



Rep. La Shawn K. Ford

Filed: 4/11/2018

10000HB2367ham005

LRB100 09422 SLF 38277 a

1 AMENDMENT TO HOUSE BILL 2367

2 AMENDMENT NO. _____. Amend House Bill 2367, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5.2)

8 Sec. 5.2. Expungement, sealing, and immediate sealing.

9 (a) General Provisions.

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

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

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

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

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

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

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

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

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

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

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

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

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

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

1 Section 70 of the Methamphetamine Control and
2 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
3 of the Unified Code of Corrections, Section
4 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
5 those provisions existed before their deletion by
6 Public Act 89-313), Section 10-102 of the Illinois
7 Alcoholism and Other Drug Dependency Act, Section
8 40-10 of the Alcoholism and Other Drug Abuse and
9 Dependency Act, or Section 10 of the Steroid Control
10 Act. For the purpose of this Section, "successful
11 completion" of an order of qualified probation under
12 Section 10-102 of the Illinois Alcoholism and Other
13 Drug Dependency Act and Section 40-10 of the Alcoholism
14 and Other Drug Abuse and Dependency Act means that the
15 probation was terminated satisfactorily and the
16 judgment of conviction was vacated.

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

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

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

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

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

1 enforcement agency issuing the citation. Commencing 180
2 days after July 29, 2016 (the effective date of Public Act
3 99-697), the clerk of the circuit court shall expunge, upon
4 order of the court, or in the absence of a court order on
5 or before January 1 and July 1 of each year, the court
6 records of a person found in the circuit court to have
7 committed a civil law violation of subsection (a) of
8 Section 4 of the Cannabis Control Act or subsection (c) of
9 Section 3.5 of the Drug Paraphernalia Control Act in the
10 clerk's possession or control and which contains the final
11 satisfactory disposition which pertain to the person
12 issued a citation for any of those offenses.

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

16 (A) the sealing or expungement of the records of
17 arrests or charges not initiated by arrest that result
18 in an order of supervision for or conviction of: (i)
19 any sexual offense committed against a minor; (ii)
20 Section 11-501 of the Illinois Vehicle Code or a
21 similar provision of a local ordinance; or (iii)
22 Section 11-503 of the Illinois Vehicle Code or a
23 similar provision of a local ordinance, unless the
24 arrest or charge is for a misdemeanor violation of
25 subsection (a) of Section 11-503 or a similar provision
26 of a local ordinance, that occurred prior to the

1 offender reaching the age of 25 years and the offender
2 has no other conviction for violating Section 11-501 or
3 11-503 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance.

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

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

13 (i) offenses included in Article 11 of the
14 Criminal Code of 1961 or the Criminal Code of 2012
15 or a similar provision of a local ordinance, except
16 Section 11-14 and a misdemeanor violation of
17 Section 11-30 of the Criminal Code of 1961 or the
18 Criminal Code of 2012, or a similar provision of a
19 local ordinance;

20 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
21 26-5, or 48-1 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, or a similar provision of a
23 local ordinance;

24 (iii) Sections 12-3.1 or 12-3.2 of the
25 Criminal Code of 1961 or the Criminal Code of 2012,
26 or Section 125 of the Stalking No Contact Order

1 Act, or Section 219 of the Civil No Contact Order
2 Act, or a similar provision of a local ordinance;

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

5 (v) any offense or attempted offense that
6 would subject a person to registration under the
7 Sex Offender Registration Act.

8 (D) (blank).

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

23 (1.3) Notwithstanding any other provision of this
24 Section, a petitioner may petition the circuit court to
25 expunge records of a conviction or plea of guilty for an
26 offense under subsection (a) of Section 4 of the Cannabis

1 Control Act or subsection (c) of Section 3.5 of the Drug
2 Paraphernalia Control Act before July 29, 2016, (the
3 effective date of Public Act 99-697) if 4 years or more
4 have passed since the entry of the conviction or plea of
5 guilty.

