



Rep. Elizabeth Hernandez

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LRB097 17385 RLC 66582 a

1 AMENDMENT TO HOUSE BILL 5024

2 AMENDMENT NO. _____. Amend House Bill 5024 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by
5 changing Sections 5.2 and 13 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

1 (iii) Court (730 ILCS 5/5-1-6),
2 (iv) Defendant (730 ILCS 5/5-1-7),
3 (v) Felony (730 ILCS 5/5-1-9),
4 (vi) Imprisonment (730 ILCS 5/5-1-10),
5 (vii) Judgment (730 ILCS 5/5-1-12),
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),
7 (ix) Offense (730 ILCS 5/5-1-15),
8 (x) Parole (730 ILCS 5/5-1-16),
9 (xi) Petty Offense (730 ILCS 5/5-1-17),
10 (xii) Probation (730 ILCS 5/5-1-18),
11 (xiii) Sentence (730 ILCS 5/5-1-19),
12 (xiv) Supervision (730 ILCS 5/5-1-21), and
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated
15 by arrest" means a charge (as defined by 730 ILCS
16 5/5-1-3) brought against a defendant where the
17 defendant is not arrested prior to or as a direct
18 result of the charge.

19 (C) "Conviction" means a judgment of conviction or
20 sentence entered upon a plea of guilty or upon a
21 verdict or finding of guilty of an offense, rendered by
22 a legally constituted jury or by a court of competent
23 jurisdiction authorized to try the case without a jury.
24 An order of supervision successfully completed by the
25 petitioner is not a conviction. An order of qualified
26 probation (as defined in subsection (a)(1)(J))

1 successfully completed by the petitioner is not a
2 conviction. An order of supervision or an order of
3 qualified probation that is terminated
4 unsatisfactorily is a conviction, unless the
5 unsatisfactory termination is reversed, vacated, or
6 modified and the judgment of conviction, if any, is
7 reversed or vacated.

8 (D) "Criminal offense" means a petty offense,
9 business offense, misdemeanor, felony, or municipal
10 ordinance violation (as defined in subsection
11 (a)(1)(H)). As used in this Section, a minor traffic
12 offense (as defined in subsection (a)(1)(G)) shall not
13 be considered a criminal offense.

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

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in
2 any jurisdiction, regardless of whether the petitioner
3 has included the criminal offense for which the
4 sentence or order of supervision or qualified
5 probation was imposed in his or her petition. If
6 multiple sentences, orders of supervision, or orders
7 of qualified probation terminate on the same day and
8 are last in time, they shall be collectively considered
9 the "last sentence" regardless of whether they were
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,
12 business offense, or Class C misdemeanor under the
13 Illinois Vehicle Code or a similar provision of a
14 municipal or local ordinance.

15 (H) "Municipal ordinance violation" means an
16 offense defined by a municipal or local ordinance that
17 is criminal in nature and with which the petitioner was
18 charged or for which the petitioner was arrested and
19 released without charging.

20 (I) "Petitioner" means an adult or a minor
21 prosecuted as an adult who has applied for relief under
22 this Section.

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 12-4.3(b)(1) and (2)
2 of the Criminal Code of 1961 (as those provisions
3 existed before their deletion by Public Act 89-313),
4 Section 10-102 of the Illinois Alcoholism and Other
5 Drug Dependency Act, Section 40-10 of the Alcoholism
6 and Other Drug Abuse and Dependency Act, or Section 10
7 of the Steroid Control Act. For the purpose of this
8 Section, "successful completion" of an order of
9 qualified probation under Section 10-102 of the
10 Illinois Alcoholism and Other Drug Dependency Act and
11 Section 40-10 of the Alcoholism and Other Drug Abuse
12 and Dependency Act means that the probation was
13 terminated satisfactorily and the judgment of
14 conviction was vacated.

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

25 (L) "Sexual offense committed against a minor"
26 includes but is not limited to the offenses of indecent

1 solicitation of a child or criminal sexual abuse when
2 the victim of such offense is under 18 years of age.

3 (M) "Terminate" as it relates to a sentence or
4 order of supervision or qualified probation includes
5 either satisfactory or unsatisfactory termination of
6 the sentence, unless otherwise specified in this
7 Section.

8 (2) Minor Traffic Offenses. Orders of supervision or
9 convictions for minor traffic offenses shall not affect a
10 petitioner's eligibility to expunge or seal records
11 pursuant to this Section.

