

Jobs

Justice

A Future

BILLS TO PROMOTE JOBS, HOUSING, & SUCCESS AFTER PRISON OR COURT INVOLVEMENT

People with criminal records need to be part of any plan to boost the economy, get people back to work, and avoid evictions. 2018 criminal legal reforms made some progress, but CORI still stops countless people from getting jobs, a living wage, licenses needed for many occupations, housing, and access to other opportunities.

H1908/S932. An Act providing for certificates of rehabilitation, second chances, increased success, and community prosperity (Rep. Ultrino, Sen. Brownsberger). Link: <https://malegislature.gov/Bills/192/S932>

- + The bill adds a new chapter 276C to allow courts to give rehabilitation certificates to people with convictions, juvenile cases, and continuances without finding (CWOFF's) which can remove most disqualifications for jobs, occupational licenses or other exclusions imposed by Massachusetts laws or regulations. Unlike the sealing law, which only helps those with MA records, people with federal or out-of-state cases are also eligible for certificates, as are people incarcerated in MA.
- + Certificates of rehabilitation create a presumption a person is eligible for jobs, housing, and other opportunities as set forth in the certificate. There are some exceptions, for example, for sex offenses requiring registration, present driving suspensions such as DUI's, and/or firearms licensure.
- + Employers quickly disqualify applicants with CORI's. The bill will give people with CORIs greater access to jobs especially in the more competitive job market after COVID, and mitigate the harsher punishment and higher conviction rates imposed on people of color due to persisting racial disparities in the criminal legal system.
- + These certificates will expand the current sealing law to allow those with certain "never sealable" convictions such as public justice convictions to apply for sealing. (Police, however, will continue to see any sealed records.)
- + The bill will increase current anti-discrimination protections and regulate occupational licensing. First, the bill requires that even without a certificate, a person cannot be denied a job or occupational license based on their conviction unless that conviction actually is related to and affects the person's ability to perform the job or the conviction poses an unreasonable risk to public safety or property. Second, before rejecting a person due to a conviction, employers have to consider factors such as the Commonwealth's policy in favor of promoting jobs for people with CORIs, the type of work involved in the job, and the individual's past and present circumstances.
- + A dismissal after a continuance without a finding (CWOFF) will no longer be a reason for a job or occupational licensing denial, which brings the licensing law in line with c. 276, § 100A, as amended in 2010, to no longer treat CWOFF's as convictions for purposes of record sealing.

S1037/ H1763. An Act providing easier and greater access to sealing (Rep. Malia, Sen. Friedman). Link: <https://malegislature.gov/Bills/192/S1037>

- + The bill requires automatic sealing of records after any applicable waiting period. Sealing is now done manually and inefficiently with each request mailed to and processed by Commissioner of Probation one-by-one.
- + There are backlogs and this bill also would help countless people who often only learn about sealing after they lose a chance at a job or opportunity due to CORI. Bill also reactivates earlier law to immediately seal cases after not-guilty finding.

H1568/S925. An Act to remove collateral consequences and protect the presumption of innocence (Rep. Fluker Oakley, Sen. Boncore). Link: <https://malegislature.gov/Bills/192/H1568>

+ Provides for immediate sealing of criminal charges at the time of a final disposition if the charge did not end in a conviction and the defendant does not object to such sealing at the time of disposition. Many jurisdictions across the country seal charges that end favorably at the time of the final disposition of the case.

+ Any criminal case carries a heavy stigma even if it ended favorably. The bill provides that CORI reports inform employers and others about the presumption of innocence that applies if a person was not convicted.

+ The bill updates the present “hold back” provisions G.L. c. 6, § 172(3)(a) for employers and others who have low level “standard” access to CORI. This limits the CORI access of landlords, and certain employment and occupational license screeners for most charges if the case is more than 3 years for a misdemeanor, and 7 years for a felony to be consistent with newer sealing waiting periods of the same duration that became effective in 2018. Present exclusions in the law for sex offenses or other serious offenses remain intact.

H1904/S3813. An Act ensuring equitable access to cannabis related expungement (Rep. Tyler, Sen. Gomez). Link: <https://malegislature.gov/Bills/192/H1904>

+ The bill permits a person eligible for expungement of a decriminalized offense for possession of marijuana to expunge the charge without a hearing and to seek expungement of a charge for distribution if it arose because of the same incident involving illegal possession that is now decriminalized. Permits a person who is incarcerated due to a possession of marijuana that is now decriminalized to seek release from incarceration.

H1825/S947. An Act supporting survivors of trafficking and abuse and encouraging increased access to opportunities through expungement and/or sealing of records (Rep. Nguyen, Sen. Chang-Diaz). Link: <https://malegislature.gov/Bills/192/H1825>

+ Permits courts to allow survivors of trafficking or abuse to seal or expunge criminal cases, including convictions, if the offense occurred while the person was a victim of act(s) constituting abuse, human trafficking, and/or act(s) involving force, threat, or duress where the person can establish a connection between the offense and having been a victim, and justice would be served by sealing or expungement.

S931. An Act relative to sealing of records pursuant to Section 100C of Chapter 276 (Sen. Brownsberger). Link: <https://malegislature.gov/Bills/192/S931>

+ Corrects what appear to be clerical errors in the criminal justice reform bill enacted in 2018 and the CORI law. The bill gives records sealed under section 100C of chapter 276 after a court hearing the same privacy and other protections given to records sealed by mail through the administrative process under section 100A and 100B of chapter 276. The bill also amends section 100C of chapter 276 to make criminal records sealed after a court hearing inadmissible in court, licensing hearings, or other hearings in the same way that records sealed under section 100A through the administrative process are inadmissible.

+ This bill is important because under current law, an employer or occupational licensor may take the position that records sealed by a court order under section 100C of chapter 276 are not entitled to the same prohibition against use of the records after sealing as records sealed under section 100A or 100B through the administrative process. This result is unjust. This inconsistency and ambiguity in the present law eviscerates a person’s right to obtain the same protections after sealing of records through the court process as was intended by the legislature under section 100C.

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