



Rep. Arthur Turner

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LRB100 11061 SLF 22504 a

1 AMENDMENT TO HOUSE BILL 2776

2 AMENDMENT NO. _____. Amend House Bill 2776 by replacing
3 everything after the enacting clause with the following:

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),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (L) "Sexual offense committed against a minor"

1 includes but is not limited to the offenses of indecent
2 solicitation of a child or criminal sexual abuse when
3 the victim of such offense is under 18 years of age.

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

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

13 (2.5) Commencing 180 days after July 29, 2016 (the
14 effective date of Public Act 99-697) ~~this amendatory Act of~~
15 ~~the 99th General Assembly~~, the law enforcement agency
16 issuing the citation shall automatically expunge, on or
17 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) ~~this amendatory Act of the 99th General Assembly,~~
4 the clerk of the circuit court shall expunge, upon order of
5 the court, or in the absence of a court order on or before
6 January 1 and July 1 of each year, the court records of a
7 person found in the circuit court to have committed a civil
8 law violation of subsection (a) of Section 4 of the
9 Cannabis Control Act or subsection (c) of Section 3.5 of
10 the Drug Paraphernalia Control Act in the clerk's
11 possession or control and which contains the final
12 satisfactory disposition which pertain to the person
13 issued a citation for any of those offenses.

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

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

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

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

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

14 (i) offenses included in Article 11 of the
15 Criminal Code of 1961 or the Criminal Code of 2012
16 or a similar provision of a local ordinance, except
17 Section 11-14 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) offenses which are Class A misdemeanors
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) the sealing of the records of an arrest which
9 results in the petitioner being charged with a felony
10 offense or records of a charge not initiated by arrest
11 for a felony offense unless:

12 (i) the charge is amended to a misdemeanor and
13 is otherwise eligible to be sealed pursuant to
14 subsection (c);

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

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

26 (iv) the charge is for a felony offense listed

1 in subsection (c) (2) (F) or the charge is amended to
2 a felony offense listed in subsection (c) (2) (F);

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

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

8 (b) Expungement.

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

22 (1.3) The Public Defender shall petition the circuit
23 court when the arrest or charge not initiated by arrest
24 sought to be expunged is: (i) retail theft of property the
25 full retail value of which does not exceed \$300 under
26 Section 16-25 of the Criminal Code of 2012; (ii) criminal

1 trespass to real property under Section 21-3 of the
2 Criminal Code of 2012; (iii) criminal trespass to State
3 supported land under Section 21-5 of the Criminal Code of
4 2012; (iv) a traffic offense, except for any offense
5 involving fleeing or attempting to elude a peace officer or
6 aggravated fleeing or attempting to elude a peace officer
7 under Section 11-204 or 11-204.1 of the Illinois Vehicle
8 Code, driving under the influence under Section 11-501 of
9 the Illinois Vehicle Code or any offense that results in
10 bodily harm; or (v) a Class 4 felony violation of the
11 Illinois Controlled Substances Act which results in
12 acquittal, dismissal, or the final reversal or vacation of
13 a conviction, upon the decision of the State's Attorney not
14 to charge or upon the acquittal, dismissal, or final
15 reversal or vacation. A petition under this paragraph (1.3)
16 shall be filed with the applicable fee under paragraph (1)
17 of subsection (d) of this Section. A copy of the petition
18 shall be served upon the State's Attorney, the arresting
19 agency, and the Department of State Police.

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

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

1 (A) When the arrest or charge not initiated by
2 arrest sought to be expunged resulted in an acquittal,
3 dismissal, the petitioner's release without charging,
4 or the reversal or vacation of a conviction, there is
5 no waiting period to petition for the expungement of
6 such records.

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

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

21 (i-5) Those arrests or charges that resulted
22 in orders of supervision for a misdemeanor
23 violation of subsection (a) of Section 11-503 of
24 the Illinois Vehicle Code or a similar provision of
25 a local ordinance, that occurred prior to the
26 offender reaching the age of 25 years and the

1 offender has no other conviction for violating
2 Section 11-501 or 11-503 of the Illinois Vehicle
3 Code or a similar provision of a local ordinance
4 shall not be eligible for expungement until the
5 petitioner has reached the age of 25 years.