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

15 (A) the sealing or expungement of the records of
16 arrests or charges not initiated by arrest that result
17 in an order of supervision for or conviction of: (i)
18 any sexual offense committed against a minor; (ii)
19 Section 11-501 of the Illinois Vehicle Code or a
20 similar provision of a local ordinance; or (iii)
21 Section 11-503 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance.

23 (B) the sealing or expungement of records of minor
24 traffic offenses (as defined in subsection (a) (1) (G)),
25 unless the petitioner was arrested and released
26 without charging.

1 (C) the sealing of the records of arrests or
2 charges not initiated by arrest which result in an
3 order of supervision, an order of qualified probation
4 (as defined in subsection (a)(1)(J)), or a conviction
5 for the following offenses:

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

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

14 (iii) offenses defined as "crimes of violence"
15 in Section 2 of the Crime Victims Compensation Act
16 or a similar provision of a local ordinance;

17 (iv) offenses which are Class A misdemeanors
18 under the Humane Care for Animals Act; or

19 (v) any offense or attempted offense that
20 would subject a person to registration under the
21 Sex Offender Registration Act.

22 (D) the sealing of the records of an arrest which
23 results in the petitioner being charged with a felony
24 offense or records of a charge not initiated by arrest
25 for a felony offense unless:

26 (i) the charge is amended to a misdemeanor and

1 is otherwise eligible to be sealed pursuant to
2 subsection (c);

3 (ii) the charge is brought along with another
4 charge as a part of one case and the charge results
5 in acquittal, dismissal, or conviction when the
6 conviction was reversed or vacated, and another
7 charge brought in the same case results in a
8 disposition for a misdemeanor offense that is
9 eligible to be sealed pursuant to subsection (c) or
10 a disposition listed in paragraph (i), (iii), or
11 (iv) of this subsection;

12 (iii) the charge results in first offender
13 probation as set forth in subsection (c)(2)(E);

14 (iv) the charge is for a Class 4 felony offense
15 listed in subsection (c)(2)(F) or the charge is
16 amended to a Class 4 felony offense listed in
17 subsection (c)(2)(F). Records of arrests which
18 result in the petitioner being charged with a Class
19 4 felony offense listed in subsection (c)(2)(F),
20 records of charges not initiated by arrest for
21 Class 4 felony offenses listed in subsection
22 (c)(2)(F), and records of charges amended to a
23 Class 4 felony offense listed in (c)(2)(F) may be
24 sealed, regardless of the disposition, subject to
25 any waiting periods set forth in subsection
26 (c)(3);

1 (v) the charge results in acquittal,
2 dismissal, or the petitioner's release without
3 conviction; or

4 (vi) the charge results in a conviction, but
5 the conviction was reversed or vacated.

6 (b) Expungement.

7 (1) A petitioner may petition the circuit court to
8 expunge the records of his or her arrests and charges not
9 initiated by arrest when:

10 (A) He or she has never been convicted of a
11 criminal offense; and

12 (B) Each arrest or charge not initiated by arrest
13 sought to be expunged resulted in: (i) acquittal,
14 dismissal, or the petitioner's release without
15 charging, unless excluded by subsection (a)(3)(B);
16 (ii) a conviction which was vacated or reversed, unless
17 excluded by subsection (a)(3)(B); (iii) an order of
18 supervision and such supervision was successfully
19 completed by the petitioner, unless excluded by
20 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of
21 qualified probation (as defined in subsection
22 (a)(1)(J)) and such probation was successfully
23 completed by the petitioner.

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

25 (A) When the arrest or charge not initiated by
26 arrest sought to be expunged resulted in an acquittal,

1 dismissal, the petitioner's release without charging,
2 or the reversal or vacation of a conviction, there is
3 no waiting period to petition for the expungement of
4 such records.

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

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

18 (ii) Those arrests or charges that resulted in
19 orders of supervision for any other offenses shall
20 not be eligible for expungement until 2 years have
21 passed following the satisfactory termination of
22 the supervision.

23 (C) When the arrest or charge not initiated by
24 arrest sought to be expunged resulted in an order of
25 qualified probation, successfully completed by the
26 petitioner, such records shall not be eligible for

1 expungement until 5 years have passed following the
2 satisfactory termination of the probation.

