

HB2367



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2367

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of conviction for any non-violent offense or any criminal offense that did not result in bodily harm or death to another person may be sealed 10 years after the termination of the petitioner's last sentence. Provides that this provision shall only apply to a petitioner who has not had one or more criminal conviction between the conviction eligible for sealing and the filing of the petition for relief. Defines "non-violent offense".

LRB100 09422 SLF 19585 b

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 (H-5) "Non-violent offense" means a criminal
14 offense that is not a violent crime as defined in
15 subsection (c) of Section 3 of the Rights of Crime
16 Victims and Witnesses Act.

17 (I) "Petitioner" means an adult or a minor
18 prosecuted as an adult who has applied for relief under
19 this Section.

20 (J) "Qualified probation" means an order of
21 probation under Section 10 of the Cannabis Control Act,
22 Section 410 of the Illinois Controlled Substances Act,
23 Section 70 of the Methamphetamine Control and
24 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
25 of the Unified Code of Corrections, Section
26 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as

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

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

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

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

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

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

1 the clerk of the circuit court shall expunge, upon order of
2 the court, or in the absence of a court order on or before
3 January 1 and July 1 of each year, the court records of a
4 person found in the circuit court to have committed a civil
5 law violation of subsection (a) of Section 4 of the
6 Cannabis Control Act or subsection (c) of Section 3.5 of
7 the Drug Paraphernalia Control Act in the clerk's
8 possession or control and which contains the final
9 satisfactory disposition which pertain to the person
10 issued a citation for any of those offenses.

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

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

1 11-503 of the Illinois Vehicle Code or a similar
2 provision of a local ordinance.

3 (B) the sealing or expungement of records of minor
4 traffic offenses (as defined in subsection (a)(1)(G)),
5 unless the petitioner was arrested and released
6 without charging.

7 (C) the sealing of the records of arrests or
8 charges not initiated by arrest which result in an
9 order of supervision or a conviction for the following
10 offenses:

11 (i) offenses included in Article 11 of the
12 Criminal Code of 1961 or the Criminal Code of 2012
13 or a similar provision of a local ordinance, except
14 Section 11-14 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or a similar provision of a
16 local ordinance;

17 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
18 26-5, or 48-1 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, or a similar provision of a
20 local ordinance;

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

26 (iv) offenses which are Class A misdemeanors

1 under the Humane Care for Animals Act; or

2 (v) any offense or attempted offense that
3 would subject a person to registration under the
4 Sex Offender Registration Act.

5 (D) the sealing of the records of an arrest which
6 results in the petitioner being charged with a felony
7 offense or records of a charge not initiated by arrest
8 for a felony offense unless:

9 (i) the charge is amended to a misdemeanor and
10 is otherwise eligible to be sealed pursuant to
11 subsection (c);

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

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

23 (iv) the charge is for a felony offense listed
24 in subsection (c) (2) (F) or the charge is amended to
25 a felony offense listed in subsection (c) (2) (F);

26 (v) the charge results in acquittal,

1 dismissal, or the petitioner's release without
2 conviction; or

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

5 (b) Expungement.

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

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

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

26 (A) When the arrest or charge not initiated by

1 arrest sought to be expunged resulted in an acquittal,
2 dismissal, the petitioner's release without charging,
3 or the reversal or vacation of a conviction, there is
4 no waiting period to petition for the expungement of
5 such records.

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

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

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

1 Section 11-501 or 11-503 of the Illinois Vehicle
2 Code or a similar provision of a local ordinance
3 shall not be eligible for expungement until the
4 petitioner has reached the age of 25 years.

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

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

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

20 (4) Whenever a person has been arrested for or
21 convicted of any offense, in the name of a person whose
22 identity he or she has stolen or otherwise come into
23 possession of, the aggrieved person from whom the identity
24 was stolen or otherwise obtained without authorization,
25 upon learning of the person having been arrested using his
26 or her identity, may, upon verified petition to the chief

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

22 (5) Whenever a person has been convicted of criminal
23 sexual assault, aggravated criminal sexual assault,
24 predatory criminal sexual assault of a child, criminal
25 sexual abuse, or aggravated criminal sexual abuse, the
26 victim of that offense may request that the State's

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

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

20 (7) Nothing in this Section shall prevent the
21 Department of State Police from maintaining all records of
22 any person who is admitted to probation upon terms and
23 conditions and who fulfills those terms and conditions
24 pursuant to Section 10 of the Cannabis Control Act, Section
25 410 of the Illinois Controlled Substances Act, Section 70
26 of the Methamphetamine Control and Community Protection

1 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
2 Corrections, Section 12-4.3 or subdivision (b)(1) of
3 Section 12-3.05 of the Criminal Code of 1961 or the
4 Criminal Code of 2012, Section 10-102 of the Illinois
5 Alcoholism and Other Drug Dependency Act, Section 40-10 of
6 the Alcoholism and Other Drug Abuse and Dependency Act, or
7 Section 10 of the Steroid Control Act.

