



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5867

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of charges that result in an acquittal or dismissal with prejudice, except for minor traffic offenses, may be immediately expunged after the final disposition of the case. Provides that upon entry of judgment, the defendant shall be informed of this right and the proper procedures to follow to have records that are eligible be immediately expunged. Provides that the petition may be filed on behalf of the defendant by his or her attorney at the final disposition hearing, or by the defendant at any time. Provides that the State's Attorney may not object to an immediate expungement petition and the presiding trial judge shall enter an order granting or denying the petition during the hearing in which the petition is filed. Provides that no fees shall be charged by the circuit court clerk or the Department of State Police for processing petitions filed under this provision. Makes other changes.

LRB100 21695 SLF 39134 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Identification Act is amended by
5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement, sealing, and immediate expungement
8 or sealing.

9 (a) General Provisions.

10 (1) Definitions. In this Act, words and phrases have
11 the meanings set forth in this subsection, except when a
12 particular context clearly requires a different meaning.

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

16 (i) Business Offense (730 ILCS 5/5-1-2),

17 (ii) Charge (730 ILCS 5/5-1-3),

18 (iii) Court (730 ILCS 5/5-1-6),

19 (iv) Defendant (730 ILCS 5/5-1-7),

20 (v) Felony (730 ILCS 5/5-1-9),

21 (vi) Imprisonment (730 ILCS 5/5-1-10),

22 (vii) Judgment (730 ILCS 5/5-1-12),

23 (viii) Misdemeanor (730 ILCS 5/5-1-14),

1 (ix) Offense (730 ILCS 5/5-1-15),
2 (x) Parole (730 ILCS 5/5-1-16),
3 (xi) Petty Offense (730 ILCS 5/5-1-17),
4 (xii) Probation (730 ILCS 5/5-1-18),
5 (xiii) Sentence (730 ILCS 5/5-1-19),
6 (xiv) Supervision (730 ILCS 5/5-1-21), and
7 (xv) Victim (730 ILCS 5/5-1-22).

8 (B) As used in this Section, "charge not initiated
9 by arrest" means a charge (as defined by 730 ILCS
10 5/5-1-3) brought against a defendant where the
11 defendant is not arrested prior to or as a direct
12 result of the charge.

13 (C) "Conviction" means a judgment of conviction or
14 sentence entered upon a plea of guilty or upon a
15 verdict or finding of guilty of an offense, rendered by
16 a legally constituted jury or by a court of competent
17 jurisdiction authorized to try the case without a jury.
18 An order of supervision successfully completed by the
19 petitioner is not a conviction. An order of qualified
20 probation (as defined in subsection (a)(1)(J))
21 successfully completed by the petitioner is not a
22 conviction. An order of supervision or an order of
23 qualified probation that is terminated
24 unsatisfactorily is a conviction, unless the
25 unsatisfactory termination is reversed, vacated, or
26 modified and the judgment of conviction, if any, is

1 reversed or vacated.

2 (D) "Criminal offense" means a petty offense,
3 business offense, misdemeanor, felony, or municipal
4 ordinance violation (as defined in subsection
5 (a)(1)(H)). As used in this Section, a minor traffic
6 offense (as defined in subsection (a)(1)(G)) shall not
7 be considered a criminal offense.

8 (E) "Expunge" means to physically destroy the
9 records or return them to the petitioner and to
10 obliterate the petitioner's name from any official
11 index or public record, or both. Nothing in this Act
12 shall require the physical destruction of the circuit
13 court file, but such records relating to arrests or
14 charges, or both, ordered expunged shall be impounded
15 as required by subsections (d)(9)(A)(ii) and
16 (d)(9)(B)(ii).

17 (F) As used in this Section, "last sentence" means
18 the sentence, order of supervision, or order of
19 qualified probation (as defined by subsection
20 (a)(1)(J)), for a criminal offense (as defined by
21 subsection (a)(1)(D)) that terminates last in time in
22 any jurisdiction, regardless of whether the petitioner
23 has included the criminal offense for which the
24 sentence or order of supervision or qualified
25 probation was imposed in his or her petition. If
26 multiple sentences, orders of supervision, or orders

1 of qualified probation terminate on the same day and
2 are last in time, they shall be collectively considered
3 the "last sentence" regardless of whether they were
4 ordered to run concurrently.

5 (G) "Minor traffic offense" means a petty offense,
6 business offense, or Class C misdemeanor under the
7 Illinois Vehicle Code or a similar provision of a
8 municipal or local ordinance.

9 (H) "Municipal ordinance violation" means an
10 offense defined by a municipal or local ordinance that
11 is criminal in nature and with which the petitioner was
12 charged or for which the petitioner was arrested and
13 released without charging.

14 (I) "Petitioner" means an adult or a minor
15 prosecuted as an adult who has applied for relief under
16 this Section.

17 (J) "Qualified probation" means an order of
18 probation under Section 10 of the Cannabis Control Act,
19 Section 410 of the Illinois Controlled Substances Act,
20 Section 70 of the Methamphetamine Control and
21 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
22 of the Unified Code of Corrections, Section
23 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
24 those provisions existed before their deletion by
25 Public Act 89-313), Section 10-102 of the Illinois
26 Alcoholism and Other Drug Dependency Act, Section

1 40-10 of the Alcoholism and Other Drug Abuse and
2 Dependency Act, or Section 10 of the Steroid Control
3 Act. For the purpose of this Section, "successful
4 completion" of an order of qualified probation under
5 Section 10-102 of the Illinois Alcoholism and Other
6 Drug Dependency Act and Section 40-10 of the Alcoholism
7 and Other Drug Abuse and Dependency Act means that the
8 probation was terminated satisfactorily and the
9 judgment of conviction was vacated.