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

7 (4) Whenever a person has been arrested for or
8 convicted of any offense, in the name of a person whose
9 identity he or she has stolen or otherwise come into
10 possession of, the aggrieved person from whom the identity
11 was stolen or otherwise obtained without authorization,
12 upon learning of the person having been arrested using his
13 or her identity, may, upon verified petition to the chief
14 judge of the circuit wherein the arrest was made, have a
15 court order entered nunc pro tunc by the Chief Judge to
16 correct the arrest record, conviction record, if any, and
17 all official records of the arresting authority, the
18 Department, other criminal justice agencies, the
19 prosecutor, and the trial court concerning such arrest, if
20 any, by removing his or her name from all such records in
21 connection with the arrest and conviction, if any, and by
22 inserting in the records the name of the offender, if known
23 or ascertainable, in lieu of the aggrieved's name. The
24 records of the circuit court clerk shall be sealed until
25 further order of the court upon good cause shown and the
26 name of the aggrieved person obliterated on the official

1 index required to be kept by the circuit court clerk under
2 Section 16 of the Clerks of Courts Act, but the order shall
3 not affect any index issued by the circuit court clerk
4 before the entry of the order. Nothing in this Section
5 shall limit the Department of State Police or other
6 criminal justice agencies or prosecutors from listing
7 under an offender's name the false names he or she has
8 used.

9 (5) Whenever a person has been convicted of criminal
10 sexual assault, aggravated criminal sexual assault,
11 predatory criminal sexual assault of a child, criminal
12 sexual abuse, or aggravated criminal sexual abuse, the
13 victim of that offense may request that the State's
14 Attorney of the county in which the conviction occurred
15 file a verified petition with the presiding trial judge at
16 the petitioner's trial to have a court order entered to
17 seal the records of the circuit court clerk in connection
18 with the proceedings of the trial court concerning that
19 offense. However, the records of the arresting authority
20 and the Department of State Police concerning the offense
21 shall not be sealed. The court, upon good cause shown,
22 shall make the records of the circuit court clerk in
23 connection with the proceedings of the trial court
24 concerning the offense available for public inspection.

25 (6) If a conviction has been set aside on direct review
26 or on collateral attack and the court determines by clear

1 and convincing evidence that the petitioner was factually
2 innocent of the charge, the court shall enter an
3 expungement order as provided in subsection (b) of Section
4 5-5-4 of the Unified Code of Corrections.

5 (7) Nothing in this Section shall prevent the
6 Department of State Police from maintaining all records of
7 any person who is admitted to probation upon terms and
8 conditions and who fulfills those terms and conditions
9 pursuant to Section 10 of the Cannabis Control Act, Section
10 410 of the Illinois Controlled Substances Act, Section 70
11 of the Methamphetamine Control and Community Protection
12 Act, Section 12-4.3 or subdivision (b)(1) of Section
13 12-3.05 of the Criminal Code of 1961, Section 10-102 of the
14 Illinois Alcoholism and Other Drug Dependency Act, Section
15 40-10 of the Alcoholism and Other Drug Abuse and Dependency
16 Act, or Section 10 of the Steroid Control Act.

17 (c) Sealing.

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

23 (2) Eligible Records. The following records may be
24 sealed:

25 (A) All arrests resulting in release without
26 charging;

1 (B) Arrests or charges not initiated by arrest
2 resulting in acquittal, dismissal, or conviction when
3 the conviction was reversed or vacated, except as
4 excluded by subsection (a) (3) (B);

5 (C) Arrests or charges not initiated by arrest
6 resulting in orders of supervision successfully
7 completed by the petitioner, unless excluded by
8 subsection (a) (3);

9 (D) Arrests or charges not initiated by arrest
10 resulting in convictions unless excluded by subsection
11 (a) (3);

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

18 (F) Arrests or charges not initiated by arrest
19 resulting in Class 4 felony convictions for the
20 following offenses:

21 (i) Section 11-14 of the Criminal Code of 1961;

22 (ii) Section 4 of the Cannabis Control Act;

23 (iii) Section 402 of the Illinois Controlled
24 Substances Act;

25 (iv) the Methamphetamine Precursor Control
26 Act; and

1 (v) the Steroid Control Act.

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

5 (A) Records identified as eligible under
6 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
7 time.