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

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

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

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

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

23 (5) Whenever a person has been convicted of criminal
24 sexual assault, aggravated criminal sexual assault,
25 predatory criminal sexual assault of a child, criminal
26 sexual abuse, or aggravated criminal sexual abuse, the

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

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

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

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

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

16 (c) Sealing.

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

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

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

26 (B) Arrests or charges not initiated by arrest

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

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

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

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

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

23 (i) Class 4 felony convictions for:

24 Prostitution under Section 11-14 of the
25 Criminal Code of 1961 or the Criminal Code of
26 2012.

1 Possession of cannabis under Section 4 of
2 the Cannabis Control Act.

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

6 Offenses under the Methamphetamine
7 Precursor Control Act.

8 Offenses under the Steroid Control Act.

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

11 Retail theft under Section 16A-3 or
12 paragraph (a) of 16-25 of the Criminal Code of
13 1961 or the Criminal Code of 2012.

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

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

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

22 (ii) Class 3 felony convictions for:

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

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

1 1961 or the Criminal Code of 2012.

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

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

7 Possession with intent to manufacture or
8 deliver a controlled substance under Section
9 401 of the Illinois Controlled Substances Act.

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

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

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

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

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

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

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

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

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

9 (d) Procedure. The following procedures apply to
10 expungement under subsections (b), (e), and (e-6) and sealing
11 under subsections (c) and (e-5):

12 (1) Filing the petition. Upon becoming eligible to
13 petition for the expungement or sealing of records under
14 this Section, the petitioner shall file a petition
15 requesting the expungement or sealing of records with the
16 clerk of the court where the arrests occurred or the
17 charges were brought, or both. If arrests occurred or
18 charges were brought in multiple jurisdictions, a petition
19 must be filed in each such jurisdiction. The petitioner
20 shall pay the applicable fee, except no fee shall be
21 required if the petitioner has obtained a court order
22 waiving fees under Supreme Court Rule 298 or it is
23 otherwise waived.

24 (1.5) County fee waiver pilot program. In a county of
25 3,000,000 or more inhabitants, no fee shall be required to
26 be paid by a petitioner if the records sought to be

1 expunged or sealed were arrests resulting in release
2 without charging or arrests or charges not initiated by
3 arrest resulting in acquittal, dismissal, or conviction
4 when the conviction was reversed or vacated, unless
5 excluded by subsection (a) (3) (B). The provisions of this
6 paragraph (1.5), other than this sentence, are inoperative
7 on and after January 1, 2018 or one year after January 1,
8 2017 (the effective date of Public Act 99-881) ~~this~~
9 ~~amendatory Act of the 99th General Assembly~~, whichever is
10 later.

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

25 (3) Drug test. The petitioner must attach to the
26 petition proof that the petitioner has passed a test taken

1 within 30 days before the filing of the petition showing
2 the absence within his or her body of all illegal
3 substances as defined by the Illinois Controlled
4 Substances Act, the Methamphetamine Control and Community
5 Protection Act, and the Cannabis Control Act if he or she
6 is petitioning to:

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

8 (B) seal felony records for a violation of the
9 Illinois Controlled Substances Act, the
10 Methamphetamine Control and Community Protection Act,
11 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

22 (5) Objections.

23 (A) Any party entitled to notice of the petition
24 may file an objection to the petition. All objections
25 shall be in writing, shall be filed with the circuit
26 court clerk, and shall state with specificity the basis

1 of the objection. Whenever a person who has been
2 convicted of an offense is granted a pardon by the
3 Governor which specifically authorizes expungement, an
4 objection to the petition may not be filed.

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

8 (6) Entry of order.

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

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

22 (C) The circuit court shall promptly enter an order
23 within 90 days upon the filing of a petition under
24 paragraph (1.3) of subsection (b) of this Section.

