

SEALING RECORDS AT A GLANCE

Most criminal records can be sealed through an administrative process by mail after a waiting period, or by a judge without a waiting period. Get certified copies of docket sheets before you seal cases in case you need these later. If you are not a citizen, get advice from an immigration lawyer before sealing your records.



ADMINISTRATIVE PROCESS. (G.L. c. 276, § 100A). Most closed cases can be sealed after a waiting period by mailing (or hand delivering) a form to the Commissioner of Probation.

- **All cases must be closed** AND the waiting period for sealing each misdemeanor is 3 years, and 7 years for each felony. A new conviction or incarceration re-starts the clock on all cases until the waiting period on each case is also completed.
- Conviction can only be sealed through this administrative process, except for a 1st time drug possession conviction which can also be sealed by a judge.
- Cases that ended in a “not guilty” finding, a dismissal or a nolle prosequi (D.A. dropped the case) can be sealed by this same process after the same waiting periods, **OR** by a judge in court without a waiting period.
- Juvenile cases can be sealed after a 3 year waiting period.
- Decriminalized cases (e.g., possession of 2 ounces or less cannabis; being in presence of heroin) can be sealed without any waiting period.

Convictions for Certain Offenses (But Not Dismissals or Non-Convictions) Have Longer Waiting Periods or Can Never Be Sealed. (G.L. c. 276, § 100A; c. 268-268A; c. 140, § 121-131H).

- Misdemeanor convictions for violations of abuse prevention and harassment prevention orders have a felony waiting period (7 years).
- Sex offense convictions requiring registering with the Sex Offender Registry are not eligible to seal until 15 years after the last event in the case such as probation or jail release. Level 2 or 3 status bars sealing of most cases.
- Public justice crime convictions (e.g. witness intimidation, escape from jail, false name given to police) and certain convictions for violations of firearms laws, ethics laws and conflicts of interest laws (e.g. bribery of an elected official) can NEVER be sealed. **The law changed in 2018 and resisting arrest convictions are now sealable.**



COURT PROCESS TO SEAL. Some closed cases may be sealed by the court that handled the cases without a waiting period. (G. L. c. 276, §100C; c. 94C, §§ 34, 44).

A judge can seal records after a hearing for:

- a case where you were found “**not guilty**,” or where the case was **dismissed** or ended in a **nolle prosequi**, or
- a first time drug **possession** conviction where you did not violate court orders or conditions connected to being on probation such as drug treatment or community service.

The court process to seal cases is free and involves filing a petition and going to one or two hearings.

- Notice of the final hearing must be posted at the courthouse for at least 7 days.
- The legal standard to seal records is “good cause” because of a recent SJC ruling in *Commonwealth v. Pon*, 469 Mass. 296 (2014).
- You do not need to “risk of specific harm” and only need to show a credible “disadvantage” now or “likely to exist in the foreseeable future” due to your CORI.
- Judges may take “judicial notice that the existence of a criminal record, *regardless of what it contains*, can present barriers to housing and employment opportunities.”
- After you seal your record, you can say “I have no record” when interviewing for jobs, housing, trade licenses. G.L. c. 276, § 100A.

Note: A new court decision requires immediate sealing of offenses that end in a not guilty finding. *Com. v J.F.* 491 Mass. 824 (2023).

Important. The felony larceny threshold has increased from \$250 to \$1200 which means larceny up to \$1200 now should be sealed after a 3 year waiting period using the mail-in process. G.L. c. 276, §100A. The Commissioner does not check whether a felony larceny case should be treated as a misdemeanor because the law changed. If your larceny case up to \$1200 is denied sealing and treated as a felony for purposes of sealing and you need help with sealing, call GBLS at 617-371-1234.