8 (B) Records identified as eligible under
9 subsection (c)(2)(C) may be sealed (i) 3 years after
10 the termination of petitioner's last sentence (as
11 defined in subsection (a)(1)(F)) if the petitioner has
12 never been convicted of a criminal offense (as defined
13 in subsection (a)(1)(D)); or (ii) 4 years after the
14 termination of the petitioner's last sentence (as
15 defined in subsection (a)(1)(F)) if the petitioner has
16 ever been convicted of a criminal offense (as defined
17 in subsection (a)(1)(D)).

18 (C) Records identified as eligible under
19 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be
20 sealed 4 years after the termination of the
21 petitioner's last sentence (as defined in subsection
22 (a)(1)(F)).

23 (4) Subsequent felony convictions. A person may not
24 have subsequent felony conviction records sealed as
25 provided in this subsection (c) if he or she is convicted
26 of any felony offense after the date of the sealing of

1 prior felony convictions as provided in this subsection
2 (c). The court may, upon conviction for a subsequent felony
3 offense, order the unsealing of prior felony conviction
4 records previously ordered sealed by the court.

5 (5) Notice of eligibility for sealing. Upon entry of a
6 disposition for an eligible record under this subsection
7 (c), the petitioner shall be informed by the court of the
8 right to have the records sealed and the procedures for the
9 sealing of the records.

10 (d) Procedure. The following procedures apply to
11 expungement under subsections (b) and (e), and sealing under
12 subsections ~~subsection~~ (c) and (e-5):

13 (1) Filing the petition. Upon becoming eligible to
14 petition for the expungement or sealing of records under
15 this Section, the petitioner shall file a petition
16 requesting the expungement or sealing of records with the
17 clerk of the court where the arrests occurred or the
18 charges were brought, or both. If arrests occurred or
19 charges were brought in multiple jurisdictions, a petition
20 must be filed in each such jurisdiction. The petitioner
21 shall pay the applicable fee, if not waived.

22 (2) Contents of petition. The petition shall be
23 verified and shall contain the petitioner's name, date of
24 birth, current address and, for each arrest or charge not
25 initiated by arrest sought to be sealed or expunged, the
26 case number, the date of arrest (if any), the identity of

1 the arresting authority, and such other information as the
2 court may require. During the pendency of the proceeding,
3 the petitioner shall promptly notify the circuit court
4 clerk of any change of his or her address. If the
5 petitioner has received a certificate of eligibility for
6 sealing from the Prisoner Review Board under paragraph (10)
7 of subsection (a) of Section 3-3-2 of the Unified Code of
8 Corrections, the certificate shall be attached to the
9 petition.

10 (3) Drug test. The petitioner must attach to the
11 petition proof that the petitioner has passed a test taken
12 within 30 days before the filing of the petition showing
13 the absence within his or her body of all illegal
14 substances as defined by the Illinois Controlled
15 Substances Act, the Methamphetamine Control and Community
16 Protection Act, and the Cannabis Control Act if he or she
17 is petitioning to seal felony records pursuant to clause
18 (c) (2) (E), ~~or~~ (c) (2) (F) (ii)-(v), or (e-5) or if he or she
19 is petitioning to expunge felony records of a qualified
20 probation pursuant to clause (b) (1) (B) (iv).

21 (4) Service of petition. The circuit court clerk shall
22 promptly serve a copy of the petition on the State's
23 Attorney or prosecutor charged with the duty of prosecuting
24 the offense, the Department of State Police, the arresting
25 agency and the chief legal officer of the unit of local
26 government effecting the arrest.

1 (5) Objections.

2 (A) Any party entitled to notice of the petition
3 may file an objection to the petition. All objections
4 shall be in writing, shall be filed with the circuit
5 court clerk, and shall state with specificity the basis
6 of the objection.

7 (B) Objections to a petition to expunge or seal
8 must be filed within 60 days of the date of service of
9 the petition.

10 (6) Entry of order.

11 (A) The Chief Judge of the circuit wherein the
12 charge was brought, any judge of that circuit
13 designated by the Chief Judge, or in counties of less
14 than 3,000,000 inhabitants, the presiding trial judge
15 at the petitioner's trial, if any, shall rule on the
16 petition to expunge or seal as set forth in this
17 subsection (d) (6).

18 (B) Unless the State's Attorney or prosecutor, the
19 Department of State Police, the arresting agency, or
20 the chief legal officer files an objection to the
21 petition to expunge or seal within 60 days from the
22 date of service of the petition, the court shall enter
23 an order granting or denying the petition.

