

HB5341



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5341

by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that notwithstanding any other provision of law, the court shall not deny a sealing or expungement petition because the petitioner has not satisfied an outstanding financial obligation established, imposed, or originated by a court, law enforcement agency, or a municipal, State, county, or other unit of local government, including, but not limited to, any cost, assessment, fine, or fee. Makes changes to the definition of "terminate". Effective immediately.

LRB100 19571 SLF 34840 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
21 of the Unified Code of Corrections, Section
22 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
23 those provisions existed before their deletion by
24 Public Act 89-313), Section 10-102 of the Illinois
25 Alcoholism and Other Drug Dependency Act, Section
26 40-10 of the Alcoholism and Other Drug Abuse and

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

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

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

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

1 Section. A sentence is terminated notwithstanding any
2 outstanding financial legal obligation.

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

7 (2.5) Commencing 180 days after July 29, 2016 (the
8 effective date of Public Act 99-697), the law enforcement
9 agency issuing the citation shall automatically expunge,
10 on or before January 1 and July 1 of each year, the law
11 enforcement records of a person found to have committed a
12 civil law violation of subsection (a) of Section 4 of the
13 Cannabis Control Act or subsection (c) of Section 3.5 of
14 the Drug Paraphernalia Control Act in the law enforcement
15 agency's possession or control and which contains the final
16 satisfactory disposition which pertain to the person
17 issued a citation for that offense. The law enforcement
18 agency shall provide by rule the process for access,
19 review, and to confirm the automatic expungement by the law
20 enforcement agency issuing the citation. Commencing 180
21 days after July 29, 2016 (the effective date of Public Act
22 99-697), the clerk of the circuit court shall expunge, upon
23 order of the court, or in the absence of a court order on
24 or before January 1 and July 1 of each year, the court
25 records of a person found in the circuit court to have
26 committed a civil law violation of subsection (a) of

1 Section 4 of the Cannabis Control Act or subsection (c) of
2 Section 3.5 of the Drug Paraphernalia Control Act in the
3 clerk's possession or control and which contains the final
4 satisfactory disposition which pertain to the person
5 issued a citation for any of those offenses.

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

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

24 (B) the sealing or expungement of records of minor
25 traffic offenses (as defined in subsection (a) (1) (G)),
26 unless the petitioner was arrested and released

1 without charging.

2 (C) the sealing of the records of arrests or
3 charges not initiated by arrest which result in an
4 order of supervision or a conviction for the following
5 offenses:

6 (i) offenses included in Article 11 of the
7 Criminal Code of 1961 or the Criminal Code of 2012
8 or a similar provision of a local ordinance, except
9 Section 11-14 and a misdemeanor violation of
10 Section 11-30 of the Criminal Code of 1961 or the
11 Criminal Code of 2012, or a similar provision of a
12 local ordinance;

13 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
14 26-5, or 48-1 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or a similar provision of a
16 local ordinance;

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

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

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

1 (D) (blank).

2 (b) Expungement.

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

16 (1.5) When a petitioner seeks to have a record of
17 arrest expunged under this Section, and the offender has
18 been convicted of a criminal offense, the State's Attorney
19 may object to the expungement on the grounds that the
20 records contain specific relevant information aside from
21 the mere fact of the arrest.

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

23 (A) When the arrest or charge not initiated by
24 arrest sought to be expunged resulted in an acquittal,
25 dismissal, the petitioner's release without charging,
26 or the reversal or vacation of a conviction, there is

1 no waiting period to petition for the expungement of
2 such records.

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

7 (i) Those arrests or charges that resulted in
8 orders of supervision under Section 3-707, 3-708,
9 3-710, or 5-401.3 of the Illinois Vehicle Code or a
10 similar provision of a local ordinance, or under
11 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
12 Code of 1961 or the Criminal Code of 2012, or a
13 similar provision of a local ordinance, shall not
14 be eligible for expungement until 5 years have
15 passed following the satisfactory termination of
16 the supervision.

17 (i-5) Those arrests or charges that resulted
18 in orders of supervision for a misdemeanor
19 violation of subsection (a) of Section 11-503 of
20 the Illinois Vehicle Code or a similar provision of
21 a local ordinance, that occurred prior to the
22 offender reaching the age of 25 years and the
23 offender has no other conviction for violating
24 Section 11-501 or 11-503 of the Illinois Vehicle
25 Code or a similar provision of a local ordinance
26 shall not be eligible for expungement until the

1 petitioner has reached the age of 25 years.