6 (1.5) When a petitioner seeks to have a record of
7 arrest expunged under this Section, and the offender has
8 been convicted of a criminal offense, the State's Attorney
9 may object to the expungement on the grounds that the
10 records contain specific relevant information aside from
11 the mere fact of the arrest.

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

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

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

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

1 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
2 Code of 1961 or the Criminal Code of 2012, or a
3 similar provision of a local ordinance, shall not
4 be eligible for expungement until 5 years have
5 passed following the satisfactory termination of
6 the supervision.

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

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 that finds the petitioner
3 factually innocent of the charge shall enter an expungement
4 order for the conviction for which the petitioner has been
5 determined to be innocent as provided in subsection (b) of
6 Section 5-5-4 of the Unified Code of Corrections.

7 (7) Nothing in this Section shall prevent the
8 Department of State Police from maintaining all records of
9 any person who is admitted to probation upon terms and
10 conditions and who fulfills those terms and conditions
11 pursuant to Section 10 of the Cannabis Control Act, Section
12 410 of the Illinois Controlled Substances Act, Section 70
13 of the Methamphetamine Control and Community Protection
14 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
15 Corrections, Section 12-4.3 or subdivision (b)(1) of
16 Section 12-3.05 of the Criminal Code of 1961 or the
17 Criminal Code of 2012, Section 10-102 of the Illinois
18 Alcoholism and Other Drug Dependency Act, Section 40-10 of
19 the Alcoholism and Other Drug Abuse and Dependency Act, or
20 Section 10 of the Steroid Control Act.

21 (8) If the petitioner has been granted a certificate of
22 innocence under Section 2-702 of the Code of Civil
23 Procedure, the court that grants the certificate of
24 innocence shall also enter an order expunging the
25 conviction for which the petitioner has been determined to
26 be innocent as provided in subsection (h) of Section 2-702

1 of the Code of Civil Procedure.

2 (c) Sealing.

3 (1) Applicability. Notwithstanding any other provision
4 of this Act to the contrary, and cumulative with any rights
5 to expungement of criminal records, this subsection
6 authorizes the sealing of criminal records of adults and of
7 minors prosecuted as adults. Subsection (g) of this Section
8 provides for immediate sealing of certain records.

9 (2) Eligible Records. The following records may be
10 sealed:

11 (A) All arrests resulting in release without
12 charging;

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

17 (C) Arrests or charges not initiated by arrest
18 resulting in orders of supervision, including orders
19 of supervision for municipal ordinance violations,
20 successfully completed by the petitioner, unless
21 excluded by subsection (a) (3);

22 (D) Arrests or charges not initiated by arrest
23 resulting in convictions, including convictions on
24 municipal ordinance violations, unless excluded by
25 subsection (a) (3);

26 (E) Arrests or charges not initiated by arrest

1 resulting in orders of first offender probation under
2 Section 10 of the Cannabis Control Act, Section 410 of
3 the Illinois Controlled Substances Act, Section 70 of
4 the Methamphetamine Control and Community Protection
5 Act, or Section 5-6-3.3 of the Unified Code of
6 Corrections; and

7 (F) Arrests or charges not initiated by arrest
8 resulting in felony convictions unless otherwise
9 excluded by subsection (a) paragraph (3) of this
10 Section.

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

14 (A) Records identified as eligible under
15 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
16 time.

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

22 (C) Except as otherwise provided in subparagraph
23 (E) of this paragraph (3), records identified as
24 eligible under subsections (c)(2)(D), (c)(2)(E), and
25 (c)(2)(F) may be sealed 3 years after the termination
26 of the petitioner's last sentence (as defined in

1 subsection (a)(1)(F)). Convictions requiring public
2 registration under the Arsonist Registration Act, the
3 Sex Offender Registration Act, or the Murderer and
4 Violent Offender Against Youth Registration Act may
5 not be sealed until the petitioner is no longer
6 required to register under that relevant Act.