24 (7) Hearings. If an objection is filed, the court shall
25 set a date for a hearing and notify the petitioner and all
26 parties entitled to notice of the petition of the hearing

1 date at least 30 days prior to the hearing, and shall hear
2 evidence on whether the petition should or should not be
3 granted, and shall grant or deny the petition to expunge or
4 seal the records based on the evidence presented at the
5 hearing.

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

15 (9) Effect of order.

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

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

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

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

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

22 (ii) the records of the circuit court clerk
23 shall be impounded until further order of the court
24 upon good cause shown and the name of the
25 petitioner obliterated on the official index
26 required to be kept by the circuit court clerk

1 under Section 16 of the Clerks of Courts Act, but
2 the order shall not affect any index issued by the
3 circuit court clerk before the entry of the order;

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

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

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

24 (C) Upon entry of an order to seal records under
25 subsection (c), the arresting agency, any other agency
26 as ordered by the court, the Department, and the court

1 shall seal the records (as defined in subsection
2 (a) (1) (K)). In response to an inquiry for such records
3 from anyone not authorized by law to access such
4 records the court, the Department, or the agency
5 receiving such inquiry shall reply as it does in
6 response to inquiries when no records ever existed.

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

23 (11) Final Order. No court order issued under the
24 expungement or sealing provisions of this Section shall
25 become final for purposes of appeal until 30 days after
26 service of the order on the petitioner and all parties

1 entitled to notice of the petition.

2 (12) Motion to Vacate, Modify, or Reconsider. The
3 petitioner or any party entitled to notice may file a
4 motion to vacate, modify, or reconsider the order granting
5 or denying the petition to expunge or seal within 60 days
6 of service of the order.

7 (e) Whenever a person who has been convicted of an offense
8 is granted a pardon by the Governor which specifically
9 authorizes expungement, he or she may, upon verified petition
10 to the Chief Judge of the circuit where the person had been
11 convicted, any judge of the circuit designated by the Chief
12 Judge, or in counties of less than 3,000,000 inhabitants, the
13 presiding trial judge at the defendant's trial, have a court
14 order entered expunging the record of arrest from the official
15 records of the arresting authority and order that the records
16 of the circuit court clerk and the Department be sealed until
17 further order of the court upon good cause shown or as
18 otherwise provided herein, and the name of the defendant
19 obliterated from the official index requested to be kept by the
20 circuit court clerk under Section 16 of the Clerks of Courts
21 Act in connection with the arrest and conviction for the
22 offense for which he or she had been pardoned but the order
23 shall not affect any index issued by the circuit court clerk
24 before the entry of the order. All records sealed by the
25 Department may be disseminated by the Department only as
26 required by law or to the arresting authority, the State's

1 Attorney, and the court upon a later arrest for the same or
2 similar offense or for the purpose of sentencing for any
3 subsequent felony. Upon conviction for any subsequent offense,
4 the Department of Corrections shall have access to all sealed
5 records of the Department pertaining to that individual. Upon
6 entry of the order of expungement, the circuit court clerk
7 shall promptly mail a copy of the order to the person who was
8 pardoned.

9 (e-5) Whenever a person who has been convicted of an
10 offense is granted a certificate of eligibility for sealing by
11 the Prisoner Review Board which specifically authorizes
12 sealing, he or she may, upon verified petition to the Chief
13 Judge of the circuit where the person had been convicted, any
14 judge of the circuit designated by the Chief Judge, or in
15 counties of less than 3,000,000 inhabitants, the presiding
16 trial judge at the petitioner's trial, have a court order
17 entered sealing the record of arrest from the official records
18 of the arresting authority and order that the records of the
19 circuit court clerk and the Department be sealed until further
20 order of the court upon good cause shown or as otherwise
21 provided herein, and the name of the petitioner obliterated
22 from the official index requested to be kept by the circuit
23 court clerk under Section 16 of the Clerks of Courts Act in
24 connection with the arrest and conviction for the offense for
25 which he or she had been granted the certificate but the order
26 shall not affect any index issued by the circuit court clerk

1 before the entry of the order. All records sealed by the
2 Department may be disseminated by the Department only as
3 required by this Act or to the arresting authority, a law
4 enforcement agency, the State's Attorney, and the court upon a
5 later arrest for the same or similar offense or for the purpose
6 of sentencing for any subsequent felony. Upon conviction for
7 any subsequent offense, the Department of Corrections shall
8 have access to all sealed records of the Department pertaining
9 to that individual. Upon entry of the order of sealing, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was granted the certificate of eligibility for
12 sealing.

