



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5854

by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that whenever a person has been convicted of a felony or misdemeanor violation of the Cannabis Control Act, he or she may petition the circuit court to expunge the records of his or her arrest, charge not initiated by arrest, and conviction records for that offense, if and only if, criminal penalties for that offense are subsequently removed by law. Provides that these new provisions may be referred to as the Restoration Before Recreation Act.

LRB100 21173 RLC 37227 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 1. This Act may be referred to as the Restoration
5 Before Recreation Act.

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

8 (20 ILCS 2630/5.2)

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

10 (a) General Provisions.

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

14 (A) The following terms shall have the meanings
15 ascribed to them in the Unified Code of Corrections,
16 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

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

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

1 unsatisfactory termination is reversed, vacated, or
2 modified and the judgment of conviction, if any, is
3 reversed or vacated.

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

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

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

1 probation was imposed in his or her petition. If
2 multiple sentences, orders of supervision, or orders
3 of qualified probation terminate on the same day and
4 are last in time, they shall be collectively considered
5 the "last sentence" regardless of whether they were
6 ordered to run concurrently.

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

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

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

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

1 Public Act 89-313), Section 10-102 of the Illinois
2 Alcoholism and Other Drug Dependency Act, Section
3 40-10 of the Alcoholism and Other Drug Abuse and
4 Dependency Act, or Section 10 of the Steroid Control
5 Act. For the purpose of this Section, "successful
6 completion" of an order of qualified probation under
7 Section 10-102 of the Illinois Alcoholism and Other
8 Drug Dependency Act and Section 40-10 of the Alcoholism
9 and Other Drug Abuse and Dependency Act means that the
10 probation was terminated satisfactorily and the
11 judgment of conviction was vacated.

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

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

26 (M) "Terminate" as it relates to a sentence or

1 order of supervision or qualified probation includes
2 either satisfactory or unsatisfactory termination of
3 the sentence, unless otherwise specified in this
4 Section.

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

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

1 records of a person found in the circuit court to have
2 committed a civil law violation of subsection (a) of
3 Section 4 of the Cannabis Control Act or subsection (c) of
4 Section 3.5 of the Drug Paraphernalia Control Act in the
5 clerk's possession or control and which contains the final
6 satisfactory disposition which pertain to the person
7 issued a citation for any of those offenses.

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

11 (A) the sealing or expungement of the records of
12 arrests or charges not initiated by arrest that result
13 in an order of supervision for or conviction of: (i)
14 any sexual offense committed against a minor; (ii)
15 Section 11-501 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance; or (iii)
17 Section 11-503 of the Illinois Vehicle Code or a
18 similar provision of a local ordinance, unless the
19 arrest or charge is for a misdemeanor violation of
20 subsection (a) of Section 11-503 or a similar provision
21 of a local ordinance, that occurred prior to the
22 offender reaching the age of 25 years and the offender
23 has no other conviction for violating Section 11-501 or
24 11-503 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance.

26 (B) the sealing or expungement of records of minor

1 traffic offenses (as defined in subsection (a)(1)(G)),
2 unless the petitioner was arrested and released
3 without charging.

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

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

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

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

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

26 (v) any offense or attempted offense that

1 would subject a person to registration under the
2 Sex Offender Registration Act.

3 (D) (blank).

4 (b) Expungement.

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

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

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

25 (A) When the arrest or charge not initiated by
26 arrest sought to be expunged resulted in an acquittal,

1 dismissal, the petitioner's release without charging,
2 or the reversal or vacation of a conviction, there is
3 no waiting period to petition for the expungement of
4 such records.

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

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

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

1 Code or a similar provision of a local ordinance
2 shall not be eligible for expungement until the
3 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

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

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

14 (9) Whenever a person has been convicted of a felony or
15 misdemeanor violation of the Cannabis Control Act, he or
16 she may petition the circuit court to expunge the records
17 of his or her arrest, charge not initiated by arrest, and
18 conviction records for that offense, if and only if,
19 criminal penalties for that offense are subsequently
20 removed by law.

21 (c) Sealing.

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

1 provides for immediate sealing of certain records.

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

4 (A) All arrests resulting in release without
5 charging;

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

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

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

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

26 (F) Arrests or charges not initiated by arrest

1 resulting in felony convictions unless otherwise
2 excluded by subsection (a) paragraph (3) of this
3 Section.

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

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

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

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

26 (D) Records identified in subsection

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

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

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

1 offense, order the unsealing of prior felony conviction
2 records previously ordered sealed by the court.

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

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

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

23 (1.5) County fee waiver pilot program. In a county of
24 3,000,000 or more inhabitants, no fee shall be required to
25 be paid by a petitioner if the records sought to be
26 expunged or sealed were arrests resulting in release

1 without charging or arrests or charges not initiated by
2 arrest resulting in acquittal, dismissal, or conviction
3 when the conviction was reversed or vacated, unless
4 excluded by subsection (a)(3)(B). The provisions of this
5 paragraph (1.5), other than this sentence, are inoperative
6 on and after January 1, 2019 ~~or one year after January 1,~~
7 ~~2017 (the effective date of Public Act 99-881), whichever~~
8 ~~is later.~~

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

23 (3) Drug test. The petitioner must attach to the
24 petition proof that the petitioner has passed a test taken
25 within 30 days before the filing of the petition showing
26 the absence within his or her body of all illegal

1 substances as defined by the Illinois Controlled
2 Substances Act, the Methamphetamine Control and Community
3 Protection Act, and the Cannabis Control Act if he or she
4 is petitioning to:

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

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

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

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

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

20 (5) Objections.