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

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

1 the petitioner.

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

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

15 (d) Procedure. The following procedures apply to
16 expungement under subsections (b), (e), and (e-6) and sealing
17 under subsections (c) and (e-5):

18 (1) Filing the petition. Upon becoming eligible to
19 petition for the expungement or sealing of records under
20 this Section, the petitioner shall file a petition
21 requesting the expungement or sealing of records with the
22 clerk of the court where the arrests occurred or the
23 charges were brought, or both. If arrests occurred or
24 charges were brought in multiple jurisdictions, a petition
25 must be filed in each such jurisdiction. The petitioner
26 shall pay the applicable fee, except no fee shall be

1 required if the petitioner has obtained a court order
2 waiving fees under Supreme Court Rule 298 or it is
3 otherwise waived.

4 (1.5) County fee waiver pilot program. In a county of
5 3,000,000 or more inhabitants, no fee shall be required to
6 be paid by a petitioner if the records sought to be
7 expunged or sealed were arrests resulting in release
8 without charging or arrests or charges not initiated by
9 arrest resulting in acquittal, dismissal, or conviction
10 when the conviction was reversed or vacated, unless
11 excluded by subsection (a)(3)(B). The provisions of this
12 paragraph (1.5), other than this sentence, are inoperative
13 on and after January 1, 2019 ~~or one year after January 1,~~
14 ~~2017 (the effective date of Public Act 99-881), whichever~~
15 ~~is later.~~

16 (2) Contents of petition. The petition shall be
17 verified and shall contain the petitioner's name, date of
18 birth, current address and, for each arrest or charge not
19 initiated by arrest sought to be sealed or expunged, the
20 case number, the date of arrest (if any), the identity of
21 the arresting authority, and such other information as the
22 court may require. During the pendency of the proceeding,
23 the petitioner shall promptly notify the circuit court
24 clerk of any change of his or her address. If the
25 petitioner has received a certificate of eligibility for
26 sealing from the Prisoner Review Board under paragraph (10)

1 of subsection (a) of Section 3-3-2 of the Unified Code of
2 Corrections, the certificate shall be attached to the
3 petition.

4 (3) Drug test. The petitioner must attach to the
5 petition proof that the petitioner has passed a test taken
6 within 30 days before the filing of the petition showing
7 the absence within his or her body of all illegal
8 substances as defined by the Illinois Controlled
9 Substances Act, the Methamphetamine Control and Community
10 Protection Act, and the Cannabis Control Act if he or she
11 is petitioning to:

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

13 (B) seal felony records for a violation of the
14 Illinois Controlled Substances Act, the
15 Methamphetamine Control and Community Protection Act,
16 or the Cannabis Control Act under clause (c) (2) (F);

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

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

20 (4) Service of petition. The circuit court clerk shall
21 promptly serve a copy of the petition and documentation to
22 support the petition under subsection (e-5) or (e-6) on the
23 State's Attorney or prosecutor charged with the duty of
24 prosecuting the offense, the Department of State Police,
25 the arresting agency and the chief legal officer of the
26 unit of local 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. Whenever a person who has been
7 convicted of an offense is granted a pardon by the
8 Governor which specifically authorizes expungement, an
9 objection to the petition may not be filed.

10 (B) Objections to a petition to expunge or seal
11 must be filed within 60 days of the date of service of
12 the petition.

13 (6) Entry of order.

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

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

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

13 (A) the strength of the evidence supporting the
14 defendant's conviction;

15 (B) the reasons for retention of the conviction
16 records by the State;

17 (C) the petitioner's age, criminal record history,
18 and employment history;

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

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

24 (8) Service of order. After entering an order to
25 expunge or seal records, the court must provide copies of
26 the order to the Department, in a form and manner

1 prescribed by the Department, to the petitioner, to the
2 State's Attorney or prosecutor charged with the duty of
3 prosecuting the offense, to the arresting agency, to the
4 chief legal officer of the unit of local government
5 effecting the arrest, and to such other criminal justice
6 agencies as may be ordered by the court.

