



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5512

Introduced 2/16/2018, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of charges that result in an acquittal or dismissal with prejudice, except for minor traffic offenses, may be immediately expunged after the final disposition of the case. Provides that upon entry of judgment, the defendant shall be informed of this right and the proper procedures to follow to have records that are eligible be immediately expunged. Provides that the petition may be filed on behalf of the defendant by his or her attorney at the final disposition hearing, or by the defendant at any time. Provides that the State's Attorney may not object to an immediate expungement petition and the presiding trial judge shall enter an order granting or denying the petition during the hearing in which the petition is filed. Provides that no fees shall be charged by the circuit court clerk or the Department of State Police for processing petitions filed under this provision. Makes other changes.

LRB100 19692 SLF 34966 b

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 expungement  
8 or sealing.

9 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

1 (ix) Offense (730 ILCS 5/5-1-15),  
2 (x) Parole (730 ILCS 5/5-1-16),  
3 (xi) Petty Offense (730 ILCS 5/5-1-17),  
4 (xii) Probation (730 ILCS 5/5-1-18),  
5 (xiii) Sentence (730 ILCS 5/5-1-19),  
6 (xiv) Supervision (730 ILCS 5/5-1-21), and  
7 (xv) Victim (730 ILCS 5/5-1-22).

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

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

1 reversed or vacated.

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

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

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

1 of qualified probation terminate on the same day and  
2 are last in time, they shall be collectively considered  
3 the "last sentence" regardless of whether they were  
4 ordered to run concurrently.

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

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

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

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

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

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

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

24 (M) "Terminate" as it relates to a sentence or  
25 order of supervision or qualified probation includes  
26 either satisfactory or unsatisfactory termination of

1           the sentence, unless otherwise specified in this  
2           Section.

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. Subsection (g) of this Section provides  
3 for immediate expungement of certain records.

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

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

18 (i-5) Those arrests or charges that resulted  
19 in orders of supervision for a misdemeanor  
20 violation of subsection (a) of Section 11-503 of  
21 the Illinois Vehicle Code or a similar provision of  
22 a local ordinance, that occurred prior to the  
23 offender reaching the age of 25 years and the  
24 offender has no other conviction for violating  
25 Section 11-501 or 11-503 of the Illinois Vehicle  
26 Code or a similar provision of a local ordinance

1 shall not be eligible for expungement until the  
2 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

1 Section 12-3.05 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012, Section 10-102 of the Illinois  
3 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
4 the Alcoholism and Other Drug Abuse and Dependency Act, or  
5 Section 10 of the Steroid Control Act.

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

13 (c) Sealing.

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

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

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

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

1 excluded by subsection (a) (3) (B);

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

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

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

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

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

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



1 time.

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

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

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

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

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

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

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

26 (d) Procedure. The following procedures apply to

1 expungement under subsections (b), (e), and (e-6) and sealing  
2 under subsections (c) and (e-5):

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

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

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

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

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

24                   (B) seal felony records for a violation of the  
25 Illinois Controlled Substances Act, the  
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);  
2 (C) seal felony records under subsection (e-5); or  
3 (D) expunge felony records of a qualified  
4 probation under clause (b) (1) (iv).

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

12 (5) Objections.

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

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

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the  
26 charge was brought, any judge of that circuit

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

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

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

24 (A) the strength of the evidence supporting the  
25 defendant's conviction;

26 (B) the reasons for retention of the conviction

1 records by the State;

2 (C) the petitioner's age, criminal record history,  
3 and employment history;

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

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

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

18 (9) Implementation of order.

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

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

1 paragraph (12) of subsection (d) of this Section;

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

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

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

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

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



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

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

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

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

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

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

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

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

24 (iv) records impounded by the Department may  
25 be disseminated by the Department only as required  
26 by law or to the arresting authority, the State's

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

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

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

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

1 Department to expunge or seal records. In the event of  
2 an appeal from the circuit court order, the Department  
3 shall send written notice to the petitioner of its  
4 compliance with an Appellate Court or Supreme Court  
5 judgment to expunge or seal records within 60 days of  
6 the issuance of the court's mandate. The notice is not  
7 required while any motion to vacate, modify, or  
8 reconsider, or any appeal or petition for  
9 discretionary appellate review, is pending.

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

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall  
2 become final for purposes of appeal until 30 days after  
3 service of the order on the petitioner and all parties  
4 entitled to notice of the petition.

