



Rep. Jehan Gordon-Booth

Adopted in House on Apr 27, 2018

10000HB5341ham003

LRB100 19571 SLF 39269 a

1 AMENDMENT TO HOUSE BILL 5341

2 AMENDMENT NO. _____. Amend House Bill 5341 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, 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),

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. A sentence is terminated notwithstanding any
9 outstanding financial legal obligation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (D) (blank).

9 (b) Expungement.

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

23 (1.5) When a petitioner seeks to have a record of
24 arrest expunged under this Section, and the offender has
25 been convicted of a criminal offense, the State's Attorney
26 may object to the expungement on the grounds that the

1 records contain specific relevant information aside from
2 the mere fact of the arrest.

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

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

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

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

24 (i-5) Those arrests or charges that resulted
25 in orders of supervision for a misdemeanor
26 violation of subsection (a) of Section 11-503 of

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

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

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

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

24 (4) Whenever a person has been arrested for or
25 convicted of any offense, in the name of a person whose
26 identity he or she has stolen or otherwise come into

1 possession of, the aggrieved person from whom the identity
2 was stolen or otherwise obtained without authorization,
3 upon learning of the person having been arrested using his
4 or her identity, may, upon verified petition to the chief
5 judge of the circuit wherein the arrest was made, have a
6 court order entered nunc pro tunc by the Chief Judge to
7 correct the arrest record, conviction record, if any, and
8 all official records of the arresting authority, the
9 Department, other criminal justice agencies, the
10 prosecutor, and the trial court concerning such arrest, if
11 any, by removing his or her name from all such records in
12 connection with the arrest and conviction, if any, and by
13 inserting in the records the name of the offender, if known
14 or ascertainable, in lieu of the aggrieved's name. The
15 records of the circuit court clerk shall be sealed until
16 further order of the court upon good cause shown and the
17 name of the aggrieved person obliterated on the official
18 index required to be kept by the circuit court clerk under
19 Section 16 of the Clerks of Courts Act, but the order shall
20 not affect any index issued by the circuit court clerk
21 before the entry of the order. Nothing in this Section
22 shall limit the Department of State Police or other
23 criminal justice agencies or prosecutors from listing
24 under an offender's name the false names he or she has
25 used.

26 (5) Whenever a person has been convicted of criminal

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

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

24 (7) Nothing in this Section shall prevent the
25 Department of State Police from maintaining all records of
26 any person who is admitted to probation upon terms and

1 conditions and who fulfills those terms and conditions
2 pursuant to Section 10 of the Cannabis Control Act, Section
3 410 of the Illinois Controlled Substances Act, Section 70
4 of the Methamphetamine Control and Community Protection
5 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
6 Corrections, Section 12-4.3 or subdivision (b)(1) of
7 Section 12-3.05 of the Criminal Code of 1961 or the
8 Criminal Code of 2012, Section 10-102 of the Illinois
9 Alcoholism and Other Drug Dependency Act, Section 40-10 of
10 the Alcoholism and Other Drug Abuse and Dependency Act, or
11 Section 10 of the Steroid Control Act.

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

19 (c) Sealing.

20 (1) Applicability. Notwithstanding any other provision
21 of this Act to the contrary, and cumulative with any rights
22 to expungement of criminal records, this subsection
23 authorizes the sealing of criminal records of adults and of
24 minors prosecuted as adults. Subsection (g) of this Section
25 provides for immediate sealing of certain records.

26 (2) Eligible Records. The following records may be

1 sealed:

2 (A) All arrests resulting in release without
3 charging;

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

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

13 (D) Arrests or charges not initiated by arrest
14 resulting in convictions, including convictions on
15 municipal ordinance violations, unless excluded by
16 subsection (a) (3);

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

24 (F) Arrests or charges not initiated by arrest
25 resulting in felony convictions unless otherwise
26 excluded by subsection (a) paragraph (3) of this

1 Section.

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

5 (A) Records identified as eligible under
6 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
7 time.