10 (K) "Seal" means to physically and electronically
11 maintain the records, unless the records would
12 otherwise be destroyed due to age, but to make the
13 records unavailable without a court order, subject to
14 the exceptions in Sections 12 and 13 of this Act. The
15 petitioner's name shall also be obliterated from the
16 official index required to be kept by the circuit court
17 clerk under Section 16 of the Clerks of Courts Act, but
18 any index issued by the circuit court clerk before the
19 entry of the order to seal shall not be affected.

20 (L) "Sexual offense committed against a minor"
21 includes but is not limited to the offenses of indecent
22 solicitation of a child or criminal sexual abuse when
23 the victim of such offense is under 18 years of age.

24 (M) "Terminate" as it relates to a sentence or
25 order of supervision or qualified probation includes
26 either satisfactory or unsatisfactory termination of

1 the sentence, unless otherwise specified in this
2 Section.

3 (2) Minor Traffic Offenses. Orders of supervision or
4 convictions for minor traffic offenses shall not affect a
5 petitioner's eligibility to expunge or seal records
6 pursuant to this Section.

7 (2.5) Commencing 180 days after July 29, 2016 (the
8 effective date of Public Act 99-697), the law enforcement
9 agency issuing the citation shall automatically expunge,
10 on or before January 1 and July 1 of each year, the law
11 enforcement records of a person found to have committed a
12 civil law violation of subsection (a) of Section 4 of the
13 Cannabis Control Act or subsection (c) of Section 3.5 of
14 the Drug Paraphernalia Control Act in the law enforcement
15 agency's possession or control and which contains the final
16 satisfactory disposition which pertain to the person
17 issued a citation for that offense. The law enforcement
18 agency shall provide by rule the process for access,
19 review, and to confirm the automatic expungement by the law
20 enforcement agency issuing the citation. Commencing 180
21 days after July 29, 2016 (the effective date of Public Act
22 99-697), the clerk of the circuit court shall expunge, upon
23 order of the court, or in the absence of a court order on
24 or before January 1 and July 1 of each year, the court
25 records of a person found in the circuit court to have
26 committed a civil law violation of subsection (a) of

1 Section 4 of the Cannabis Control Act or subsection (c) of
2 Section 3.5 of the Drug Paraphernalia Control Act in the
3 clerk's possession or control and which contains the final
4 satisfactory disposition which pertain to the person
5 issued a citation for any of those offenses.

6 (3) Exclusions. Except as otherwise provided in
7 subsections (b) (5), (b) (6), (b) (8), (e), (e-5), and (e-6)
8 of this Section, the court shall not order:

9 (A) the sealing or expungement of the records of
10 arrests or charges not initiated by arrest that result
11 in an order of supervision for or conviction of: (i)
12 any sexual offense committed against a minor; (ii)
13 Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance; or (iii)
15 Section 11-503 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, unless the
17 arrest or charge is for a misdemeanor violation of
18 subsection (a) of Section 11-503 or a similar provision
19 of a local ordinance, that occurred prior to the
20 offender reaching the age of 25 years and the offender
21 has no other conviction for violating Section 11-501 or
22 11-503 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance.

24 (B) the sealing or expungement of records of minor
25 traffic offenses (as defined in subsection (a) (1) (G)),
26 unless the petitioner was arrested and released

1 without charging.

2 (C) the sealing of the records of arrests or
3 charges not initiated by arrest which result in an
4 order of supervision or a conviction for the following
5 offenses:

6 (i) offenses included in Article 11 of the
7 Criminal Code of 1961 or the Criminal Code of 2012
8 or a similar provision of a local ordinance, except
9 Section 11-14 and a misdemeanor violation of
10 Section 11-30 of the Criminal Code of 1961 or the
11 Criminal Code of 2012, or a similar provision of a
12 local ordinance;

13 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
14 26-5, or 48-1 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or a similar provision of a
16 local ordinance;

17 (iii) Sections 12-3.1 or 12-3.2 of the
18 Criminal Code of 1961 or the Criminal Code of 2012,
19 or Section 125 of the Stalking No Contact Order
20 Act, or Section 219 of the Civil No Contact Order
21 Act, or a similar provision of a local ordinance;

22 (iv) Class A misdemeanors or felony offenses
23 under the Humane Care for Animals Act; or

24 (v) any offense or attempted offense that
25 would subject a person to registration under the
26 Sex Offender Registration Act.

1 (D) (blank).

2 (b) Expungement.

3 (1) A petitioner may petition the circuit court to
4 expunge the records of his or her arrests and charges not
5 initiated by arrest when each arrest or charge not
6 initiated by arrest sought to be expunged resulted in: (i)
7 acquittal, dismissal, or the petitioner's release without
8 charging, unless excluded by subsection (a)(3)(B); (ii) a
9 conviction which was vacated or reversed, unless excluded
10 by subsection (a)(3)(B); (iii) an order of supervision and
11 such supervision was successfully completed by the
12 petitioner, unless excluded by subsection (a)(3)(A) or
13 (a)(3)(B); or (iv) an order of qualified probation (as
14 defined in subsection (a)(1)(J)) and such probation was
15 successfully completed by the petitioner.

16 (1.5) When a petitioner seeks to have a record of
17 arrest expunged under this Section, and the offender has
18 been convicted of a criminal offense, the State's Attorney
19 may object to the expungement on the grounds that the
20 records contain specific relevant information aside from
21 the mere fact of the arrest.

22 (2) Time frame for filing a petition to expunge.

23 (A) When the arrest or charge not initiated by
24 arrest sought to be expunged resulted in an acquittal,
25 dismissal, the petitioner's release without charging,
26 or the reversal or vacation of a conviction, there is

1 no waiting period to petition for the expungement of
2 such records. Subsection (g) of this Section provides
3 for immediate expungement of certain records.