25 (7) Hearings. If an objection is filed, the court shall
26 set a date for a hearing and notify the petitioner and all

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

11 (A) the strength of the evidence supporting the
12 defendant's conviction;

13 (B) the reasons for retention of the conviction
14 records by the State;

15 (C) the petitioner's age, criminal record history,
16 and employment history;

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

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

22 (8) Service of order. After entering an order to
23 expunge or seal records, the court must provide copies of
24 the order to the Department, in a form and manner
25 prescribed by the Department, to the petitioner, to the
26 State's Attorney or prosecutor charged with the duty of

1 prosecuting the offense, to the arresting agency, to the
2 chief legal officer of the unit of local government
3 effecting the arrest, and to such other criminal justice
4 agencies as may be ordered by the court.

5 (9) Implementation of order.

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

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

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

24 (iii) in response to an inquiry for expunged
25 records, the court, the Department, or the agency
26 receiving such inquiry, shall reply as it does in

1 response to inquiries when no records ever
2 existed.

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

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

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

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

26 (iv) records impounded by the Department may

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

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

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

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

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

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

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

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

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

25 (C) Upon entry of an order to seal records under
26 subsection (c), the arresting agency, any other agency

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

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

23 (10) Fees. The Department may charge the petitioner a
24 fee equivalent to the cost of processing any order to
25 expunge or seal records. Notwithstanding any provision of
26 the Clerks of Courts Act to the contrary, the circuit court

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

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

18 (12) Motion to Vacate, Modify, or Reconsider. Under
19 Section 2-1203 of the Code of Civil Procedure, the
20 petitioner or any party entitled to notice may file a
21 motion to vacate, modify, or reconsider the order granting
22 or denying the petition to expunge or seal within 60 days
23 of service of the order. If filed more than 60 days after
24 service of the order, a petition to vacate, modify, or
25 reconsider shall comply with subsection (c) of Section
26 2-1401 of the Code of Civil Procedure. Upon filing of a

1 motion to vacate, modify, or reconsider, notice of the
2 motion shall be served upon the petitioner and all parties
3 entitled to notice of the petition.

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

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

21 (15) Compliance with Order Granting Petition to
22 Expunge Records. While a party is seeking relief from the
23 order granting the petition to expunge through a motion
24 filed under paragraph (12) of this subsection (d) or is
25 appealing the order, and unless a court has entered a stay
26 of that order, the parties entitled to notice of the

1 petition must seal, but need not expunge, the records until
2 there is a final order on the motion for relief or, in the
3 case of an appeal, the issuance of that court's mandate.

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

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

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

10 (e-5) Whenever a person who has been convicted of an
11 offense is granted a certificate of eligibility for sealing by
12 the Prisoner Review Board which specifically authorizes
13 sealing, he or she may, upon verified petition to the Chief
14 Judge of the circuit where the person had been convicted, any
15 judge of the circuit designated by the Chief Judge, or in
16 counties of less than 3,000,000 inhabitants, the presiding
17 trial judge at the petitioner's trial, have a court order
18 entered sealing the record of arrest from the official records
19 of the arresting authority and order that the records of the
20 circuit court clerk and the Department be sealed until further
21 order of the court upon good cause shown or as otherwise
22 provided herein, and the name of the petitioner obliterated
23 from the official index requested to be kept by the circuit
24 court clerk under Section 16 of the Clerks of Courts Act in
25 connection with the arrest and conviction for the offense for
26 which he or she had been granted the certificate 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 as
4 required by this Act or to the arresting authority, a law
5 enforcement agency, the State's Attorney, and the court upon a
6 later arrest for the same or similar offense or for the purpose
7 of sentencing for any subsequent felony. Upon conviction for
8 any subsequent offense, the Department of Corrections shall
9 have access to all sealed records of the Department pertaining
10 to that individual. Upon entry of the order of sealing, the
11 circuit court clerk shall promptly mail a copy of the order to
12 the person who was granted the certificate of eligibility for
13 sealing.

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

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

18 (f) Subject to available funding, the Illinois Department
19 of Corrections shall conduct a study of the impact of sealing,
20 especially on employment and recidivism rates, utilizing a
21 random sample of those who apply for the sealing of their
22 criminal records under Public Act 93-211. At the request of the
23 Illinois Department of Corrections, records of the Illinois
24 Department of Employment Security shall be utilized as
25 appropriate to assist in the study. The study shall not
26 disclose any data in a manner that would allow the

1 identification of any particular individual or employing unit.
2 The study shall be made available to the General Assembly no
3 later than September 1, 2010.

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