5 (12) Motion to Vacate, Modify, or Reconsider. Under  
6 Section 2-1203 of the Code of Civil Procedure, the  
7 petitioner or any party entitled to notice may file a  
8 motion to vacate, modify, or reconsider the order granting  
9 or denying the petition to expunge or seal within 60 days  
10 of service of the order. If filed more than 60 days after  
11 service of the order, a petition to vacate, modify, or  
12 reconsider shall comply with subsection (c) of Section  
13 2-1401 of the Code of Civil Procedure. Upon filing of a  
14 motion to vacate, modify, or reconsider, notice of the  
15 motion shall be served upon the petitioner and all parties  
16 entitled to notice of the petition.

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

26 (14) Compliance with Order Granting Petition to Seal

1 Records. Unless a court has entered a stay of an order  
2 granting a petition to seal, all parties entitled to notice  
3 of the petition must fully comply with the terms of the  
4 order within 60 days of service of the order even if a  
5 party is seeking relief from the order through a motion  
6 filed under paragraph (12) of this subsection (d) or is  
7 appealing the order.

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

17 (16) The changes to this subsection (d) made by Public  
18 Act 98-163 apply to all petitions pending on August 5, 2013  
19 (the effective date of Public Act 98-163) and to all orders  
20 ruling on a petition to expunge or seal on or after August  
21 5, 2013 (the effective date of Public Act 98-163).

22 (e) Whenever a person who has been convicted of an offense  
23 is granted a pardon by the Governor which specifically  
24 authorizes expungement, he or she may, upon verified petition  
25 to the Chief Judge of the circuit where the person had been  
26 convicted, any judge of the circuit designated by the Chief

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

23 (e-5) Whenever a person who has been convicted of an  
24 offense is granted a certificate of eligibility for sealing by  
25 the Prisoner Review Board which specifically authorizes  
26 sealing, he or she may, upon verified petition to the Chief

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



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

1 pertaining to that individual. Upon entry of the order of  
2 expungement, the circuit court clerk shall promptly mail a copy  
3 of the order to the person who was granted the certificate of  
4 eligibility for expungement.

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

17 (g) Immediate Expungement and Sealing.

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

24 (2) Eligible Records. Arrests or charges not initiated  
25 by arrest resulting in acquittal or dismissal with  
26 prejudice, except as excluded by subsection (a)(3)(B),

1 that occur on or after January 1, 2018 (the effective date  
2 of Public Act 100-282) ~~this amendatory Act of the 100th~~  
3 ~~General Assembly~~, may be expunged or sealed immediately if  
4 the petition is filed with the circuit court clerk on the  
5 same day and during the same hearing in which the case is  
6 disposed.

7 (3) When Records are Eligible to be Immediately  
8 Expunged or Sealed. Eligible records under paragraph (2) of  
9 this subsection (g) may be expunged or sealed immediately  
10 after entry of the final disposition of a case,  
11 notwithstanding the disposition of other charges in the  
12 same case.

13 (4) Notice of Eligibility for Immediate Expungement or  
14 Sealing. Upon entry of a disposition for an eligible record  
15 under this subsection (g), the defendant shall be informed  
16 by the court of his or her right to have eligible records  
17 immediately expunged or sealed and the procedure for the  
18 immediate expungement or sealing of these records.

19 (5) Procedure. The following procedures apply to  
20 immediate expungement and sealing under this subsection  
21 (g).

22 (A) Filing the Petition. Upon entry of the final  
23 disposition of the case, the defendant's attorney may  
24 immediately petition the court, on behalf of the  
25 defendant, for immediate expungement or sealing of  
26 eligible records under paragraph (2) of this

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

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

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

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

25 (E) Entry of Order. The presiding trial judge shall  
26 enter an order granting or denying the petition for

1 immediate expungement or sealing during the hearing in  
2 which it is filed. Petitions for immediate expungement  
3 or sealing shall be ruled on in the same hearing in  
4 which the final disposition of the case is entered.

5 (F) Hearings. The court shall hear the petition for  
6 immediate expungement or sealing on the same day and  
7 during the same hearing in which the disposition is  
8 rendered.

9 (G) Service of Order. An order to immediately  
10 expunge or seal eligible records shall be served in  
11 conformance with paragraph (8) of subsection (d) of  
12 this Section ~~subsection (d) (8)~~.

13 (H) Implementation of Order. An order to  
14 immediately expunge or seal records shall be  
15 implemented in conformance with item (d) (6) (B),  
16 (d) (9) (A) (i), (d) (9) (ii), (d) (9) (A) (iii), ~~subsections~~  
17 (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 paragraph (8) of subsection  
26 (d) of this Section ~~subsection (d) (8)~~.

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

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

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

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

1 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;  
2 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.  
3 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised  
4 10-13-17.)