We had a lot of heartbreak this legislative session with many important criminal legal reform bills left in limbo or dying on the vine. There is some good news, however, in that an expungement bill that Greater Boston Legal Services worked on with the Union of Minority Neighborhoods, and which was filed by Rep. Chynah Tyler, Rep. Jack Lewis, Senator Adam Gomez and Senator Comerford, has passed. Provisions of the bill were redrafted and incorporated into a larger cannabis social equity bill. The Governor signed the social equity bill on August 11, 2022, which removes judicial discretion to deny petitions to expunge criminal records of decriminalized marijuana charges and expands what charges may be expunged.

The Legislature passed a criminal legal reform package in 2018 that included the first Massachusetts criminal record expungement law, but some judges simply declined to expunge marijuana records. But it is obviously unfair to have an offense on your record that is no longer a crime and to suffer the countless adverse collateral consequences of such a record. This bill finally delivers some of the expungement relief we had hoped for several years ago.

**SUMMARY OF THE NEW LAW**

1. **The discretion of a judge to deny expungement of decriminalized marijuana offenses is removed.** The juvenile or adult offenses must be expunged in 30 days from the date of filing of the petition if the offenses were decriminalized. See section 100K 1/2 of chapter 276.

2. **Expungement is expanded.** New relief goes beyond a decriminalized possession offense to also include “possession with intent to distribute” or other distribution offenses if the charges arose out of the same incident involving possession. Many people were overcharged with intent to distribute when possession of marijuana was still illegal. As a result, a lot of people did not bother to expunge decriminalized possession offenses because they were unable to also expunge the distribution offense that arose out of the same incident when marijuana possession used to be illegal.

3. **Mitigating harm.** The provisions in this legislation help to mitigate some of the harm and racially disparate effect of the war on drugs on communities of color. Data shows people who are Black were more likely to be arrested for marijuana offenses.

4. **Effective date.** The law takes effect 90 days from the signing of the bill which is -Nov. 9, 2022. A copy of the new law is below.

**TEXT OF THE NEW LAW**

SECTION 23. Chapter 276 of the General Laws is hereby amended by inserting after section 100K the following section:- Section 100K¼.

(a) Notwithstanding the requirements of section 100I and section 100J, 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: (1) the possession or cultivation
of an amount of marijuana decriminalized by chapter 387 of the acts of 2008; (2) the possession or cultivation of an amount of marijuana decriminalized by chapter 384 of the acts of 2016; (3) the possession or cultivation of an amount of marijuana decriminalized by chapter 55 of the acts of 2017; (4) possession of marijuana with intent to distribute based on an amount of marijuana decriminalized by chapter 387 of the acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017; or (5) distribution of marijuana based on an amount of marijuana decriminalized by chapter 387 of the acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017.

(b) Prior to entering an order on a petition for expungement pursuant to subsection (a), the court shall hold a hearing if requested by the petitioner or the district attorney. Upon granting or denying a petition for expungement pursuant to subsection (a), the court shall enter written findings of fact.

(c) Upon an order for expungement pursuant to this section or section 100F, section 100G or section 100H, the court clerk’s office shall provide the petitioner with a certified copy of the order, the docket sheets and the criminal complaint related to the expunged charge. The court shall send a copy of the expungement order to the clerk of the court where the record was created, to the commissioner of probation and to the commissioner of criminal justice information services.

**SELF-HELP BOOKLET**

A [self-help booklet](#) explaining how to expunge cannabis records is on the Greater Boston Legal Services website.