4 (B) When the arrest or charge not initiated by
5 arrest sought to be expunged resulted in an order of
6 supervision, successfully completed by the petitioner,
7 the following time frames will apply:

8 (i) Those arrests or charges that resulted in
9 orders of supervision under Section 3-707, 3-708,
10 3-710, or 5-401.3 of the Illinois Vehicle Code or a
11 similar provision of a local ordinance, or under
12 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
13 Code of 1961 or the Criminal Code of 2012, or a
14 similar provision of a local ordinance, shall not
15 be eligible for expungement until 5 years have
16 passed following the satisfactory termination of
17 the supervision.

18 (i-5) Those arrests or charges that resulted
19 in orders of supervision for a misdemeanor
20 violation of subsection (a) of Section 11-503 of
21 the Illinois Vehicle Code or a similar provision of
22 a local ordinance, that occurred prior to the
23 offender reaching the age of 25 years and the
24 offender has no other conviction for violating
25 Section 11-501 or 11-503 of the Illinois Vehicle
26 Code or a similar provision of a local ordinance

1 shall not be eligible for expungement until the
2 petitioner has reached the age of 25 years.

3 (ii) Those arrests or charges that resulted in
4 orders of supervision for any other offenses shall
5 not be eligible for expungement until 2 years have
6 passed following the satisfactory termination of
7 the supervision.

8 (C) When the arrest or charge not initiated by
9 arrest sought to be expunged resulted in an order of
10 qualified probation, successfully completed by the
11 petitioner, such records shall not be eligible for
12 expungement until 5 years have passed following the
13 satisfactory termination of the probation.

14 (3) Those records maintained by the Department for
15 persons arrested prior to their 17th birthday shall be
16 expunged as provided in Section 5-915 of the Juvenile Court
17 Act of 1987.

18 (4) Whenever a person has been arrested for or
19 convicted of any offense, in the name of a person whose
20 identity he or she has stolen or otherwise come into
21 possession of, the aggrieved person from whom the identity
22 was stolen or otherwise obtained without authorization,
23 upon learning of the person having been arrested using his
24 or her identity, may, upon verified petition to the chief
25 judge of the circuit wherein the arrest was made, have a
26 court order entered nunc pro tunc by the Chief Judge to

1 correct the arrest record, conviction record, if any, and
2 all official records of the arresting authority, the
3 Department, other criminal justice agencies, the
4 prosecutor, and the trial court concerning such arrest, if
5 any, by removing his or her name from all such records in
6 connection with the arrest and conviction, if any, and by
7 inserting in the records the name of the offender, if known
8 or ascertainable, in lieu of the aggrieved's name. The
9 records of the circuit court clerk shall be sealed until
10 further order of the court upon good cause shown and the
11 name of the aggrieved person obliterated on the official
12 index required to be kept by the circuit court clerk under
13 Section 16 of the Clerks of Courts Act, but the order shall
14 not affect any index issued by the circuit court clerk
15 before the entry of the order. Nothing in this Section
16 shall limit the Department of State Police or other
17 criminal justice agencies or prosecutors from listing
18 under an offender's name the false names he or she has
19 used.

20 (5) Whenever a person has been convicted of criminal
21 sexual assault, aggravated criminal sexual assault,
22 predatory criminal sexual assault of a child, criminal
23 sexual abuse, or aggravated criminal sexual abuse, the
24 victim of that offense may request that the State's
25 Attorney of the county in which the conviction occurred
26 file a verified petition with the presiding trial judge at

1 the petitioner's trial to have a court order entered to
2 seal the records of the circuit court clerk in connection
3 with the proceedings of the trial court concerning that
4 offense. However, the records of the arresting authority
5 and the Department of State Police concerning the offense
6 shall not be sealed. The court, upon good cause shown,
7 shall make the records of the circuit court clerk in
8 connection with the proceedings of the trial court
9 concerning the offense available for public inspection.

10 (6) If a conviction has been set aside on direct review
11 or on collateral attack and the court determines by clear
12 and convincing evidence that the petitioner was factually
13 innocent of the charge, the court that finds the petitioner
14 factually innocent of the charge shall enter an expungement
15 order for the conviction for which the petitioner has been
16 determined to be innocent as provided in subsection (b) of
17 Section 5-5-4 of the Unified Code of Corrections.

18 (7) Nothing in this Section shall prevent the
19 Department of State Police from maintaining all records of
20 any person who is admitted to probation upon terms and
21 conditions and who fulfills those terms and conditions
22 pursuant to Section 10 of the Cannabis Control Act, Section
23 410 of the Illinois Controlled Substances Act, Section 70
24 of the Methamphetamine Control and Community Protection
25 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
26 Corrections, Section 12-4.3 or subdivision (b)(1) of

1 Section 12-3.05 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, Section 10-102 of the Illinois
3 Alcoholism and Other Drug Dependency Act, Section 40-10 of
4 the Alcoholism and Other Drug Abuse and Dependency Act, or
5 Section 10 of the Steroid Control Act.

6 (8) If the petitioner has been granted a certificate of
7 innocence under Section 2-702 of the Code of Civil
8 Procedure, the court that grants the certificate of
9 innocence shall also enter an order expunging the
10 conviction for which the petitioner has been determined to
11 be innocent as provided in subsection (h) of Section 2-702
12 of the Code of Civil Procedure.

13 (c) Sealing.

14 (1) Applicability. Notwithstanding any other provision
15 of this Act to the contrary, and cumulative with any rights
16 to expungement of criminal records, this subsection
17 authorizes the sealing of criminal records of adults and of
18 minors prosecuted as adults. Subsection (g) of this Section
19 provides for immediate sealing of certain records.