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

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

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

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

19 (4) Subsequent felony convictions. A person may not
20 have subsequent felony conviction records sealed as
21 provided in this subsection (c) if he or she is convicted
22 of any felony offense after the date of the sealing of
23 prior felony convictions as provided in this subsection
24 (c). The court may, upon conviction for a subsequent felony
25 offense, order the unsealing of prior felony conviction
26 records previously ordered sealed by the court.

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

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

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

21 (1.5) County fee waiver pilot program. In a county of
22 3,000,000 or more inhabitants, no fee shall be required to
23 be paid by a petitioner if the records sought to be
24 expunged or sealed were arrests resulting in release
25 without charging or arrests or charges not initiated by
26 arrest resulting in acquittal, dismissal, or conviction

1 when the conviction was reversed or vacated, unless
2 excluded by subsection (a) (3) (B). The provisions of this
3 paragraph (1.5), other than this sentence, are inoperative
4 on and after January 1, 2019 ~~or one year after January 1,~~
5 ~~2017 (the effective date of Public Act 99-881), whichever~~
6 ~~is later.~~

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

21 (3) Drug test. The petitioner must attach to the
22 petition proof that the petitioner has passed a test taken
23 within 30 days before the filing of the petition showing
24 the absence within his or her body of all illegal
25 substances as defined by the Illinois Controlled
26 Substances Act, the Methamphetamine Control and Community

1 Protection Act, and the Cannabis Control Act if he or she
2 is petitioning to:

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

4 (B) seal felony records for a violation of the
5 Illinois Controlled Substances Act, the
6 Methamphetamine Control and Community Protection Act,
7 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

18 (5) Objections.

19 (A) Any party entitled to notice of the petition
20 may file an objection to the petition. All objections
21 shall be in writing, shall be filed with the circuit
22 court clerk, and shall state with specificity the basis
23 of the objection. Whenever a person who has been
24 convicted of an offense is granted a pardon by the
25 Governor which specifically authorizes expungement, an
26 objection to the petition may not be filed.

1 (B) Objections to a petition to expunge or seal
2 must be filed within 60 days of the date of service of
3 the petition.

4 (6) Entry of order.

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

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

18 (C) Notwithstanding any other provision of law,
19 the court shall not deny a petition under this Section
20 because the petitioner has not satisfied an
21 outstanding legal financial obligation established,
22 imposed, or originated by a court, law enforcement
23 agency, or a municipal, State, county, or other unit of
24 local government, including, but not limited to, any
25 cost, assessment, fine, or fee. An outstanding legal
26 financial obligation does not include any court

1 ordered restitution to a victim under Section 5-5-6 of
2 the Unified Code of Corrections, unless the
3 restitution has been converted to a civil judgment.
4 Nothing in this subparagraph (C) waives, rescinds, or
5 abrogates a legal financial obligation or otherwise
6 eliminates or affects the right of the holder of any
7 financial obligation to pursue collection under
8 applicable federal, State, or local law.

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

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

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

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

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

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

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

15 (9) Implementation of order.

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

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

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

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

8 (iii) in response to an inquiry for expunged
9 records, the court, the Department, or the agency
10 receiving such inquiry, shall reply as it does in
11 response to inquiries when no records ever
12 existed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (E) Upon motion, the court may order that a sealed
8 or expunged judgment or other court record necessary to
9 demonstrate the amount of any legal financial
10 obligation due and owing be made available for the
11 limited purpose of collecting any legal financial
12 obligations owed by the petitioner that were
13 established, imposed, or originated in the criminal
14 proceeding for which those records have been sealed or
15 expunged. The records made available under this
16 subparagraph (E) shall not be entered into the official
17 index required to be kept by the circuit court clerk
18 under Section 16 of the Clerks of Courts Act and shall
19 be immediately re-impounded upon the collection of the
20 outstanding financial obligations.

