



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2378

by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2
30 ILCS 105/5.826 new

Amends the Criminal Identification Act. Provides that a petitioner may petition the circuit court to expunge the records of his or her arrests when he or she has been convicted of or placed on supervision for a misdemeanor that occurred more than 15 years before the filing of the petition if the person has not committed another offense within that period, other than minor traffic offenses. Provides that prior to the granting of the petition, the Director of State Police shall certify that the person has no other records of arrest and conviction within that time period, other than minor traffic offenses. Provides that the circuit court clerk shall charge a \$150 fee per offense plus court costs for the expungement. Provides that the fees shall be deposited in the State treasury in a special fund known as the Misdemeanor Expungement Fund. Provides that the Secretary of Human Services shall disburse moneys in the fund as grants to certain specified organizations.

LRB098 05553 RLC 35590 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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),

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

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

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

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

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

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

23 (ix) Offense (730 ILCS 5/5-1-15),

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

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

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

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

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

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

1 are last in time, they shall be collectively considered
2 the "last sentence" regardless of whether they were
3 ordered to run concurrently.

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

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

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

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 of the
21 Unified Code of Corrections, Section 12-4.3(b)(1) and
22 (2) of the Criminal Code of 1961 (as those provisions
23 existed before their deletion by Public Act 89-313),
24 Section 10-102 of the Illinois Alcoholism and Other
25 Drug Dependency Act, Section 40-10 of the Alcoholism
26 and Other Drug Abuse and Dependency Act, or Section 10

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

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

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

23 (M) "Terminate" as it relates to a sentence or
24 order of supervision or qualified probation includes
25 either satisfactory or unsatisfactory termination of
26 the sentence, unless otherwise specified in this

1 Section.

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

6 (3) Exclusions. Except as otherwise provided in
7 subsections (b) (5), (b) (6), (e), and (e-5) of this Section,
8 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, an order of qualified probation
5 (as defined in subsection (a)(1)(J)), or a conviction
6 for the following offenses:

7 (i) offenses included in Article 11 of the
8 Criminal Code of 1961 or the Criminal Code of 2012
9 or a similar provision of a local ordinance, except
10 Section 11-14 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) offenses defined as "crimes of violence"
18 in Section 2 of the Crime Victims Compensation Act
19 or a similar provision of a local ordinance;

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

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

25 (D) the sealing of the records of an arrest which
26 results in the petitioner being charged with a felony

1 offense or records of a charge not initiated by arrest
2 for a felony offense unless:

3 (i) the charge is amended to a misdemeanor and
4 is otherwise eligible to be sealed pursuant to
5 subsection (c);

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

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

17 (iv) the charge is for a Class 4 felony offense
18 listed in subsection (c)(2)(F) or the charge is
19 amended to a Class 4 felony offense listed in
20 subsection (c)(2)(F). Records of arrests which
21 result in the petitioner being charged with a Class
22 4 felony offense listed in subsection (c)(2)(F),
23 records of charges not initiated by arrest for
24 Class 4 felony offenses listed in subsection
25 (c)(2)(F), and records of charges amended to a
26 Class 4 felony offense listed in (c)(2)(F) may be

1 sealed, regardless of the disposition, subject to
2 any waiting periods set forth in subsection
3 (c) (3);

4 (v) the charge results in acquittal,
5 dismissal, or the petitioner's release without
6 conviction; or

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

9 (b) Expungement.

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

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

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

1 (1.5) A petitioner may petition the circuit court to
2 expunge the records of his or her arrests when he or she
3 has been convicted of or placed on supervision for a
4 misdemeanor that occurred more than 15 years before the
5 filing of the petition if the person has not committed
6 another offense within that period, other than minor
7 traffic offenses. Prior to the granting of the petition,
8 the Director of State Police shall certify that the person
9 has no other records of arrest and conviction within that
10 time period, other than minor traffic offenses.

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

12 (A) When the arrest or charge not initiated by
13 arrest sought to be expunged resulted in an acquittal,
14 dismissal, the petitioner's release without charging,
15 or the reversal or vacation of a conviction, there is
16 no waiting period to petition for the expungement of
17 such records.

