



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0049

Introduced 1/9/2019, 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.

LRB101 00191 SLF 45192 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 Substance Use Disorder Act, or Section 10
2 of the Steroid Control Act. For the purpose of this
3 Section, "successful completion" of an order of
4 qualified probation under Section 10-102 of the
5 Illinois Alcoholism and Other Drug Dependency Act and
6 Section 40-10 of the Substance Use Disorder Act means
7 that the probation was terminated satisfactorily and
8 the judgment of conviction was vacated.

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

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

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

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

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

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

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

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

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

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

1 without charging.

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

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

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

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

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

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

1 (D) (blank).

2 (b) Expungement.

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

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

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

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

1 no waiting period to petition for the expungement of
2 such records. 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 Substance Use Disorder Act, or Section 10 of the
5 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.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

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

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

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

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

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

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

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

10 (5) Objections.

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

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

22 (6) Entry of order.

23 (A) The Chief Judge of the circuit wherein the
24 charge was brought, any judge of that circuit
25 designated by the Chief Judge, or in counties of less
26 than 3,000,000 inhabitants, the presiding trial judge

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

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

10 (C) Notwithstanding any other provision of law,
11 the court shall not deny a petition for sealing under
12 this Section because the petitioner has not satisfied
13 an outstanding legal financial obligation established,
14 imposed, or originated by a court, law enforcement
15 agency, or a municipal, State, county, or other unit of
16 local government, including, but not limited to, any
17 cost, assessment, fine, or fee. An outstanding legal
18 financial obligation does not include any court
19 ordered restitution to a victim under Section 5-5-6 of
20 the Unified Code of Corrections, unless the
21 restitution has been converted to a civil judgment.
22 Nothing in this subparagraph (C) waives, rescinds, or
23 abrogates a legal financial obligation or otherwise
24 eliminates or affects the right of the holder of any
25 financial obligation to pursue collection under
26 applicable federal, State, or local law.

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

13 (A) the strength of the evidence supporting the
14 defendant's conviction;

15 (B) the reasons for retention of the conviction
16 records by the State;

17 (C) the petitioner's age, criminal record history,
18 and employment history;

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

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

24 (8) Service of order. After entering an order to
25 expunge or seal records, the court must provide copies of
26 the order to the Department, in a form and manner

1 prescribed by the Department, to the petitioner, to the
2 State's Attorney or prosecutor charged with the duty of
3 prosecuting the offense, to the arresting agency, to the
4 chief legal officer of the unit of local government
5 effecting the arrest, and to such other criminal justice
6 agencies as may be ordered by the court.

7 (9) Implementation of order.

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

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

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

26 (iii) in response to an inquiry for expunged

1 records, the court, the Department, or the agency
2 receiving such inquiry, shall reply as it does in
3 response to inquiries when no records ever
4 existed.

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

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

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

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

1 this Section;

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

10 (v) in response to an inquiry for such records
11 from anyone not authorized by law to access such
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-5) Upon entry of an order to expunge records
17 under subsection (e-6):

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 under 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 under paragraph (12) of subsection (d) of this
12 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 these records
22 from anyone not authorized by law to access the
23 records, the court, the Department, or the agency
24 receiving the inquiry shall reply as it does in
25 response to inquiries when no records ever
26 existed.

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

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

25 (E) Upon motion, the court may order that a sealed
26 judgment or other court record necessary to

1 demonstrate the amount of any legal financial
2 obligation due and owing be made available for the
3 limited purpose of collecting any legal financial
4 obligations owed by the petitioner that were
5 established, imposed, or originated in the criminal
6 proceeding for which those records have been sealed.
7 The records made available under this subparagraph (E)
8 shall not be entered into the official index required
9 to be kept by the circuit court clerk under Section 16
10 of the Clerks of Courts Act and shall be immediately
11 re-impounded upon the collection of the outstanding
12 financial obligations.

13 (F) Notwithstanding any other provision of this
14 Section, a circuit court clerk may access a sealed
15 record for the limited purpose of collecting payment
16 for any legal financial obligations that were
17 established, imposed, or originated in the criminal
18 proceedings for which those records have been sealed.