20 (2) Eligible Records. The following records may be
21 sealed:

22 (A) All arrests resulting in release without
23 charging;

24 (B) Arrests or charges not initiated by arrest
25 resulting in acquittal, dismissal, or conviction when
26 the conviction was reversed or vacated, except as

1 excluded by subsection (a) (3) (B);

2 (C) Arrests or charges not initiated by arrest
3 resulting in orders of supervision, including orders
4 of supervision for municipal ordinance violations,
5 successfully completed by the petitioner, unless
6 excluded by subsection (a) (3);

7 (D) Arrests or charges not initiated by arrest
8 resulting in convictions, including convictions on
9 municipal ordinance violations, unless excluded by
10 subsection (a) (3);

11 (E) Arrests or charges not initiated by arrest
12 resulting in orders of first offender probation under
13 Section 10 of the Cannabis Control Act, Section 410 of
14 the Illinois Controlled Substances Act, Section 70 of
15 the Methamphetamine Control and Community Protection
16 Act, or Section 5-6-3.3 of the Unified Code of
17 Corrections; and

18 (F) Arrests or charges not initiated by arrest
19 resulting in felony convictions unless otherwise
20 excluded by subsection (a) paragraph (3) of this
21 Section.

22 (3) When Records Are Eligible to Be Sealed. Records
23 identified as eligible under subsection (c) (2) may be
24 sealed as follows:

25 (A) Records identified as eligible under
26 subsection (c) (2) (A) and (c) (2) (B) may be sealed at any

1 time.

2 (B) Except as otherwise provided in subparagraph
3 (E) of this paragraph (3), records identified as
4 eligible under subsection (c)(2)(C) may be sealed 2
5 years after the termination of petitioner's last
6 sentence (as defined in subsection (a)(1)(F)).

7 (C) Except as otherwise provided in subparagraph
8 (E) of this paragraph (3), records identified as
9 eligible under subsections (c)(2)(D), (c)(2)(E), and
10 (c)(2)(F) may be sealed 3 years after the termination
11 of the petitioner's last sentence (as defined in
12 subsection (a)(1)(F)). Convictions requiring public
13 registration under the Arsonist Registration Act, the
14 Sex Offender Registration Act, or the Murderer and
15 Violent Offender Against Youth Registration Act may
16 not be sealed until the petitioner is no longer
17 required to register under that relevant Act.

18 (D) Records identified in subsection
19 (a)(3)(A)(iii) may be sealed after the petitioner has
20 reached the age of 25 years.

21 (E) Records identified as eligible under
22 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
23 (c)(2)(F) may be sealed upon termination of the
24 petitioner's last sentence if the petitioner earned a
25 high school diploma, associate's degree, career
26 certificate, vocational technical certification, or

1 bachelor's degree, or passed the high school level Test
2 of General Educational Development, during the period
3 of his or her sentence, aftercare release, or mandatory
4 supervised release. This subparagraph shall apply only
5 to a petitioner who has not completed the same
6 educational goal prior to the period of his or her
7 sentence, aftercare release, or mandatory supervised
8 release. If a petition for sealing eligible records
9 filed under this subparagraph is denied by the court,
10 the time periods under subparagraph (B) or (C) shall
11 apply to any subsequent petition for sealing filed by
12 the petitioner.

13 (4) Subsequent felony convictions. A person may not
14 have subsequent felony conviction records sealed as
15 provided in this subsection (c) if he or she is convicted
16 of any felony offense after the date of the sealing of
17 prior felony convictions as provided in this subsection
18 (c). The court may, upon conviction for a subsequent felony
19 offense, order the unsealing of prior felony conviction
20 records previously ordered sealed by the court.

21 (5) Notice of eligibility for sealing. Upon entry of a
22 disposition for an eligible record under this subsection
23 (c), the petitioner shall be informed by the court of the
24 right to have the records sealed and the procedures for the
25 sealing of the records.

26 (d) Procedure. The following procedures apply to

1 expungement under subsections (b), (e), and (e-6) and sealing
2 under subsections (c) and (e-5):

3 (1) Filing the petition. Upon becoming eligible to
4 petition for the expungement or sealing of records under
5 this Section, the petitioner shall file a petition
6 requesting the expungement or sealing of records with the
7 clerk of the court where the arrests occurred or the
8 charges were brought, or both. If arrests occurred or
9 charges were brought in multiple jurisdictions, a petition
10 must be filed in each such jurisdiction. The petitioner
11 shall pay the applicable fee, except no fee shall be
12 required if the petitioner has obtained a court order
13 waiving fees under Supreme Court Rule 298 or it is
14 otherwise waived.

15 (1.5) County fee waiver pilot program. In a county of
16 3,000,000 or more inhabitants, no fee shall be required to
17 be paid by a petitioner if the records sought to be
18 expunged or sealed were arrests resulting in release
19 without charging or arrests or charges not initiated by
20 arrest resulting in acquittal, dismissal, or conviction
21 when the conviction was reversed or vacated, unless
22 excluded by subsection (a) (3) (B). The provisions of this
23 paragraph (1.5), other than this sentence, are inoperative
24 on and after January 1, 2019 ~~or one year after January 1,~~
25 ~~2017 (the effective date of Public Act 99-881), whichever~~
26 ~~is later.~~

1 (2) Contents of petition. The petition shall be
2 verified and shall contain the petitioner's name, date of
3 birth, current address and, for each arrest or charge not
4 initiated by arrest sought to be sealed or expunged, the
5 case number, the date of arrest (if any), the identity of
6 the arresting authority, and such other information as the
7 court may require. During the pendency of the proceeding,
8 the petitioner shall promptly notify the circuit court
9 clerk of any change of his or her address. If the
10 petitioner has received a certificate of eligibility for
11 sealing from the Prisoner Review Board under paragraph (10)
12 of subsection (a) of Section 3-3-2 of the Unified Code of
13 Corrections, the certificate shall be attached to the
14 petition.