21 (A) Any party entitled to notice of the petition
22 may file an objection to the petition. All objections
23 shall be in writing, shall be filed with the circuit
24 court clerk, and shall state with specificity the basis
25 of the objection. Whenever a person who has been
26 convicted of an offense is granted a pardon by the

1 Governor which specifically authorizes expungement, an
2 objection to the petition may not be filed.

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

6 (6) Entry of order.

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

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

20 (7) Hearings. If an objection is filed, the court shall
21 set a date for a hearing and notify the petitioner and all
22 parties entitled to notice of the petition of the hearing
23 date at least 30 days prior to the hearing. Prior to the
24 hearing, the State's Attorney shall consult with the
25 Department as to the appropriateness of the relief sought
26 in the petition to expunge or seal. At the hearing, the

1 court shall hear evidence on whether the petition should or
2 should not be granted, and shall grant or deny the petition
3 to expunge or seal the records based on the evidence
4 presented at the hearing. The court may consider the
5 following:

6 (A) the strength of the evidence supporting the
7 defendant's conviction;

8 (B) the reasons for retention of the conviction
9 records by the State;

10 (C) the petitioner's age, criminal record history,
11 and employment history;

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

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

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

26 (9) Implementation of order.

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

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

19 (iii) in response to an inquiry for expunged
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) Upon entry of an order to expunge records
25 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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 pursuant to 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 pursuant to paragraph (12) of subsection (d) of
20 this 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 such records
4 from anyone not authorized by law to access such
5 records, the court, the Department, or the agency
6 receiving such inquiry shall reply as it does in
7 response to inquiries when no records ever
8 existed.

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

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

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

26 (iii) the records shall be impounded by the

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

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

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

20 (C) Upon entry of an order to seal records under
21 subsection (c), the arresting agency, any other agency
22 as ordered by the court, the Department, and the court
23 shall seal the records (as defined in subsection
24 (a) (1) (K)). In response to an inquiry for such records,
25 from anyone not authorized by law to access such
26 records, the court, the Department, or the agency

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever existed.

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

18 (10) Fees. The Department may charge the petitioner a
19 fee equivalent to the cost of processing any order to
20 expunge or seal records. Notwithstanding any provision of
21 the Clerks of Courts Act to the contrary, the circuit court
22 clerk may charge a fee equivalent to the cost associated
23 with the sealing or expungement of records by the circuit
24 court clerk. From the total filing fee collected for the
25 petition to seal or expunge, the circuit court clerk shall
26 deposit \$10 into the Circuit Court Clerk Operation and

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

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

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

25 (13) Effect of Order. An order granting a petition
26 under the expungement or sealing provisions of this Section

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

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

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

25 (16) The changes to this subsection (d) made by Public
26 Act 98-163 apply to all petitions pending on August 5, 2013

1 (the effective date of Public Act 98-163) and to all orders
2 ruling on a petition to expunge or seal on or after August
3 5, 2013 (the effective date of Public Act 98-163).

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

1 have access to all sealed records of the Department pertaining
2 to that individual. Upon entry of the order of expungement, the
3 circuit court clerk shall promptly mail a copy of the order to
4 the person who was pardoned.

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

1 later arrest for the same or similar offense or for the purpose
2 of sentencing for any subsequent felony. Upon conviction for
3 any subsequent offense, the Department of Corrections shall
4 have access to all sealed records of the Department pertaining
5 to that individual. Upon entry of the order of sealing, the
6 circuit court clerk shall promptly mail a copy of the order to
7 the person who was granted the certificate of eligibility for
8 sealing.

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

1 court clerk before the entry of the order. All records sealed
2 by the Department may be disseminated by the Department only as
3 required by this Act or to the arresting authority, a law
4 enforcement agency, the State's Attorney, and the court upon a
5 later arrest for the same or similar offense or for the purpose
6 of sentencing for any subsequent felony. Upon conviction for
7 any subsequent offense, the Department of Corrections shall
8 have access to all expunged records of the Department
9 pertaining to that individual. Upon entry of the order of
10 expungement, the circuit court clerk shall promptly mail a copy
11 of the order to the person who was granted the certificate of
12 eligibility for expungement.

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

25 (g) Immediate Sealing.

26 (1) Applicability. Notwithstanding any other provision

1 of this Act to the contrary, and cumulative with any rights
2 to expungement or sealing of criminal records, this
3 subsection authorizes the immediate sealing of criminal
4 records of adults and of minors prosecuted as adults.

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

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

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

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

26 (A) Filing the Petition. Upon entry of the final

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

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

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

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

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

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

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

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

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

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

24 (K) Motion to Vacate, Modify, or Reconsider. Under
25 Section 2-1203 of the Code of Civil Procedure, the
26 petitioner, State's Attorney, or the Department of

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

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

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

23 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
24 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
25 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
26 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised

HB5854

- 38 -

LRB100 21173 RLC 37227 b

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