18 (B) When the arrest or charge not initiated by
19 arrest sought to be expunged resulted in an order of
20 supervision, successfully completed by the petitioner,
21 the following time frames will apply:

22 (i) Those arrests or charges that resulted in
23 orders of supervision under Section 3-707, 3-708,
24 3-710, or 5-401.3 of the Illinois Vehicle Code or a
25 similar provision of a local ordinance, or under
26 Section 11-1.50, 12-3.2, or 12-15 of the Criminal

1 Code of 1961 or the Criminal Code of 2012, or a
2 similar provision of a local ordinance, shall not
3 be eligible for expungement until 5 years have
4 passed following the satisfactory termination of
5 the supervision.

6 (i-5) Those arrests or charges that resulted
7 in orders of supervision for a misdemeanor
8 violation of subsection (a) of Section 11-503 of
9 the Illinois Vehicle Code or a similar provision of
10 a local ordinance, that occurred prior to the
11 offender reaching the age of 25 years and the
12 offender has no other conviction for violating
13 Section 11-501 or 11-503 of the Illinois Vehicle
14 Code or a similar provision of a local ordinance
15 shall not be eligible for expungement until the
16 petitioner has reached the age of 25 years.

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

22 (C) When the arrest or charge not initiated by
23 arrest sought to be expunged resulted in an order of
24 qualified probation, successfully completed by the
25 petitioner, such records shall not be eligible for
26 expungement until 5 years have passed following the

1 satisfactory termination of the probation.

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

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

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

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

24 (6) If a conviction has been set aside on direct review
25 or on collateral attack and the court determines by clear
26 and convincing evidence that the petitioner was factually

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

4 (7) Nothing in this Section shall prevent the
5 Department of State Police from maintaining all records of
6 any person who is admitted to probation upon terms and
7 conditions and who fulfills those terms and conditions
8 pursuant to Section 10 of the Cannabis Control Act, Section
9 410 of the Illinois Controlled Substances Act, Section 70
10 of the Methamphetamine Control and Community Protection
11 Act, Section 5-6-3.3 of the Unified Code of Corrections,
12 Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of
13 the Criminal Code of 1961 or the Criminal Code of 2012,
14 Section 10-102 of the Illinois Alcoholism and Other Drug
15 Dependency Act, Section 40-10 of the Alcoholism and Other
16 Drug Abuse and Dependency Act, or Section 10 of the Steroid
17 Control Act.

18 (c) Sealing.

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

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

26 (A) All arrests resulting in release without

1 charging;

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

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

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

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

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

23 (i) Section 11-14 of the Criminal Code of 1961
24 or the Criminal Code of 2012;

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

26 (iii) Section 402 of the Illinois Controlled

1 Substances Act;

2 (iv) the Methamphetamine Precursor Control
3 Act; and

4 (v) the Steroid Control Act.

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

8 (A) Records identified as eligible under
9 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
10 time.

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

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

26 (D) Records identified in subsection

1 (a) (3) (A) (iii) may be sealed after the petitioner has
2 reached the age of 25 years.

3 (4) Subsequent felony convictions. A person may not
4 have subsequent felony conviction records sealed as
5 provided in this subsection (c) if he or she is convicted
6 of any felony offense after the date of the sealing of
7 prior felony convictions as provided in this subsection
8 (c). The court may, upon conviction for a subsequent felony
9 offense, order the unsealing of prior felony conviction
10 records previously ordered sealed by the court.

11 (5) Notice of eligibility for sealing. Upon entry of a
12 disposition for an eligible record under this subsection
13 (c), the petitioner shall be informed by the court of the
14 right to have the records sealed and the procedures for the
15 sealing of the records.

16 (d) Procedure. The following procedures apply to
17 expungement under subsections (b) and (e), and sealing under
18 subsections (c) and (e-5):

19 (1) Filing the petition. Upon becoming eligible to
20 petition for the expungement or sealing of records under
21 this Section, the petitioner shall file a petition
22 requesting the expungement or sealing of records with the
23 clerk of the court where the arrests occurred or the
24 charges were brought, or both. If arrests occurred or
25 charges were brought in multiple jurisdictions, a petition
26 must be filed in each such jurisdiction. The petitioner

1 shall pay the applicable fee, if not waived.

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

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

1 (4) Service of petition. The circuit court clerk shall
2 promptly serve a copy of the petition on the State's
3 Attorney or prosecutor charged with the duty of prosecuting
4 the offense, the Department of State Police, the arresting
5 agency and the chief legal officer of the unit of local
6 government effecting the arrest.

7 (5) Objections.