15 (3) Drug test. The petitioner must attach to the
16 petition proof that the petitioner has passed a test taken
17 within 30 days before the filing of the petition showing
18 the absence within his or her body of all illegal
19 substances as defined by the Illinois Controlled
20 Substances Act, the Methamphetamine Control and Community
21 Protection Act, and the Cannabis Control Act if he or she
22 is petitioning to:

23 (A) seal felony records under clause (c) (2) (E);

24 (B) seal felony records for a violation of the
25 Illinois Controlled Substances Act, the
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);

2 (C) seal felony records under subsection (e-5); or

3 (D) expunge felony records of a qualified
4 probation under clause (b) (1) (iv).

5 (4) Service of petition. The circuit court clerk shall
6 promptly serve a copy of the petition and documentation to
7 support the petition under subsection (e-5) or (e-6) on the
8 State's Attorney or prosecutor charged with the duty of
9 prosecuting the offense, the Department of State Police,
10 the arresting agency and the chief legal officer of the
11 unit of local government effecting the arrest.

12 (5) Objections.

13 (A) Any party entitled to notice of the petition
14 may file an objection to the petition. All objections
15 shall be in writing, shall be filed with the circuit
16 court clerk, and shall state with specificity the basis
17 of the objection. Whenever a person who has been
18 convicted of an offense is granted a pardon by the
19 Governor which specifically authorizes expungement, an
20 objection to the petition may not be filed.

21 (B) Objections to a petition to expunge or seal
22 must be filed within 60 days of the date of service of
23 the petition.

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the
26 charge was brought, any judge of that circuit

1 designated by the Chief Judge, or in counties of less
2 than 3,000,000 inhabitants, the presiding trial judge
3 at the petitioner's trial, if any, shall rule on the
4 petition to expunge or seal as set forth in this
5 subsection (d) (6).

6 (B) Unless the State's Attorney or prosecutor, the
7 Department of State Police, the arresting agency, or
8 the chief legal officer files an objection to the
9 petition to expunge or seal within 60 days from the
10 date of service of the petition, the court shall enter
11 an order granting or denying the petition.

12 (7) Hearings. If an objection is filed, the court shall
13 set a date for a hearing and notify the petitioner and all
14 parties entitled to notice of the petition of the hearing
15 date at least 30 days prior to the hearing. Prior to the
16 hearing, the State's Attorney shall consult with the
17 Department as to the appropriateness of the relief sought
18 in the petition to expunge or seal. At the hearing, the
19 court shall hear evidence on whether the petition should or
20 should not be granted, and shall grant or deny the petition
21 to expunge or seal the records based on the evidence
22 presented at the hearing. The court may consider the
23 following:

24 (A) the strength of the evidence supporting the
25 defendant's conviction;

26 (B) the reasons for retention of the conviction

1 records by the State;

2 (C) the petitioner's age, criminal record history,
3 and employment history;

4 (D) the period of time between the petitioner's
5 arrest on the charge resulting in the conviction and
6 the filing of the petition under this Section; and

7 (E) the specific adverse consequences the
8 petitioner may be subject to if the petition is denied.

9 (8) Service of order. After entering an order to
10 expunge or seal records, the court must provide copies of
11 the order to the Department, in a form and manner
12 prescribed by the Department, to the petitioner, to the
13 State's Attorney or prosecutor charged with the duty of
14 prosecuting the offense, to the arresting agency, to the
15 chief legal officer of the unit of local government
16 effecting the arrest, and to such other criminal justice
17 agencies as may be ordered by the court.

18 (9) Implementation of order.

19 (A) Upon entry of an order to expunge records
20 pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both:

21 (i) the records shall be expunged (as defined
22 in subsection (a) (1) (E)) by the arresting agency,
23 the Department, and any other agency as ordered by
24 the court, within 60 days of the date of service of
25 the order, unless a motion to vacate, modify, or
26 reconsider the order is filed pursuant to

1 paragraph (12) of subsection (d) of this Section;

2 (ii) the records of the circuit court clerk
3 shall be impounded until further order of the court
4 upon good cause shown and the name of the
5 petitioner obliterated on the official index
6 required to be kept by the circuit court clerk
7 under Section 16 of the Clerks of Courts Act, but
8 the order shall not affect any index issued by the
9 circuit court clerk before the entry of the order;
10 and

11 (iii) in response to an inquiry for expunged
12 records, the court, the Department, or the agency
13 receiving such inquiry, shall reply as it does in
14 response to inquiries when no records ever
15 existed.

16 (B) Upon entry of an order to expunge records
17 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

18 (i) the records shall be expunged (as defined
19 in subsection (a) (1) (E)) by the arresting agency
20 and any other agency as ordered by the court,
21 within 60 days of the date of service of the order,
22 unless a motion to vacate, modify, or reconsider
23 the order is filed pursuant to paragraph (12) of
24 subsection (d) of this Section;

25 (ii) the records of the circuit court clerk
26 shall be impounded until further order of the court

1 upon good cause shown and the name of the
2 petitioner obliterated on the official index
3 required to be kept by the circuit court clerk
4 under Section 16 of the Clerks of Courts Act, but
5 the order shall not affect any index issued by the
6 circuit court clerk before the entry of the order;

7 (iii) the records shall be impounded by the
8 Department within 60 days of the date of service of
9 the order as ordered by the court, unless a motion
10 to vacate, modify, or reconsider the order is filed
11 pursuant to paragraph (12) of subsection (d) of
12 this Section;

13 (iv) records impounded by the Department may
14 be disseminated by the Department only as required
15 by law or to the arresting authority, the State's
16 Attorney, and the court upon a later arrest for the
17 same or a similar offense or for the purpose of
18 sentencing for any subsequent felony, and to the
19 Department of Corrections upon conviction for any
20 offense; and

21 (v) in response to an inquiry for such records
22 from anyone not authorized by law to access such
23 records, the court, the Department, or the agency
24 receiving such inquiry shall reply as it does in
25 response to inquiries when no records ever
26 existed.