7 (9) Implementation of order.

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

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

17 (ii) the records of the circuit court clerk
18 shall be impounded until further order of the court
19 upon good cause shown and the name of the
20 petitioner obliterated on the official index
21 required to be kept by the circuit court clerk
22 under Section 16 of the Clerks of Courts Act, but
23 the order shall not affect any index issued by the
24 circuit court clerk before the entry of the order;
25 and

26 (iii) in response to an inquiry for expunged

1 records, the court, the Department, or the agency
2 receiving such inquiry, shall reply as it does in
3 response to inquiries when no records ever
4 existed.

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

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

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

22 (iii) the records shall be impounded by the
23 Department within 60 days of the date of service of
24 the order as ordered by the court, unless a motion
25 to vacate, modify, or reconsider the order is filed
26 pursuant to paragraph (12) of subsection (d) of

1 this Section;

2 (iv) records impounded by the Department may
3 be disseminated by the Department only as required
4 by law or to the arresting authority, the State's
5 Attorney, and the court upon a later arrest for the
6 same or a similar offense or for the purpose of
7 sentencing for any subsequent felony, and to the
8 Department of Corrections upon conviction for any
9 offense; and

10 (v) in response to an inquiry for such records
11 from anyone not authorized by law to access such
12 records, the court, the Department, or the agency
13 receiving such inquiry shall reply as it does in
14 response to inquiries when no records ever
15 existed.

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

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

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

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

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

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

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

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

10 (D) The Department shall send written notice to the
11 petitioner of its compliance with each order to expunge
12 or seal records within 60 days of the date of service
13 of that order or, if a motion to vacate, modify, or
14 reconsider is filed, within 60 days of service of the
15 order resolving the motion, if that order requires the
16 Department to expunge or seal records. In the event of
17 an appeal from the circuit court order, the Department
18 shall send written notice to the petitioner of its
19 compliance with an Appellate Court or Supreme Court
20 judgment to expunge or seal records within 60 days of
21 the issuance of the court's mandate. The notice is not
22 required while any motion to vacate, modify, or
23 reconsider, or any appeal or petition for
24 discretionary appellate review, is pending.

25 (10) Fees. The Department may charge the petitioner a
26 fee equivalent to the cost of processing any order to

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

15 (11) Final Order. No court order issued under the
16 expungement or sealing provisions of this Section shall
17 become final for purposes of appeal until 30 days after
18 service of the order on the petitioner and all parties
19 entitled to notice of the petition.

20 (12) Motion to Vacate, Modify, or Reconsider. Under
21 Section 2-1203 of the Code of Civil Procedure, the
22 petitioner or any party entitled to notice may file a
23 motion to vacate, modify, or reconsider the order granting
24 or denying the petition to expunge or seal within 60 days
25 of service of the order. If filed more than 60 days after
26 service of the order, a petition to vacate, modify, or

1 reconsider shall comply with subsection (c) of Section
2 2-1401 of the Code of Civil Procedure. Upon filing of a
3 motion to vacate, modify, or reconsider, notice of the
4 motion shall be served upon the petitioner and all parties
5 entitled to notice of the petition.

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

15 (14) Compliance with Order Granting Petition to Seal
16 Records. Unless a court has entered a stay of an order
17 granting a petition to seal, all parties entitled to notice
18 of the petition must fully comply with the terms of the
19 order within 60 days of service of the order even if a
20 party is seeking relief from the order through a motion
21 filed under paragraph (12) of this subsection (d) or is
22 appealing the order.

23 (15) Compliance with Order Granting Petition to
24 Expunge Records. While a party is seeking relief from the
25 order granting the petition to expunge through a motion
26 filed under paragraph (12) of this subsection (d) or is

1 appealing the order, and unless a court has entered a stay
2 of that order, the parties entitled to notice of the
3 petition must seal, but need not expunge, the records until
4 there is a final order on the motion for relief or, in the
5 case of an appeal, the issuance of that court's mandate.

