

BOOKLET 7

HOW TO SEAL DECRIMINALIZED MARIJUANA CASES

You May Be Able to Seal Your Past Criminal Cases Immediately



Voters in Massachusetts approved a ballot question that made it legal to have small amounts of marijuana. The new law took effect on December 15, 2016. It allows anyone over age 21 to have small amounts of marijuana at home and to carry up to two ounces without criminal penalties. G.L. c. 94G, § 13(e).

1. What is the effect of the new law on past criminal cases for marijuana possession?

The Massachusetts sealing law lets you seal crimes that are no longer criminal offenses. G.L. c 276, § 100A. If you have a past criminal case for marijuana possession AND the case involved only 2 ounces or less of marijuana, you can seal the possession case now instead of having to wait until the waiting period to seal criminal cases expires. The new law covers only charges for “possession” and not “possession with the intent to distribute” or other drug crimes.

If you were arrested for possession of marijuana because you had marijuana plants in your home, you also can seal your case without waiting any longer if the charge was for:

- up to 6 plants in the home if you lived alone at the time, or
- up to 12 plants if one or more other persons (age 21 or over) lived with you.

G.L. c. 94G, § 13.

2. How do I seal my past marijuana case?

STEP ONE.

Look at the attached the sample form that is filled out and the blank form.

STEP TWO.

Fill out the PETITION TO SEAL form and mail it to the Commissioner of Probation, One Ashburton Place, Rm 405, Boston MA 02108.

Please carefully fill out your address, including an apartment number, because the reply letter will be mailed to you at this address.

STEP THREE. You will get a reply by mail from the Commissioner of Probation within a few weeks telling you if your request to seal your record was approved. If the petition is denied, seek legal advice from an attorney about your rights.

IMPORTANT. If you are not a United States citizen or have immigration issues, or are living here without legal documents, you should not seal your record without the advice of an immigration attorney.

AFTER THE RECORD IS SEALED

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.

If an employer wants to know if you have a criminal record after all your cases are sealed, you may answer “I have no record.” G.L. c. 276 §§ 100A. However, sealed criminal records may be used against a person by a court if the court imposes a sentence in a future criminal court case. G.L. c. 276, § 100A-C.

RESOURCES FOR LOW INCOME PEOPLE

If you live in the Boston area, you can call Greater Boston Legal Services (GBLS) for an intake at 617-603-1700 or 617-371-1234. If you live in the Boston area, you'll be screened for eligibility for help from Greater Boston Legal Services (GBLS). GBLS is not able to take every case, but GBLS may be able to give you some advice or refer you elsewhere to help you.

- If you do not live in the Boston area, you should contact the legal aid program near you at: www.masslegalhelp.org
- To read more information on CORI and get forms, go to the CORI part of the Mass Legal Help website: www.masslegalhelp.org

Read other booklets in this series:

Booklet 1: How to Get a Copy of Your Criminal Record (CORI)

Booklet 2: How to Seal Old Criminal Cases

Booklet 3: Sealing Cases that Ended without a Conviction or First Time Drug Convictions

Booklet 4: Representing Yourself in Court after Filing a Petition to Seal Criminal Cases

Booklet 5: One Stop CORI Sealing in Boston Municipal Court

Booklet 6: What You Should Know about Drivers' Licenses and Drug Convictions

This booklet 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 criminal records located in Massachusetts and to the laws in effect as of December 13, 2016. This booklet is made available through funding from the Gardiner Howland Shaw Foundation and is also available online at masslegalhelp.org

PETITION TO SEAL

To: Commissioner of Probation, One Ashburton Place, Rm. 405, Boston, MA 02108

SELECT appropriate box(es). If 1, 2, or 3 are selected, you must sign the corresponding numbered affidavit below.

PART A

1

Section 100B - Chapter 276. Delinquency (juvenile) cases, all sentence elements of which, and of any subsequent court appearances, were completed 3 years prior to this request.

1 - 4

2

Section 100A - Chapter 276. Misdemeanor cases, all sentence elements of which, and any subsequent court appearances, were completed 5 years prior to this request (or, which was a felony when committed, and is presently a misdemeanor).

3

Section 100A - Chapter 276. Felony cases, all sentence elements of which, and of any subsequent court appearances, were completed 10 years prior to this request. For eligible sex offenses 15 years prior to this request.

4

Section 100A - Chapter 276. Recorded offense which is no longer a crime, except where the elements of the offense continue to be a crime under a different designation.