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

25 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
26 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.

1 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
2 eff. 8-19-11; revised 9-6-11.)

3 (20 ILCS 2630/13)

4 Sec. 13. Retention and release of sealed records.

5 (a) The Department of State Police shall retain records
6 sealed under subsection (c) ~~or~~ (e) or (e-5) of Section 5.2 or
7 impounded under subparagraph (B) of paragraph (9) of subsection
8 (d) of Section 5.2 and shall release them only as authorized by
9 this Act. Felony records sealed under subsection (c) ~~or~~ (e) or
10 (e-5) of Section 5.2 or impounded under subparagraph (B) of
11 paragraph (9) of subsection (d) of Section 5.2 shall be used
12 and disseminated by the Department only as otherwise
13 specifically required or authorized by a federal or State law,
14 rule, or regulation that requires inquiry into and release of
15 criminal records, including, but not limited to, subsection (A)
16 of Section 3 of this Act. However, all requests for records
17 that have been expunged, sealed, and impounded and the use of
18 those records are subject to the provisions of Section 2-103 of
19 the Illinois Human Rights Act. Upon conviction for any offense,
20 the Department of Corrections shall have access to all sealed
21 records of the Department pertaining to that individual.

22 (b) Notwithstanding the foregoing, all sealed or impounded
23 records are subject to inspection and use by the court and
24 inspection and use by law enforcement agencies and State's
25 Attorneys or other prosecutors in carrying out the duties of

1 their offices.

2 (c) The sealed or impounded records maintained under
3 subsection (a) are exempt from disclosure under the Freedom of
4 Information Act.

5 (d) The Department of State Police shall commence the
6 sealing of records of felony arrests and felony convictions
7 pursuant to the provisions of subsection (c) of Section 5.2 of
8 this Act no later than one year from the date that funds have
9 been made available for purposes of establishing the
10 technologies necessary to implement the changes made by this
11 amendatory Act of the 93rd General Assembly.

12 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10.)

13 Section 10. The Unified Code of Corrections is amended by
14 changing Section 3-3-2 as follows:

15 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

16 Sec. 3-3-2. Powers and Duties.

17 (a) The Parole and Pardon Board is abolished and the term
18 "Parole and Pardon Board" as used in any law of Illinois, shall
19 read "Prisoner Review Board." After the effective date of this
20 amendatory Act of 1977, the Prisoner Review Board shall provide
21 by rule for the orderly transition of all files, records, and
22 documents of the Parole and Pardon Board and for such other
23 steps as may be necessary to effect an orderly transition and
24 shall:

1 (1) hear by at least one member and through a panel of
2 at least 3 members decide, cases of prisoners who were
3 sentenced under the law in effect prior to the effective
4 date of this amendatory Act of 1977, and who are eligible
5 for parole;

6 (2) hear by at least one member and through a panel of
7 at least 3 members decide, the conditions of parole and the
8 time of discharge from parole, impose sanctions for
9 violations of parole, and revoke parole for those sentenced
10 under the law in effect prior to this amendatory Act of
11 1977; provided that the decision to parole and the
12 conditions of parole for all prisoners who were sentenced
13 for first degree murder or who received a minimum sentence
14 of 20 years or more under the law in effect prior to
15 February 1, 1978 shall be determined by a majority vote of
16 the Prisoner Review Board. One representative supporting
17 parole and one representative opposing parole will be
18 allowed to speak. Their comments shall be limited to making
19 corrections and filling in omissions to the Board's
20 presentation and discussion;

21 (3) hear by at least one member and through a panel of
22 at least 3 members decide, the conditions of mandatory
23 supervised release and the time of discharge from mandatory
24 supervised release, impose sanctions for violations of
25 mandatory supervised release, and revoke mandatory
26 supervised release for those sentenced under the law in

1 effect after the effective date of this amendatory Act of
2 1977;

3 (3.5) hear by at least one member and through a panel
4 of at least 3 members decide, the conditions of mandatory
5 supervised release and the time of discharge from mandatory
6 supervised release, to impose sanctions for violations of
7 mandatory supervised release and revoke mandatory
8 supervised release for those serving extended supervised
9 release terms pursuant to paragraph (4) of subsection (d)
10 of Section 5-8-1;