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

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

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

17 (4) Whenever a person has been arrested for or
18 convicted of any offense, in the name of a person whose
19 identity he or she has stolen or otherwise come into
20 possession of, the aggrieved person from whom the identity
21 was stolen or otherwise obtained without authorization,
22 upon learning of the person having been arrested using his
23 or her identity, may, upon verified petition to the chief
24 judge of the circuit wherein the arrest was made, have a
25 court order entered nunc pro tunc by the Chief Judge to
26 correct the arrest record, conviction record, if any, and

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

19 (5) Whenever a person has been convicted of criminal
20 sexual assault, aggravated criminal sexual assault,
21 predatory criminal sexual assault of a child, criminal
22 sexual abuse, or aggravated criminal sexual abuse, the
23 victim of that offense may request that the State's
24 Attorney of the county in which the conviction occurred
25 file a verified petition with the presiding trial judge at
26 the petitioner's trial to have a court order entered to

1 seal the records of the circuit court clerk in connection
2 with the proceedings of the trial court concerning that
3 offense. However, the records of the arresting authority
4 and the Department of State Police concerning the offense
5 shall not be sealed. The court, upon good cause shown,
6 shall make the records of the circuit court clerk in
7 connection with the proceedings of the trial court
8 concerning the offense available for public inspection.

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

17 (7) Nothing in this Section shall prevent the
18 Department of State Police from maintaining all records of
19 any person who is admitted to probation upon terms and
20 conditions and who fulfills those terms and conditions
21 pursuant to Section 10 of the Cannabis Control Act, Section
22 410 of the Illinois Controlled Substances Act, Section 70
23 of the Methamphetamine Control and Community Protection
24 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
25 Corrections, Section 12-4.3 or subdivision (b)(1) of
26 Section 12-3.05 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, Section 10-102 of the Illinois
2 Alcoholism and Other Drug Dependency Act, Section 40-10 of
3 the Alcoholism and Other Drug Abuse and Dependency Act, or
4 Section 10 of the Steroid Control Act.

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

12 (c) Sealing.

13 (1) Applicability. Notwithstanding any other provision
14 of this Act to the contrary, and cumulative with any rights
15 to expungement of criminal records, this subsection
16 authorizes the sealing of criminal records of adults and of
17 minors prosecuted as adults. Subsection (g) of this Section
18 provides for immediate sealing of certain records.

19 (2) Eligible Records. The following records may be
20 sealed:

21 (A) All arrests resulting in release without
22 charging;

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

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

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

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

17 (F) Arrests or charges not initiated by arrest
18 resulting in felony convictions unless otherwise
19 excluded by subsection (a) paragraph (3) of this
20 Section.

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

24 (A) Records identified as eligible under
25 subsection (c) (2) (A) and (c) (2) (B) may be sealed at any
26 time.

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

6 (C) Except as otherwise provided in subparagraph
7 (E) of this paragraph (3), records identified as
8 eligible under subsections (c)(2)(D), (c)(2)(E), and
9 (c)(2)(F) may be sealed 3 years after the termination
10 of the petitioner's last sentence (as defined in
11 subsection (a)(1)(F)). Convictions requiring public
12 registration under the Arsonist Registration Act, the
13 Sex Offender Registration Act, or the Murderer and
14 Violent Offender Against Youth Registration Act may
15 not be sealed until the petitioner is no longer
16 required to register under that relevant Act.

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

20 (E) Records identified as eligible under
21 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
22 (c)(2)(F) may be sealed upon termination of the
23 petitioner's last sentence if the petitioner earned a
24 high school diploma, associate's degree, career
25 certificate, vocational technical certification, or
26 bachelor's degree, or passed the high school level Test

1 of General Educational Development, during the period
2 of his or her sentence, aftercare release, or mandatory
3 supervised release. This subparagraph shall apply only
4 to a petitioner who has not completed the same
5 educational goal prior to the period of his or her
6 sentence, aftercare release, or mandatory supervised
7 release. If a petition for sealing eligible records
8 filed under this subparagraph is denied by the court,
9 the time periods under subparagraph (B) or (C) shall
10 apply to any subsequent petition for sealing filed by
11 the petitioner.