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

15 (c) Sealing.

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

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

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

25 (B) Arrests or charges not initiated by arrest
26 resulting in acquittal, dismissal, or conviction when

1 the conviction was reversed or vacated, except as
2 excluded by subsection (a) (3) (B);

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

8 (D) Arrests or charges not initiated by arrest
9 resulting in convictions, including convictions on
10 municipal ordinance violations, unless excluded by
11 subsection (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, Section 70 of
16 the Methamphetamine Control and Community Protection
17 Act, or Section 5-6-3.3 of the Unified Code of
18 Corrections; and

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

22 (i) Class 4 felony convictions for:

23 Prostitution under Section 11-14 of the
24 Criminal Code of 1961 or the Criminal Code of
25 2012.

26 Possession of cannabis under Section 4 of

1 the Cannabis Control Act.

2 Possession of a controlled substance under
3 Section 402 of the Illinois Controlled
4 Substances Act.

5 Offenses under the Methamphetamine
6 Precursor Control Act.

7 Offenses under the Steroid Control Act.

8 Theft under Section 16-1 of the Criminal
9 Code of 1961 or the Criminal Code of 2012.

10 Retail theft under Section 16A-3 or
11 paragraph (a) of 16-25 of the Criminal Code of
12 1961 or the Criminal Code of 2012.

13 Deceptive practices under Section 17-1 of
14 the Criminal Code of 1961 or the Criminal Code
15 of 2012.

16 Forgery under Section 17-3 of the Criminal
17 Code of 1961 or the Criminal Code of 2012.

18 Possession of burglary tools under Section
19 19-2 of the Criminal Code of 1961 or the
20 Criminal Code of 2012.

21 (ii) Class 3 felony convictions for:

22 Theft under Section 16-1 of the Criminal
23 Code of 1961 or the Criminal Code of 2012.

24 Retail theft under Section 16A-3 or
25 paragraph (a) of 16-25 of the Criminal Code of
26 1961 or the Criminal Code of 2012.

1 Deceptive practices under Section 17-1 of
2 the Criminal Code of 1961 or the Criminal Code
3 of 2012.

4 Forgery under Section 17-3 of the Criminal
5 Code of 1961 or the Criminal Code of 2012.

6 Possession with intent to manufacture or
7 deliver a controlled substance under Section
8 401 of the Illinois Controlled Substances Act.

9 (iii) Convictions for any non-violent criminal
10 offense.

11 (iv) Convictions for any criminal offense that
12 did not result in bodily harm or death to another
13 person.

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

17 (A) Records identified as eligible under
18 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
19 time.

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

25 (C) Except as otherwise provided in subparagraph
26 (E) of this paragraph (3), records identified as

1 eligible under subsections (c) (2) (D), (c) (2) (E), and
2 (c) (2) (F), other than subsection (c) (2) (F) (iii) or
3 c) (2) (F) (iv), may be sealed 3 years after the
4 termination of the petitioner's last sentence (as
5 defined in subsection (a) (1) (F)).

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

9 (E) Records identified as eligible under
10 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
11 (c) (2) (F) may be sealed upon termination of the
12 petitioner's last sentence if the petitioner earned a
13 high school diploma, associate's degree, career
14 certificate, vocational technical certification, or
15 bachelor's degree, or passed the high school level Test
16 of General Educational Development, during the period
17 of his or her sentence, aftercare release, or mandatory
18 supervised release. This subparagraph shall apply only
19 to a petitioner who has not completed the same
20 educational goal prior to the period of his or her
21 sentence, aftercare release, or mandatory supervised
22 release. If a petition for sealing eligible records
23 filed under this subparagraph is denied by the court,
24 the time periods under subparagraph (B) or (C) shall
25 apply to any subsequent petition for sealing filed by
26 the petitioner.

1 (F) Records identified as eligible under
2 subsection (c) (2) (F) (iii) or (c) (2) (F) (iv) may be
3 sealed 10 years after the termination of the
4 petitioner's last sentence (as defined in subsection
5 (a) (1) (F)). This subparagraph (F) shall only apply to a
6 petitioner who has not had one or more criminal
7 conviction between the conviction eligible for sealing
8 and the filing of the petition for relief.

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

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

22 (d) Procedure. The following procedures apply to
23 expungement under subsections (b), (e), and (e-6) and sealing
24 under subsections (c) and (e-5):

25 (1) Filing the petition. Upon becoming eligible to
26 petition for the expungement or sealing of records under

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

11 (1.5) County fee waiver pilot program. In a county of
12 3,000,000 or more inhabitants, no fee shall be required to
13 be paid by a petitioner if the records sought to be
14 expunged or sealed were arrests resulting in release
15 without charging or arrests or charges not initiated by
16 arrest resulting in acquittal, dismissal, or conviction
17 when the conviction was reversed or vacated, unless
18 excluded by subsection (a) (3) (B). The provisions of this
19 paragraph (1.5), other than this sentence, are inoperative
20 on and after January 1, 2018 or one year after January 1,
21 2017 (the effective date of Public Act 99-881) ~~this~~
22 ~~amendatory Act of the 99th General Assembly~~, whichever is
23 later.

