

October 8, 2019

Joint Committee on the Judiciary  
Sen. James Eldridge & Rep. Claire Cronin

**SUPPORT S.900/H.1386  
AN ACT RELATIVE TO EXPUNGEMENT**

Chairwoman Cronin, Chairman Eldridge, and members of the Joint Committee on the Judiciary:

The ACLU of Massachusetts supports S.900/H.1386, which will allow people with juvenile records to petition to expunge those records if a certain amount of time has passed since their last adjudication. The legislation builds on the foundation laid by the expungement provisions in the Criminal Justice Reform Act of 2018. By linking expungement eligibility to time since an adjudication, this legislation reflects the Supreme Court’s framework for juvenile justice and the scientific research on brain development.

The law recognizes that children are different than adults and should be treated differently by the criminal justice system. A long line of Supreme Court cases has examined and explained exactly why kids are different, delving into scientific and sociological studies that examine children’s development. The Court has explained that children, with their still developing frontal lobes and lack of maturity and experience, are not as culpable as adults and should be treated accordingly. The Supreme Court has specifically said that “children are constitutionally different from adults for purposes of sentencing. Because juveniles have diminished culpability and greater prospects for reform ... they are less deserving of the most severe punishments.”<sup>1</sup>

Importantly, the science also supports the principle that youth are less culpable. Decades of social science and biological research have demonstrated that until about age 25, young peoples’ brains are still developing, with the thrill-seeking parts of their brains developing much faster than the parts that are cautious and anticipate consequences to their actions.

We also know that, in general, people age out of crime. The current CORI sealing lookback periods acknowledge this – allowing for misdemeanor records to be sealed after 3 years, felony records after 7 years, and juvenile delinquency records after 3 years. This legislation would bring the process for juvenile record sealing in line with the CORI statute.

A criminal record creates permanent barriers to success, impeding access to housing, public benefits, education, student loans, and employment. For young people especially, the destabilizing consequences of a criminal record can derail their success as young adults. Young people should not be unnecessarily saddled with these heavy burdens at the start of lives. This legislation will set young folks up for success, and we hope the committee will give it a favorable report.

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<sup>1</sup> *Miller v. Alabama*, 567 US 460, 471 (2012) (internal quotations omitted).