorney's Office by first-class mail. You are not required to provide proof of hand delivery or mailing at this time, but may want to obtain and preserve proof of delivery or mailing for your records.

Records will be Permanently Destroyed

An order of expungement requires the clerk of the court where the record was created and the Commissioner of Probation to destroy or permanently erase the trial court records of eligible marijuana offenses within their care, custody, or control, except for information contained in the domestic violence record keeping system. An order of expungement also requires criminal justice agencies to destroy or permanently erase the record from all publicly available police logs maintained pursuant to G.L. c. 41, § 98F, within the agencies' care, custody, or control. Further, criminal justice agencies are required to respond to inquiries from any party, including criminal justice agencies, a county agency, a municipal agency, or a state agency that no record of eligible marijuana offenses exists.

If the judge allows your petition for expungement, the clerk will provide you with a certified copy of the expungement order, the docket sheets and the criminal complaint related to the expungement. If you want copies of the police report, any documents that you filed, or the petition, you must make copies *before* the court orders expungement. Once the record is destroyed, you will not be able to get a copy from the court.

Additional Information:

Please send a copy of the court order for expungement to me before the records are destroyed. Please call me if there is any problem with this request.