11 (4) hear by at least 1 member and through a panel of at
12 least 3 members, decide cases brought by the Department of
13 Corrections against a prisoner in the custody of the
14 Department for alleged violation of Department rules with
15 respect to good conduct credits pursuant to Section 3-6-3
16 of this Code in which the Department seeks to revoke good
17 conduct credits, if the amount of time at issue exceeds 30
18 days or when, during any 12 month period, the cumulative
19 amount of credit revoked exceeds 30 days except where the
20 infraction is committed or discovered within 60 days of
21 scheduled release. In such cases, the Department of
22 Corrections may revoke up to 30 days of good conduct
23 credit. The Board may subsequently approve the revocation
24 of additional good conduct credit, if the Department seeks
25 to revoke good conduct credit in excess of thirty days.
26 However, the Board shall not be empowered to review the

1 Department's decision with respect to the loss of 30 days
2 of good conduct credit for any prisoner or to increase any
3 penalty beyond the length requested by the Department;

4 (5) hear by at least one member and through a panel of
5 at least 3 members decide, the release dates for certain
6 prisoners sentenced under the law in existence prior to the
7 effective date of this amendatory Act of 1977, in
8 accordance with Section 3-3-2.1 of this Code;

9 (6) hear by at least one member and through a panel of
10 at least 3 members decide, all requests for pardon,
11 reprieve or commutation, and make confidential
12 recommendations to the Governor;

13 (7) comply with the requirements of the Open Parole
14 Hearings Act;

15 (8) hear by at least one member and, through a panel of
16 at least 3 members, decide cases brought by the Department
17 of Corrections against a prisoner in the custody of the
18 Department for court dismissal of a frivolous lawsuit
19 pursuant to Section 3-6-3(d) of this Code in which the
20 Department seeks to revoke up to 180 days of good conduct
21 credit, and if the prisoner has not accumulated 180 days of
22 good conduct credit at the time of the dismissal, then all
23 good conduct credit accumulated by the prisoner shall be
24 revoked; ~~and~~

25 (9) hear by at least 3 members, and, through a panel of
26 at least 3 members, decide whether to grant certificates of

1 relief from disabilities or certificates of good conduct as
2 provided in Article 5.5 of Chapter V; and

3 (10) upon a petition by a person who has been convicted
4 of a Class 3 or Class 4 felony and who meets the
5 requirements of this paragraph, hear by at least 3 members
6 and, with the unanimous vote of a panel of 3 members, issue
7 a certificate of eligibility for sealing recommending that
8 the court order the sealing of all official records of the
9 arresting authority, the circuit court clerk, and the
10 Department of State Police concerning the arrest and
11 conviction for the Class 3 or 4 felony. A person may not
12 apply to the Board for a certificate of eligibility for
13 sealing:

14 (A) until 5 years have elapsed since the expiration
15 of his or her sentence;

16 (B) until 5 years have elapsed since any arrests or
17 detentions by a law enforcement officer for an alleged
18 violation of law, other than a petty offense, traffic
19 offense, conservation offense, or local ordinance
20 offense;

21 (C) if convicted of a violation of the Cannabis
22 Control Act, Illinois Controlled Substances Act, the
23 Methamphetamine Control and Community Protection Act,
24 the Methamphetamine Precursor Control Act, or the
25 Methamphetamine Precursor Tracking Act unless the
26 petitioner has completed a drug abuse program for the

1 offense on which sealing is sought and provides proof
2 that he or she has completed the program successfully;

3 (D) if convicted of:

4 (i) a sex offense described in Article 11 or
5 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
6 the Criminal Code of 1961;

7 (ii) aggravated assault;

8 (iii) aggravated battery;

9 (iv) domestic battery;

10 (v) aggravated domestic battery;

11 (vi) violation of an order of protection;

12 (vii) an offense under the Criminal Code of
13 1961 involving a firearm;

14 (viii) driving while under the influence of
15 alcohol, other drug or drugs, intoxicating
16 compound or compounds or any combination thereof;

17 (ix) aggravated driving while under the
18 influence of alcohol, other drug or drugs,
19 intoxicating compound or compounds or any
20 combination thereof; or

21 (x) any crime defined as a crime of violence
22 under Section 2 of the Crime Victims Compensation
23 Act.