Print Doe John Paul Date of Birth: July 4, 1984
Last name First name Middle name

Alias/Maiden/Previous name

Mailing Address 5 Jump St. City Boston State MA Zip 02214

Occupation Maintenance Social Security # 987-65-4321 Place of Birth Boston, MA

Father's Name Paul Doe Mother's Maiden Name Smith Husband/ Wife's Name

Petitioner's Signature John P. Doe

In accord with the provision of Chapter 276, Sections 100A and 100B, as established by Chapter 686 of the Acts of 1971, Chapter 404 of the Acts of 1972, Chapter 322 of the Acts of 1973 and Chapter 256 of the Acts of 2010, respectively, I hereby request that my record of adult criminal and/or juvenile Massachusetts court appearances and dispositions be sealed forthwith.

To the best of my knowledge:

1. a) My delinquency court appearances or dispositions including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than three years prior to said request; b) I have not been adjudicated delinquent or found guilty of any criminal offense within the commonwealth in the three years preceeding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars nor been imprisoned under sentence or committed as a delinquent within the commonwealth within the preceeding three years; and c) I have not been adjudicated delinquent or found guilty of any criminal offenses in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and have not been imprisoned under sentence or committed as a delinquent in any other state or county within the preceeding three years.

Signed under penalties of perjury,

Signature of Petitioner

To the best of my knowledge:

2. a) All of my court appearance and court disposition records, including any period of incarceration or custody for any misdemeanor occurred not less than five years prior to this request; b) that my court appearance and court disposition records, including any period of incarceration or custody for any felony occurred not less than ten years prior to this request; c) that I have not been found guilty of any criminal offense within the commonwealth in the case of a misdemeanor, five years before such request, and in the case of a felony, ten years before such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars; d) I have not been convicted of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and have not been imprisoned in any other state or county in the case of a misdemeanor within the preceeding five years and in the case of a felony the preceeding ten years; and e) my record does not include convictions of offenses other than those to which the section applies, or convictions for violations of sections 121 to 131 H, inclusive, of chapter 140 or for violations of chapter 268 or chapter 268 A.

Signed under penalties of perjury,

Signature of Petitioner

PETITIONER NOT TO WRITE BELOW THIS LINE

Petition Allowed/Disallowed 01 Allowed (Copy to Clerk and Probation Office) 02 Reason for Disallowance (Copy to petitioner only) 03 04

**BLANK FORMS
YOU CAN FILL IN AND USE**

PETITION TO SEAL

To: Commissioner of Probation, One Ashburton Place, Rm. 405, Boston, MA 02108

SELECT appropriate box(es). If 1, 2, or 3 are selected, you must sign the corresponding numbered affidavit below.

PART A

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1 - 4
2 [] Section 100A - Chapter 276. Misdemeanor cases, all sentence elements of which, and any subsequent court appearances, were completed 5 years prior to this request (or, which was a felony when committed, and is presently a misdemeanor).
3 [] Section 100A - Chapter 276. Felony cases, all sentence elements of which, and of any subsequent court appearances, were completed 10 years prior to this request. For eligible sex offenses 15 years prior to this request.
4 [] Section 100A - Chapter 276. Recorded offense which is no longer a crime, except where the elements of the offense continue to be a crime under a different designation.

Print Last name First name Middle name Date of Birth:
Alias/Maiden/Previous name
Mailing Address City State Zip
Occupation Social Security # Place of Birth
Father's Name Mother's Maiden Name Husband/ Wife's Name
Petitioner's Signature

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To the best of my knowledge:

- 1. [] a) My delinquency court appearances or dispositions including court supervision, probation, commitment or parole, the records for which are to be sealed, terminated not less than three years prior to said request; b) I have not been adjudicated delinquent or found guilty of any criminal offense within the commonwealth in the three years preceeding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars nor been imprisoned under sentence or committed as a delinquent within the commonwealth within the preceeding three years; and c) I have not been adjudicated delinquent or found guilty of any criminal offenses in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses as aforesaid, and have not been imprisoned under sentence or committed as a delinquent in any other state or county within the preceeding three years.

Signed under penalties of perjury,

Signature of Petitioner

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Signed under penalties of perjury,

Signature of Petitioner

PETITIONER NOT TO WRITE BELOW THIS LINE

Petition Allowed/Disallowed 01 02 03 04
Allowed (Copy to Clerk and Probation Office)
Reason for Disallowance (Copy to petitioner only)