24 (2) Contents of petition. The petition shall be
25 verified and shall contain the petitioner's name, date of
26 birth, current address and, for each arrest or charge not

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

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

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

21 (B) seal felony records for a violation of the
22 Illinois Controlled Substances Act, the
23 Methamphetamine Control and Community Protection Act,
24 or the Cannabis Control Act under clause (c) (2) (F);

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

26 (D) expunge felony records of a qualified

1 probation under clause (b) (1) (iv).

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

9 (5) Objections.

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

18 (B) Objections to a petition to expunge or seal
19 must be filed within 60 days of the date of service of
20 the petition.

21 (6) Entry of order.

22 (A) The Chief Judge of the circuit wherein the
23 charge was brought, any judge of that circuit
24 designated by the Chief Judge, or in counties of less
25 than 3,000,000 inhabitants, the presiding trial judge
26 at the petitioner's trial, if any, shall rule on the

1 petition to expunge or seal as set forth in this
2 subsection (d) (6).

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

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

21 (A) the strength of the evidence supporting the
22 defendant's conviction;

23 (B) the reasons for retention of the conviction
24 records by the State;

25 (C) the petitioner's age, criminal record history,
26 and employment history;

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

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

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

26 (i) the records shall be expunged (as defined

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

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

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

21 (iv) records impounded by the Department may
22 be disseminated by the Department only as required
23 by law or to the arresting authority, the State's
24 Attorney, and the court upon a later arrest for the
25 same or a similar offense or for the purpose of
26 sentencing for any subsequent felony, and to the

1 Department of Corrections upon conviction for any
2 offense; and

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

9 (C) Upon entry of an order to seal records under
10 subsection (c), the arresting agency, any other agency
11 as ordered by the court, the Department, and the court
12 shall seal the records (as defined in subsection
13 (a) (1) (K)). In response to an inquiry for such records,
14 from anyone not authorized by law to access such
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 existed.

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

1 compliance with an Appellate Court or Supreme Court
2 judgment to expunge or seal records within 60 days of
3 the issuance of the court's mandate. The notice is not
4 required while any motion to vacate, modify, or
5 reconsider, or any appeal or petition for
6 discretionary appellate review, is pending.

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. Under
3 Section 2-1203 of the Code of Civil Procedure, 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. If filed more than 60 days after
8 service 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. Upon filing of a
11 motion to vacate, modify, or reconsider, notice of the
12 motion shall be served upon the petitioner and all parties
13 entitled to notice of the petition.

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

23 (14) Compliance with Order Granting Petition to Seal
24 Records. Unless a court has entered a stay of an order
25 granting a petition to seal, all parties entitled to notice
26 of the petition must fully comply with the terms of the

1 order within 60 days of service of the order even if a
2 party is seeking relief from the order through a motion
3 filed under paragraph (12) of this subsection (d) or is
4 appealing the order.

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

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

19 (e) Whenever a person who has been convicted of an offense
20 is granted a pardon by the Governor which specifically
21 authorizes expungement, he or she may, upon verified petition
22 to the Chief Judge of the circuit where the person had been
23 convicted, any judge of the circuit designated by the Chief
24 Judge, or in counties of less than 3,000,000 inhabitants, the
25 presiding trial judge at the defendant's trial, have a court
26 order entered expunging the record of arrest from the official

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

20 (e-5) Whenever a person who has been convicted of an
21 offense is granted a certificate of eligibility for sealing by
22 the Prisoner Review Board which specifically authorizes
23 sealing, he or she may, upon verified petition to the Chief
24 Judge of the circuit where the person had been convicted, any
25 judge of the circuit designated by the Chief Judge, or in
26 counties of less than 3,000,000 inhabitants, the presiding

1 trial judge at the petitioner's trial, have a court order
2 entered sealing the record of arrest from the official records
3 of the arresting authority and order that the records of the
4 circuit court clerk and the Department be sealed until further
5 order of the court upon good cause shown or as otherwise
6 provided herein, and the name of the petitioner obliterated
7 from the official index requested to be kept by the circuit
8 court clerk under Section 16 of the Clerks of Courts Act in
9 connection with the arrest and conviction for the offense for
10 which he or she had been granted the certificate but the order
11 shall not affect any index issued by the circuit court clerk
12 before the entry of the order. All records sealed by the
13 Department may be disseminated by the Department only as
14 required by this Act or to the arresting authority, a law
15 enforcement agency, 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 sealing, the
21 circuit court clerk shall promptly mail a copy of the order to
22 the person who was granted the certificate of eligibility for
23 sealing.

24 (e-6) Whenever a person who has been convicted of an
25 offense is granted a certificate of eligibility for expungement
26 by the Prisoner Review Board which specifically authorizes

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

1 eligibility for expungement.

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

14 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
15 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
16 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
17 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;
18 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff.
19 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)