6 (16) The changes to this subsection (d) made by Public
7 Act 98-163 apply to all petitions pending on August 5, 2013
8 (the effective date of Public Act 98-163) and to all orders
9 ruling on a petition to expunge or seal on or after August
10 5, 2013 (the effective date of Public Act 98-163).

11 (e) Whenever a person who has been convicted of an offense
12 is granted a pardon by the Governor which specifically
13 authorizes expungement, he or she may, upon verified petition
14 to the Chief Judge of the circuit where the person had been
15 convicted, any judge of the circuit designated by the Chief
16 Judge, or in counties of less than 3,000,000 inhabitants, the
17 presiding trial judge at the defendant's trial, have a court
18 order entered expunging the record of arrest from the official
19 records of the arresting authority and order that the records
20 of the circuit court clerk and the Department be sealed until
21 further order of the court upon good cause shown or as
22 otherwise provided herein, and the name of the defendant
23 obliterated from the official index requested to be kept by the
24 circuit court clerk under Section 16 of the Clerks of Courts
25 Act in connection with the arrest and conviction for the
26 offense for which he or she had been pardoned but the order

1 shall not affect any index issued by the circuit court clerk
2 before the entry of the order. All records sealed by the
3 Department may be disseminated by the Department only to the
4 arresting authority, 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 expungement, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was pardoned.

12 (e-5) Whenever a person who has been convicted of an
13 offense is granted a certificate of eligibility for sealing by
14 the Prisoner Review Board which specifically authorizes
15 sealing, he or she may, upon verified petition to the Chief
16 Judge of the circuit where the person had been convicted, any
17 judge of the circuit designated by the Chief Judge, or in
18 counties of less than 3,000,000 inhabitants, the presiding
19 trial judge at the petitioner's trial, have a court order
20 entered sealing the record of arrest from the official records
21 of the arresting authority and order that the records of the
22 circuit court clerk and the Department be sealed until further
23 order of the court upon good cause shown or as otherwise
24 provided herein, and the name of the petitioner obliterated
25 from the official index requested to be kept by the circuit
26 court clerk under Section 16 of the Clerks of Courts Act in

1 connection with the arrest and conviction for the offense for
2 which he or she had been granted the certificate but the order
3 shall not affect any index issued by the circuit court clerk
4 before the entry of the order. All records sealed by the
5 Department may be disseminated by the Department only as
6 required by this Act or to the arresting authority, a law
7 enforcement agency, the State's Attorney, and the court upon a
8 later arrest for the same or similar offense or for the purpose
9 of sentencing for any subsequent felony. Upon conviction for
10 any subsequent offense, the Department of Corrections shall
11 have access to all sealed records of the Department pertaining
12 to that individual. Upon entry of the order of sealing, the
13 circuit court clerk shall promptly mail a copy of the order to
14 the person who was granted the certificate of eligibility for
15 sealing.

16 (e-6) Whenever a person who has been convicted of an
17 offense is granted a certificate of eligibility for expungement
18 by the Prisoner Review Board which specifically authorizes
19 expungement, he or she may, upon verified petition to the Chief
20 Judge of the circuit where the person had been convicted, any
21 judge of the circuit designated by the Chief Judge, or in
22 counties of less than 3,000,000 inhabitants, the presiding
23 trial judge at the petitioner's trial, have a court order
24 entered expunging the record of arrest from the official
25 records of the arresting authority and order that the records
26 of the circuit court clerk and the Department be sealed until

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

20 (f) Subject to available funding, the Illinois Department
21 of Corrections shall conduct a study of the impact of sealing,
22 especially on employment and recidivism rates, utilizing a
23 random sample of those who apply for the sealing of their
24 criminal records under Public Act 93-211. At the request of the
25 Illinois Department of Corrections, records of the Illinois
26 Department of Employment Security shall be utilized as

1 appropriate to assist in the study. The study shall not
2 disclose any data in a manner that would allow the
3 identification of any particular individual or employing unit.
4 The study shall be made available to the General Assembly no
5 later than September 1, 2010.