1 (B-5) Upon entry of an order to expunge records
2 under subsection (e-6):

3 (i) the records shall be expunged (as defined
4 in subsection (a)(1)(E)) by the arresting agency
5 and any other agency as ordered by the court,
6 within 60 days of the date of service of the order,
7 unless a motion to vacate, modify, or reconsider
8 the order is filed under paragraph (12) of
9 subsection (d) of this Section;

10 (ii) the records of the circuit court clerk
11 shall be impounded until further order of the court
12 upon good cause shown and the name of the
13 petitioner obliterated on the official index
14 required to be kept by the circuit court clerk
15 under Section 16 of the Clerks of Courts Act, but
16 the order shall not affect any index issued by the
17 circuit court clerk before the entry of the order;

18 (iii) the records shall be impounded by the
19 Department within 60 days of the date of service of
20 the order as ordered by the court, unless a motion
21 to vacate, modify, or reconsider the order is filed
22 under paragraph (12) of subsection (d) of this
23 Section;

24 (iv) records impounded by the Department may
25 be disseminated by the Department only as required
26 by law or to the arresting authority, the State's

1 Attorney, and the court upon a later arrest for the
2 same or a similar offense or for the purpose of
3 sentencing for any subsequent felony, and to the
4 Department of Corrections upon conviction for any
5 offense; and

6 (v) in response to an inquiry for these records
7 from anyone not authorized by law to access the
8 records, the court, the Department, or the agency
9 receiving the inquiry shall reply as it does in
10 response to inquiries when no records ever
11 existed.

12 (C) Upon entry of an order to seal records under
13 subsection (c), the arresting agency, any other agency
14 as ordered by the court, the Department, and the court
15 shall seal the records (as defined in subsection
16 (a)(1)(K)). In response to an inquiry for such records,
17 from anyone not authorized by law to access such
18 records, the court, the Department, or the agency
19 receiving such inquiry shall reply as it does in
20 response to inquiries when no records ever existed.

21 (D) The Department shall send written notice to the
22 petitioner of its compliance with each order to expunge
23 or seal records within 60 days of the date of service
24 of that order or, if a motion to vacate, modify, or
25 reconsider is filed, within 60 days of service of the
26 order resolving the motion, if that order requires the

1 Department to expunge or seal records. In the event of
2 an appeal from the circuit court order, the Department
3 shall send written notice to the petitioner of its
4 compliance with an Appellate Court or Supreme Court
5 judgment to expunge or seal records within 60 days of
6 the issuance of the court's mandate. The notice is not
7 required while any motion to vacate, modify, or
8 reconsider, or any appeal or petition for
9 discretionary appellate review, is pending.

10 (10) Fees. The Department may charge the petitioner a
11 fee equivalent to the cost of processing any order to
12 expunge or seal records. Notwithstanding any provision of
13 the Clerks of Courts Act to the contrary, the circuit court
14 clerk may charge a fee equivalent to the cost associated
15 with the sealing or expungement of records by the circuit
16 court clerk. From the total filing fee collected for the
17 petition to seal or expunge, the circuit court clerk shall
18 deposit \$10 into the Circuit Court Clerk Operation and
19 Administrative Fund, to be used to offset the costs
20 incurred by the circuit court clerk in performing the
21 additional duties required to serve the petition to seal or
22 expunge on all parties. The circuit court clerk shall
23 collect and forward the Department of State Police portion
24 of the fee to the Department and it shall be deposited in
25 the State Police Services Fund.

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall
2 become final for purposes of appeal until 30 days after
3 service of the order on the petitioner and all parties
4 entitled to notice of the petition.

5 (12) Motion to Vacate, Modify, or Reconsider. Under
6 Section 2-1203 of the Code of Civil Procedure, the
7 petitioner or any party entitled to notice may file a
8 motion to vacate, modify, or reconsider the order granting
9 or denying the petition to expunge or seal within 60 days
10 of service of the order. If filed more than 60 days after
11 service of the order, a petition to vacate, modify, or
12 reconsider shall comply with subsection (c) of Section
13 2-1401 of the Code of Civil Procedure. Upon filing of a
14 motion to vacate, modify, or reconsider, notice of the
15 motion shall be served upon the petitioner and all parties
16 entitled to notice of the petition.

17 (13) Effect of Order. An order granting a petition
18 under the expungement or sealing provisions of this Section
19 shall not be considered void because it fails to comply
20 with the provisions of this Section or because of any error
21 asserted in a motion to vacate, modify, or reconsider. The
22 circuit court retains jurisdiction to determine whether
23 the order is voidable and to vacate, modify, or reconsider
24 its terms based on a motion filed under paragraph (12) of
25 this subsection (d).

26 (14) Compliance with Order Granting Petition to Seal

1 Records. Unless a court has entered a stay of an order
2 granting a petition to seal, all parties entitled to notice
3 of the petition must fully comply with the terms of the
4 order within 60 days of service of the order even if a
5 party is seeking relief from the order through a motion
6 filed under paragraph (12) of this subsection (d) or is
7 appealing the order.