24 If a person has applied to the Board for a certificate of
25 eligibility for sealing and the Board denies the certificate,
26 the person must wait at least 4 years before filing again or

1 filing for pardon from the Governor unless the Chairman of the
2 Prisoner Review Board grants a waiver.

3 The decision to issue or refrain from issuing a certificate
4 of eligibility for sealing shall be at the Board's sole
5 discretion, and shall not give rise to any cause of action
6 against either the Board or its members.

7 (a-5) The Prisoner Review Board, with the cooperation of
8 and in coordination with the Department of Corrections and the
9 Department of Central Management Services, shall implement a
10 pilot project in 3 correctional institutions providing for the
11 conduct of hearings under paragraphs (1) and (4) of subsection
12 (a) of this Section through interactive video conferences. The
13 project shall be implemented within 6 months after the
14 effective date of this amendatory Act of 1996. Within 6 months
15 after the implementation of the pilot project, the Prisoner
16 Review Board, with the cooperation of and in coordination with
17 the Department of Corrections and the Department of Central
18 Management Services, shall report to the Governor and the
19 General Assembly regarding the use, costs, effectiveness, and
20 future viability of interactive video conferences for Prisoner
21 Review Board hearings.

22 (b) Upon recommendation of the Department the Board may
23 restore good conduct credit previously revoked.

24 (c) The Board shall cooperate with the Department in
25 promoting an effective system of parole and mandatory
26 supervised release.

1 (d) The Board shall promulgate rules for the conduct of its
2 work, and the Chairman shall file a copy of such rules and any
3 amendments thereto with the Director and with the Secretary of
4 State.

5 (e) The Board shall keep records of all of its official
6 actions and shall make them accessible in accordance with law
7 and the rules of the Board.

8 (f) The Board or one who has allegedly violated the
9 conditions of his parole or mandatory supervised release may
10 require by subpoena the attendance and testimony of witnesses
11 and the production of documentary evidence relating to any
12 matter under investigation or hearing. The Chairman of the
13 Board may sign subpoenas which shall be served by any agent or
14 public official authorized by the Chairman of the Board, or by
15 any person lawfully authorized to serve a subpoena under the
16 laws of the State of Illinois. The attendance of witnesses, and
17 the production of documentary evidence, may be required from
18 any place in the State to a hearing location in the State
19 before the Chairman of the Board or his designated agent or
20 agents or any duly constituted Committee or Subcommittee of the
21 Board. Witnesses so summoned shall be paid the same fees and
22 mileage that are paid witnesses in the circuit courts of the
23 State, and witnesses whose depositions are taken and the
24 persons taking those depositions are each entitled to the same
25 fees as are paid for like services in actions in the circuit
26 courts of the State. Fees and mileage shall be vouchered for

1 payment when the witness is discharged from further attendance.

2 In case of disobedience to a subpoena, the Board may
3 petition any circuit court of the State for an order requiring
4 the attendance and testimony of witnesses or the production of
5 documentary evidence or both. A copy of such petition shall be
6 served by personal service or by registered or certified mail
7 upon the person who has failed to obey the subpoena, and such
8 person shall be advised in writing that a hearing upon the
9 petition will be requested in a court room to be designated in
10 such notice before the judge hearing motions or extraordinary
11 remedies at a specified time, on a specified date, not less
12 than 10 nor more than 15 days after the deposit of the copy of
13 the written notice and petition in the U.S. mails addressed to
14 the person at his last known address or after the personal
15 service of the copy of the notice and petition upon such
16 person. The court upon the filing of such a petition, may order
17 the person refusing to obey the subpoena to appear at an
18 investigation or hearing, or to there produce documentary
19 evidence, if so ordered, or to give evidence relative to the
20 subject matter of that investigation or hearing. Any failure to
21 obey such order of the circuit court may be punished by that
22 court as a contempt of court.

23 Each member of the Board and any hearing officer designated
24 by the Board shall have the power to administer oaths and to
25 take the testimony of persons under oath.

26 (g) Except under subsection (a) of this Section, a majority

1 of the members then appointed to the Prisoner Review Board
2 shall constitute a quorum for the transaction of all business
3 of the Board.

4 (h) The Prisoner Review Board shall annually transmit to
5 the Director a detailed report of its work for the preceding
6 calendar year. The annual report shall also be transmitted to
7 the Governor for submission to the Legislature.

8 (Source: P.A. 96-875, eff. 1-22-10.)".