6 (g) Immediate Sealing.

7 (1) Applicability. Notwithstanding any other provision
8 of this Act to the contrary, and cumulative with any rights
9 to expungement or sealing of criminal records, this
10 subsection authorizes the immediate sealing of criminal
11 records of adults and of minors prosecuted as adults.

12 (2) Eligible Records. Arrests or charges not initiated
13 by arrest resulting in acquittal or dismissal with
14 prejudice, except as excluded by subsection (a)(3)(B),
15 that occur on or after January 1, 2018 (the effective date
16 of Public Act 100-282) ~~this amendatory Act of the 100th~~
17 ~~General Assembly~~, may be sealed immediately if the petition
18 is filed with the circuit court clerk on the same day and
19 during the same hearing in which the case is disposed.

20 (3) When Records are Eligible to be Immediately Sealed.
21 Eligible records under paragraph (2) of this subsection (g)
22 may be sealed immediately after entry of the final
23 disposition of a case, notwithstanding the disposition of
24 other charges in the same case.

25 (4) Notice of Eligibility for Immediate Sealing. Upon
26 entry of a disposition for an eligible record under this

1 subsection (g), the defendant shall be informed by the
2 court of his or her right to have eligible records
3 immediately sealed and the procedure for the immediate
4 sealing of these records.

5 (5) Procedure. The following procedures apply to
6 immediate sealing under this subsection (g).

7 (A) Filing the Petition. Upon entry of the final
8 disposition of the case, the defendant's attorney may
9 immediately petition the court, on behalf of the
10 defendant, for immediate sealing of eligible records
11 under paragraph (2) of this subsection (g) that are
12 entered on or after January 1, 2018 (the effective date
13 of Public Act 100-282) ~~this amendatory Act of the 100th~~
14 ~~General Assembly~~. The immediate sealing petition may
15 be filed with the circuit court clerk during the
16 hearing in which the final disposition of the case is
17 entered. If the defendant's attorney does not file the
18 petition for immediate sealing during the hearing, the
19 defendant may file a petition for sealing at any time
20 as authorized under subsection (c) (3) (A).

21 (B) Contents of Petition. The immediate sealing
22 petition shall be verified and shall contain the
23 petitioner's name, date of birth, current address, and
24 for each eligible record, the case number, the date of
25 arrest if applicable, the identity of the arresting
26 authority if applicable, and other information as the

1 court may require.

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

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

8 (E) Entry of Order. The presiding trial judge shall
9 enter an order granting or denying the petition for
10 immediate sealing during the hearing in which it is
11 filed. Petitions for immediate sealing shall be ruled
12 on in the same hearing in which the final disposition
13 of the case is entered.

14 (F) Hearings. The court shall hear the petition for
15 immediate sealing on the same day and during the same
16 hearing in which the disposition is rendered.

17 (G) Service of Order. An order to immediately seal
18 eligible records shall be served in conformance with
19 subsection (d) (8).

20 (H) Implementation of Order. An order to
21 immediately seal records shall be implemented in
22 conformance with subsections (d) (9) (C) and (d) (9) (D).

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

26 (J) Final Order. No court order issued under this

1 subsection (g) shall become final for purposes of
2 appeal until 30 days after service of the order on the
3 petitioner and all parties entitled to service of the
4 order in conformance with subsection (d) (8).

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

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

24 (M) Compliance with Order Granting Petition to
25 Seal Records. Unless a court has entered a stay of an
26 order granting a petition to immediately seal, all

1 parties entitled to service of the order must fully
2 comply with the terms of the order within 60 days of
3 service of the order.

4 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
5 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
6 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
7 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised
8 10-13-17.)".