8 (15) Compliance with Order Granting Petition to
9 Expunge Records. While a party is seeking relief from the
10 order granting the petition to expunge through a motion
11 filed under paragraph (12) of this subsection (d) or is
12 appealing the order, and unless a court has entered a stay
13 of that order, the parties entitled to notice of the
14 petition must seal, but need not expunge, the records until
15 there is a final order on the motion for relief or, in the
16 case of an appeal, the issuance of that court's mandate.

17 (16) The changes to this subsection (d) made by Public
18 Act 98-163 apply to all petitions pending on August 5, 2013
19 (the effective date of Public Act 98-163) and to all orders
20 ruling on a petition to expunge or seal on or after August
21 5, 2013 (the effective date of Public Act 98-163).

22 (e) Whenever a person who has been convicted of an offense
23 is granted a pardon by the Governor which specifically
24 authorizes expungement, he or she may, upon verified petition
25 to the Chief Judge of the circuit where the person had been
26 convicted, any judge of the circuit designated by the Chief

1 Judge, or in counties of less than 3,000,000 inhabitants, the
2 presiding trial judge at the defendant's trial, have a court
3 order entered expunging the record of arrest from the official
4 records of the arresting authority and order that the records
5 of the circuit court clerk and the Department be sealed until
6 further order of the court upon good cause shown or as
7 otherwise provided herein, and the name of the defendant
8 obliterated from the official index requested to be kept by the
9 circuit court clerk under Section 16 of the Clerks of Courts
10 Act in connection with the arrest and conviction for the
11 offense for which he or she had been pardoned but the order
12 shall not affect any index issued by the circuit court clerk
13 before the entry of the order. All records sealed by the
14 Department may be disseminated by the Department only to the
15 arresting authority, the State's Attorney, and the court upon a
16 later arrest for the same or similar offense or for the purpose
17 of sentencing for any subsequent felony. Upon conviction for
18 any subsequent offense, the Department of Corrections shall
19 have access to all sealed records of the Department pertaining
20 to that individual. Upon entry of the order of expungement, the
21 circuit court clerk shall promptly mail a copy of the order to
22 the person who was pardoned.

23 (e-5) Whenever a person who has been convicted of an
24 offense is granted a certificate of eligibility for sealing by
25 the Prisoner Review Board which specifically authorizes
26 sealing, he or she may, upon verified petition to the Chief

1 Judge of the circuit where the person had been convicted, any
2 judge of the circuit designated by the Chief Judge, or in
3 counties of less than 3,000,000 inhabitants, the presiding
4 trial judge at the petitioner's trial, have a court order
5 entered sealing the record of arrest from the official records
6 of the arresting authority and order that the records of the
7 circuit court clerk and the Department be sealed until further
8 order of the court upon good cause shown or as otherwise
9 provided herein, and the name of the petitioner obliterated
10 from the official index requested to be kept by the circuit
11 court clerk under Section 16 of the Clerks of Courts Act in
12 connection with the arrest and conviction for the offense for
13 which he or she had been granted the certificate but the order
14 shall not affect any index issued by the circuit court clerk
15 before the entry of the order. All records sealed by the
16 Department may be disseminated by the Department only as
17 required by this Act or to the arresting authority, a law
18 enforcement agency, the State's Attorney, and the court upon a
19 later arrest for the same or similar offense or for the purpose
20 of sentencing for any subsequent felony. Upon conviction for
21 any subsequent offense, the Department of Corrections shall
22 have access to all sealed records of the Department pertaining
23 to that individual. Upon entry of the order of sealing, the
24 circuit court clerk shall promptly mail a copy of the order to
25 the person who was granted the certificate of eligibility for
26 sealing.

1 (e-6) Whenever a person who has been convicted of an
2 offense is granted a certificate of eligibility for expungement
3 by the Prisoner Review Board which specifically authorizes
4 expungement, he or she may, upon verified petition to the Chief
5 Judge of the circuit where the person had been convicted, any
6 judge of the circuit designated by the Chief Judge, or in
7 counties of less than 3,000,000 inhabitants, the presiding
8 trial judge at the petitioner's trial, have a court order
9 entered expunging the record of arrest from the official
10 records of the arresting authority and order that the records
11 of the circuit court clerk and the Department be sealed until
12 further order of the court upon good cause shown or as
13 otherwise provided herein, and the name of the petitioner
14 obliterated from the official index requested to be kept by the
15 circuit court clerk under Section 16 of the Clerks of Courts
16 Act in connection with the arrest and conviction for the
17 offense for which he or she had been granted the certificate
18 but the order shall not affect any index issued by the circuit
19 court clerk before the entry of the order. All records sealed
20 by the Department may be disseminated by the Department only as
21 required by this Act or to the arresting authority, a law
22 enforcement agency, the State's Attorney, and the court upon a
23 later arrest for the same or similar offense or for the purpose
24 of sentencing for any subsequent felony. Upon conviction for
25 any subsequent offense, the Department of Corrections shall
26 have access to all expunged records of the Department

1 pertaining to that individual. Upon entry of the order of
2 expungement, the circuit court clerk shall promptly mail a copy
3 of the order to the person who was granted the certificate of
4 eligibility for expungement.

5 (f) Subject to available funding, the Illinois Department
6 of Corrections shall conduct a study of the impact of sealing,
7 especially on employment and recidivism rates, utilizing a
8 random sample of those who apply for the sealing of their
9 criminal records under Public Act 93-211. At the request of the
10 Illinois Department of Corrections, records of the Illinois
11 Department of Employment Security shall be utilized as
12 appropriate to assist in the study. The study shall not
13 disclose any data in a manner that would allow the
14 identification of any particular individual or employing unit.
15 The study shall be made available to the General Assembly no
16 later than September 1, 2010.