21 (F) Notwithstanding any other provision of this
22 Section, a circuit court clerk may access a sealed or
23 expunged record for the limited purpose of collecting
24 payment for any legal financial obligations that were
25 established, imposed, or originated in the criminal
26 proceedings for which those records have been sealed or

1 expunged.

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

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

23 (12) Motion to Vacate, Modify, or Reconsider. Under
24 Section 2-1203 of the Code of Civil Procedure, the
25 petitioner or any party entitled to notice may file a
26 motion to vacate, modify, or reconsider the order granting

1 or denying the petition to expunge or seal within 60 days
2 of service of the order. If filed more than 60 days after
3 service of the order, a petition to vacate, modify, or
4 reconsider shall comply with subsection (c) of Section
5 2-1401 of the Code of Civil Procedure. Upon filing of a
6 motion to vacate, modify, or reconsider, notice of the
7 motion shall be served upon the petitioner and all parties
8 entitled to notice of the petition.

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

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

26 (15) Compliance with Order Granting Petition to

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

9 (16) The changes to this subsection (d) made by Public
10 Act 98-163 apply to all petitions pending on August 5, 2013
11 (the effective date of Public Act 98-163) and to all orders
12 ruling on a petition to expunge or seal on or after August
13 5, 2013 (the effective date of Public Act 98-163).

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

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

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

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

19 (e-6) Whenever a person who has been convicted of an
20 offense is granted a certificate of eligibility for expungement
21 by the Prisoner Review Board which specifically authorizes
22 expungement, he or she may, upon verified petition to the Chief
23 Judge of the circuit where the person had been convicted, any
24 judge of the circuit designated by the Chief Judge, or in
25 counties of less than 3,000,000 inhabitants, the presiding
26 trial judge at the petitioner's trial, have a court order

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

23 (f) Subject to available funding, the Illinois Department
24 of Corrections shall conduct a study of the impact of sealing,
25 especially on employment and recidivism rates, utilizing a
26 random sample of those who apply for the sealing of their

1 criminal records under Public Act 93-211. At the request of the
2 Illinois Department of Corrections, records of the Illinois
3 Department of Employment Security shall be utilized as
4 appropriate to assist in the study. The study shall not
5 disclose any data in a manner that would allow the
6 identification of any particular individual or employing unit.
7 The study shall be made available to the General Assembly no
8 later than September 1, 2010.

9 (g) Immediate Sealing.

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

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

23 (3) When Records are Eligible to be Immediately Sealed.
24 Eligible records under paragraph (2) of this subsection (g)
25 may be sealed immediately after entry of the final
26 disposition of a case, notwithstanding the disposition of

1 other charges in the same case.

2 (4) Notice of Eligibility for Immediate Sealing. Upon
3 entry of a disposition for an eligible record under this
4 subsection (g), the defendant shall be informed by the
5 court of his or her right to have eligible records
6 immediately sealed and the procedure for the immediate
7 sealing of these records.

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

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

24 (B) Contents of Petition. The immediate sealing
25 petition shall be verified and shall contain the
26 petitioner's name, date of birth, current address, and

1 for each eligible record, the case number, the date of
2 arrest if applicable, the identity of the arresting
3 authority if applicable, and other information as the
4 court may require.

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

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

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

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

20 (G) Service of Order. An order to immediately seal
21 eligible records shall be served in conformance with
22 subsection (d) (8).

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

26 (I) Fees. The fee imposed by the circuit court

1 clerk and the Department of State Police shall comply
2 with paragraph (1) of subsection (d) of this Section.

3 (J) Final Order. No court order issued under this
4 subsection (g) shall become final for purposes of
5 appeal until 30 days after service of the order on the
6 petitioner and all parties entitled to service of the
7 order in conformance with subsection (d) (8).

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

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

1 (M) Compliance with Order Granting Petition to
2 Seal Records. Unless a court has entered a stay of an
3 order granting a petition to immediately seal, all
4 parties entitled to service of the order must fully
5 comply with the terms of the order within 60 days of
6 service of the order.

7 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
8 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
9 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
10 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised
11 10-13-17.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."