8 (A) Any party entitled to notice of the petition
9 may file an objection to the petition. All objections
10 shall be in writing, shall be filed with the circuit
11 court clerk, and shall state with specificity the basis
12 of the objection.

13 (B) Objections to a petition to expunge or seal
14 must be filed within 60 days of the date of service of
15 the petition.

16 (6) Entry of order.

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

24 (B) Unless the State's Attorney or prosecutor, the
25 Department of State Police, the arresting agency, or
26 the chief legal officer files an objection to the

1 petition to expunge or seal within 60 days from the
2 date of service of the petition, the court shall enter
3 an order granting or denying the petition.

4 (7) Hearings. If an objection is filed, the court shall
5 set a date for a hearing and notify the petitioner and all
6 parties entitled to notice of the petition of the hearing
7 date at least 30 days prior to the hearing, and shall hear
8 evidence on whether the petition should or should not be
9 granted, and shall grant or deny the petition to expunge or
10 seal the records based on the evidence presented at the
11 hearing.

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

21 (9) Effect of order.

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

24 (i) the records shall be expunged (as defined
25 in subsection (a) (1) (E)) by the arresting agency,
26 the Department, and any other agency as ordered by

1 the court, within 60 days of the date of service of
2 the order, unless a motion to vacate, modify, or
3 reconsider the order is filed pursuant to
4 paragraph (12) of subsection (d) of this Section;

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

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

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

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

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

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

24 (v) in response to an inquiry for such records
25 from anyone not authorized by law to access such
26 records the court, the Department, or the agency

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever
3 existed.

4 (C) Upon entry of an order to seal records under
5 subsection (c), the arresting agency, any other agency
6 as ordered by the court, the Department, and the court
7 shall seal the records (as defined in subsection
8 (a)(1)(K)). In response to an inquiry for such records
9 from anyone not authorized by law to access such
10 records the court, the Department, or the agency
11 receiving such inquiry shall reply as it does in
12 response to inquiries when no records ever existed.

13 (10) Fees. The Department may charge the petitioner a
14 fee equivalent to the cost of processing any order to
15 expunge or seal records. Notwithstanding any provision of
16 the Clerks of Courts Act to the contrary, the circuit court
17 clerk may charge a fee equivalent to the cost associated
18 with the sealing or expungement of records by the circuit
19 court clerk. Notwithstanding any provision of the Clerks of
20 Courts Act to the contrary, the circuit court clerk shall
21 charge a \$150 fee per offense plus court costs if
22 expungement is sought under paragraph (1.5) of subsection
23 (b) of this Section. The fees shall be deposited in a
24 special fund which is created in the State treasury known
25 as the Misdemeanor Expungement Fund to be administered by
26 the Secretary of Human Services. The Secretary of Human

1 Services shall disburse moneys in the fund on a quarterly
2 basis for grants as follows:

3 (A) in the nineteenth judicial circuit (Lake
4 County) to the Southside Positive Youth;

5 (B) in the County of Cook to the Chicago Area
6 Project; and

7 (C) in other judicial circuits to youth programs in
8 circuits that:

9 (i) have an unemployment rate of at least 10%;

10 (ii) less than 5 after-school programs or no
11 after-school programs; and

12 (iii) at least 45% of the households receives
13 food stamps.

14 From the total filing fee collected for the petition to
15 seal or expunge, the circuit court clerk shall deposit \$10
16 into the Circuit Court Clerk Operation and Administrative
17 Fund, to be used to offset the costs incurred by the
18 circuit court clerk in performing the additional duties
19 required to serve the petition to seal or expunge on all
20 parties. The circuit court clerk shall collect and forward
21 the Department of State Police portion of the fee to the
22 Department and it shall be deposited in the State Police
23 Services Fund.

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

1 service of the order on the petitioner and all parties
2 entitled to notice of the petition.

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

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

1 arresting authority, the State's Attorney, and the court upon a
2 later arrest for the same or similar offense or for the purpose
3 of sentencing for any subsequent felony. Upon conviction for
4 any subsequent offense, the Department of Corrections shall
5 have access to all sealed records of the Department pertaining
6 to that individual. Upon entry of the order of expungement, the
7 circuit court clerk shall promptly mail a copy of the order to
8 the person who was 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; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;
3 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.
4 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)

5 Section 10. The State Finance Act is amended by adding
6 Section 5.826 as follows:

7 (30 ILCS 105/5.826 new)

8 Sec. 5.826. The Misdemeanor Expungement Fund.