17 (g) Immediate Expungement and Sealing.

18 (1) Applicability. Notwithstanding any other provision
19 of this Act to the contrary, and cumulative with any rights
20 to expungement or sealing of criminal records, this
21 subsection authorizes the immediate expungement and
22 sealing of criminal records of adults and of minors
23 prosecuted as adults.

24 (2) Eligible Records. Arrests or charges not initiated
25 by arrest resulting in acquittal or dismissal with
26 prejudice, except as excluded by subsection (a)(3)(B),

1 that occur on or after January 1, 2018 (the effective date
2 of Public Act 100-282) ~~this amendatory Act of the 100th~~
3 ~~General Assembly~~, may be expunged or sealed immediately if
4 the petition is filed with the circuit court clerk on the
5 same day and during the same hearing in which the case is
6 disposed.

7 (3) When Records are Eligible to be Immediately
8 Expunged or Sealed. Eligible records under paragraph (2) of
9 this subsection (g) may be expunged or sealed immediately
10 after entry of the final disposition of a case,
11 notwithstanding the disposition of other charges in the
12 same case.

13 (4) Notice of Eligibility for Immediate Expungement or
14 Sealing. Upon entry of a disposition for an eligible record
15 under this subsection (g), the defendant shall be informed
16 by the court of his or her right to have eligible records
17 immediately expunged or sealed and the procedure for the
18 immediate expungement or sealing of these records.

19 (5) Procedure. The following procedures apply to
20 immediate expungement and sealing under this subsection
21 (g).

22 (A) Filing the Petition. Upon entry of the final
23 disposition of the case, the defendant's attorney may
24 immediately petition the court, on behalf of the
25 defendant, for immediate expungement or sealing of
26 eligible records under paragraph (2) of this

1 subsection (g) that are entered on or after January 1,
2 2018 (the effective date of Public Act 100-282) ~~this~~
3 ~~amendatory Act of the 100th General Assembly~~. The
4 immediate expungement or sealing petition may be filed
5 with the circuit court clerk during the hearing in
6 which the final disposition of the case is entered. If
7 the defendant's attorney does not file the petition for
8 immediate expungement or sealing during the hearing,
9 the defendant may file a petition for expungement or
10 sealing at any time as authorized under item (b) (2) (A)
11 or subsection (c) (3) (A).

12 (B) Contents of Petition. The immediate
13 expungement or sealing petition shall be verified and
14 shall contain the petitioner's name, date of birth,
15 current address, and for each eligible record, the case
16 number, the date of arrest if applicable, the identity
17 of the arresting authority if applicable, and other
18 information as the court may require.

19 (C) Drug Test. The petitioner shall not be required
20 to attach proof that he or she has passed a drug test.

21 (D) Service of Petition. A copy of the petition
22 shall be served on the State's Attorney in open court.
23 The petitioner shall not be required to serve a copy of
24 the petition on any other agency.

25 (E) Entry of Order. The presiding trial judge shall
26 enter an order granting or denying the petition for

1 immediate expungement or sealing during the hearing in
2 which it is filed. Petitions for immediate expungement
3 or sealing shall be ruled on in the same hearing in
4 which the final disposition of the case is entered.

5 (F) Hearings. The court shall hear the petition for
6 immediate expungement or sealing on the same day and
7 during the same hearing in which the disposition is
8 rendered.

9 (G) Service of Order. An order to immediately
10 expunge or seal eligible records shall be served in
11 conformance with paragraph (8) of subsection (d) of
12 this Section ~~subsection (d) (8)~~.

13 (H) Implementation of Order. An order to
14 immediately expunge or seal records shall be
15 implemented in conformance with item (d) (6) (B),
16 (d) (9) (A) (i), (d) (9) (ii), (d) (9) (A) (iii), ~~subsections~~
17 (d) (9) (C), and (d) (9) (D).

18 (I) Fees. The fee imposed by the circuit court
19 clerk and the Department of State Police shall comply
20 with paragraph (1) of subsection (d) of this Section.

21 (J) Final Order. No court order issued under this
22 subsection (g) shall become final for purposes of
23 appeal until 30 days after service of the order on the
24 petitioner and all parties entitled to service of the
25 order in conformance with paragraph (8) of subsection
26 (d) of this Section ~~subsection (d) (8)~~.

1 (K) Motion to Vacate, Modify, or Reconsider. Under
2 Section 2-1203 of the Code of Civil Procedure, the
3 petitioner, State's Attorney, or the Department of
4 State Police may file a motion to vacate, modify, or
5 reconsider the order denying the petition to
6 immediately expunge or seal within 60 days of service
7 of the order. If filed more than 60 days after service
8 of the order, a petition to vacate, modify, or
9 reconsider shall comply with subsection (c) of Section
10 2-1401 of the Code of Civil Procedure.

11 (L) Effect of Order. An order granting an immediate
12 expungement or sealing petition shall not be
13 considered void because it fails to comply with the
14 provisions of this Section or because of an error
15 asserted in a motion to vacate, modify, or reconsider.
16 The circuit court retains jurisdiction to determine
17 whether the order is voidable, and to vacate, modify,
18 or reconsider its terms based on a motion filed under
19 subparagraph (L) of this subsection (g).

20 (M) Compliance with Order Granting Petition to
21 Expunge or Seal Records. Unless a court has entered a
22 stay of an order granting a petition to immediately
23 expunge or seal, all parties entitled to service of the
24 order must fully comply with the terms of the order
25 within 60 days of service of the order.

26 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,

1 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
2 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
3 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised
4 10-13-17.)