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

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

25 (d) Procedure. The following procedures apply to
26 expungement under subsections (b), (e), and (e-6) and sealing

1 under subsections (c) and (e-5):

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

14 (1.5) County fee waiver pilot program. In a county of
15 3,000,000 or more inhabitants, no fee shall be required to
16 be paid by a petitioner if the records sought to be
17 expunged or sealed were arrests resulting in release
18 without charging or arrests or charges not initiated by
19 arrest resulting in acquittal, dismissal, or conviction
20 when the conviction was reversed or vacated, unless
21 excluded by subsection (a) (3) (B). The provisions of this
22 paragraph (1.5), other than this sentence, are inoperative
23 on and after January 1, 2019 ~~or one year after January 1,~~
24 ~~2017 (the effective date of Public Act 99-881), whichever~~
25 ~~is later.~~

26 (2) Contents of petition. The petition shall be

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

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

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

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

1 (C) seal felony records under subsection (e-5); or
2 (D) expunge felony records of a qualified
3 probation under clause (b) (1) (iv).

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

11 (5) Objections.

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

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

23 (6) Entry of order.

24 (A) The Chief Judge of the circuit wherein the
25 charge was brought, any judge of that circuit
26 designated by the Chief Judge, or in counties of less

1 than 3,000,000 inhabitants, the presiding trial judge
2 at the petitioner's trial, if any, shall rule on the
3 petition to expunge or seal as set forth in this
4 subsection (d) (6).

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

11 (C) Notwithstanding any other provision of law,
12 the court shall not deny a petition under this Section
13 because the petitioner has not satisfied an
14 outstanding financial obligation established, imposed,
15 or originated by a court, law enforcement agency, or a
16 municipal, State, county, or other unit of local
17 government, including, but not limited to, any cost,
18 assessment, fine, or fee. Nothing in this subparagraph
19 (C) eliminates the right of the holder of those
20 financial obligations to pursue collection under
21 federal, State, or local law.

22 (7) Hearings. If an objection is filed, the court shall
23 set a date for a hearing and notify the petitioner and all
24 parties entitled to notice of the petition of the hearing
25 date at least 30 days prior to the hearing. Prior to the
26 hearing, the State's Attorney shall consult with the

1 Department as to the appropriateness of the relief sought
2 in the petition to expunge or seal. At the hearing, the
3 court shall hear evidence on whether the petition should or
4 should not be granted, and shall grant or deny the petition
5 to expunge or seal the records based on the evidence
6 presented at the hearing. The court may consider the
7 following:

8 (A) the strength of the evidence supporting the
9 defendant's conviction;

10 (B) the reasons for retention of the conviction
11 records by the State;

12 (C) the petitioner's age, criminal record history,
13 and employment history;

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

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

19 (8) Service of order. After entering an order to
20 expunge or seal records, the court must provide copies of
21 the order to the Department, in a form and manner
22 prescribed by the Department, to the petitioner, to the
23 State's Attorney or prosecutor charged with the duty of
24 prosecuting the offense, to the arresting agency, to the
25 chief legal officer of the unit of local government
26 effecting the arrest, and to such other criminal justice

1 agencies as may be ordered by the court.

2 (9) Implementation of order.

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

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

21 (iii) in response to an inquiry for expunged
22 records, the court, the Department, or the agency
23 receiving such inquiry, shall reply as it does in
24 response to inquiries when no records ever
25 existed.

26 (B) Upon entry of an order to expunge records

1 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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

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

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

23 (iv) records impounded by the Department may
24 be disseminated by the Department only as required
25 by law or to the arresting authority, the State's
26 Attorney, and the court upon a later arrest for the

1 same or a similar offense or for the purpose of
2 sentencing for any subsequent felony, and to the
3 Department of Corrections upon conviction for any
4 offense; and

5 (v) 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
10 existed.

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

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

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

1 circuit court clerk before the entry of the order;

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

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

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

22 (C) Upon entry of an order to seal records under
23 subsection (c), the arresting agency, any other agency
24 as ordered by the court, the Department, and the court
25 shall seal the records (as defined in subsection
26 (a) (1) (K)). In response to an inquiry for such records,

1 from anyone not authorized by law to access such
2 records, the court, the Department, or the agency
3 receiving such inquiry shall reply as it does in
4 response to inquiries when no records ever existed.

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

20 (10) Fees. The Department may charge the petitioner a
21 fee equivalent to the cost of processing any order to
22 expunge or seal records. Notwithstanding any provision of
23 the Clerks of Courts Act to the contrary, the circuit court
24 clerk may charge a fee equivalent to the cost associated
25 with the sealing or expungement of records by the circuit
26 court clerk. From the total filing fee collected for the

1 petition to seal or expunge, the circuit court clerk shall
2 deposit \$10 into the Circuit Court Clerk Operation and
3 Administrative Fund, to be used to offset the costs
4 incurred by the circuit court clerk in performing the
5 additional duties required to serve the petition to seal or
6 expunge on all parties. The circuit court clerk shall
7 collect and forward the Department of State Police portion
8 of the fee to the Department and it shall be deposited in
9 the State Police Services Fund.

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

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

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

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

18 (15) Compliance with Order Granting Petition to
19 Expunge Records. While a party is seeking relief from the
20 order granting the petition to expunge through a motion
21 filed under paragraph (12) of this subsection (d) or is
22 appealing the order, and unless a court has entered a stay
23 of that order, the parties entitled to notice of the
24 petition must seal, but need not expunge, the records until
25 there is a final order on the motion for relief or, in the
26 case of an appeal, the issuance of that court's mandate.

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

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

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

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

1 required by this Act or to the arresting authority, a law
2 enforcement agency, 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 sealing, the
8 circuit court clerk shall promptly mail a copy of the order to
9 the person who was granted the certificate of eligibility for
10 sealing.

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

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

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

1 (g) Immediate Sealing.

2 (1) Applicability. Notwithstanding any other provision
3 of this Act to the contrary, and cumulative with any rights
4 to expungement or sealing of criminal records, this
5 subsection authorizes the immediate sealing of criminal
6 records of adults and of minors prosecuted as adults.

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

15 (3) When Records are Eligible to be Immediately Sealed.
16 Eligible records under paragraph (2) of this subsection (g)
17 may be sealed immediately after entry of the final
18 disposition of a case, notwithstanding the disposition of
19 other charges in the same case.

20 (4) Notice of Eligibility for Immediate Sealing. Upon
21 entry of a disposition for an eligible record under this
22 subsection (g), the defendant shall be informed by the
23 court of his or her right to have eligible records
24 immediately sealed and the procedure for the immediate
25 sealing of these records.

26 (5) Procedure. The following procedures apply to

1 immediate sealing under this subsection (g).

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

16 (B) Contents of Petition. The immediate sealing
17 petition shall be verified and shall contain the
18 petitioner's name, date of birth, current address, and
19 for each eligible record, the case number, the date of
20 arrest if applicable, the identity of the arresting
21 authority if applicable, and other information as the
22 court may require.

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

25 (D) Service of Petition. A copy of the petition
26 shall be served on the State's Attorney in open court.

1 The petitioner shall not be required to serve a copy of
2 the petition on any other agency.

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

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

12 (G) Service of Order. An order to immediately seal
13 eligible records shall be served in conformance with
14 subsection (d) (8).

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

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

21 (J) Final Order. No court order issued under this
22 subsection (g) shall become final for purposes of
23 appeal until 30 days after service of the order on the
24 petitioner and all parties entitled to service of the
25 order in conformance with subsection (d) (8).

26 (K) Motion to Vacate, Modify, or Reconsider. Under

1 Section 2-1203 of the Code of Civil Procedure, the
2 petitioner, State's Attorney, or the Department of
3 State Police may file a motion to vacate, modify, or
4 reconsider the order denying the petition to
5 immediately seal within 60 days of service of the
6 order. If filed more than 60 days after service of the
7 order, a petition to vacate, modify, or reconsider
8 shall comply with subsection (c) of Section 2-1401 of
9 the Code of Civil Procedure.

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

19 (M) Compliance with Order Granting Petition to
20 Seal Records. Unless a court has entered a stay of an
21 order granting a petition to immediately seal, all
22 parties entitled to service of the order must fully
23 comply with the terms of the order within 60 days of
24 service of the order.

25 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
26 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;

1 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
2 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised
3 10-13-17.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.