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

1 deposit \$10 into the Circuit Court Clerk Operation and
2 Administrative Fund, to be used to offset the costs
3 incurred by the circuit court clerk in performing the
4 additional duties required to serve the petition to seal or
5 expunge on all parties. The circuit court clerk shall
6 collect and forward the Department of State Police portion
7 of the fee to the Department and it shall be deposited in
8 the State Police Services Fund. If the record brought under
9 an expungement petition was previously sealed under this
10 Section, the fee for the expungement petition for that same
11 record shall be waived.

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

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

1 motion shall be served upon the petitioner and all parties
2 entitled to notice of the petition.

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

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

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

1 there is a final order on the motion for relief or, in the
2 case of an appeal, the issuance of that court's mandate.

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

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

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

9 (e-5) Whenever a person who has been convicted of an
10 offense is granted a certificate of eligibility for sealing by
11 the Prisoner Review Board which specifically authorizes
12 sealing, 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 sealing the record of arrest from the official records
18 of the arresting authority and order that the records of the
19 circuit court clerk and the Department be sealed until further
20 order of the court upon good cause shown or as otherwise
21 provided herein, and the name of the petitioner obliterated
22 from the official index requested to be kept by the circuit
23 court clerk under Section 16 of the Clerks of Courts Act in
24 connection with the arrest and conviction for the offense for
25 which he or she had been granted the certificate but the order
26 shall not affect any index issued by the circuit court clerk

1 before the entry of the order. All records sealed by the
2 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 sealed records of the Department pertaining
9 to that individual. Upon entry of the order of sealing, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was granted the certificate of eligibility for
12 sealing.

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

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

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

1 The study shall be made available to the General Assembly no
2 later than September 1, 2010.

3 (g) Immediate Expungement or Sealing.

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

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

18 (3) When Records are Eligible to be Immediately
19 Expunged or Sealed. Eligible records under paragraph (2) of
20 this subsection (g) may be expunged or sealed immediately
21 after entry of the final disposition of a case,
22 notwithstanding the disposition of other charges in the
23 same case.

24 (4) Notice of Eligibility for Immediate Expungement or
25 Sealing. Upon entry of a disposition for an eligible record
26 under this subsection (g), the defendant shall be informed

1 by the court of his or her right to have eligible records
2 immediately expunged or sealed and the procedure for the
3 immediate expungement or sealing of these records.

4 (5) Procedure. The following procedures apply to
5 immediate expungement or sealing under this subsection
6 (g).

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

22 (B) Contents of Petition. The immediate
23 expungement or sealing petition shall be verified and
24 shall contain the petitioner's name, date of birth,
25 current address, and for each eligible record, the case
26 number, the date of arrest if applicable, the identity

1 of the arresting authority if applicable, and other
2 information as the court may require.

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

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

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

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

19 (G) Service of Order. An order to immediately
20 expunge or seal eligible records shall be served in
21 conformance with paragraph (8) of subsection (d) of
22 this Section ~~subsection (d) (8)~~.

23 (H) Implementation of Order. An order to
24 immediately expunge or seal records shall be
25 implemented in conformance with subsections (d) (6) (B),
26 (d) (9) (A) (i), (d) (9) (A) (ii), (d) (9) (A) (iii),

1 (d) (9) (C), and (d) (9) (D).

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

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

10 (K) Motion to Vacate, Modify, or Reconsider. Under
11 Section 2-1203 of the Code of Civil Procedure, the
12 petitioner, State's Attorney, or the Department of
13 State Police may file a motion to vacate, modify, or
14 reconsider the order denying the petition to
15 immediately expunge or seal within 60 days of service
16 of the order. If filed more than 60 days after service
17 of the order, a petition to vacate, modify, or
18 reconsider shall comply with subsection (c) of Section
19 2-1401 of the Code of Civil Procedure.

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

1 or reconsider its terms based on a motion filed under
2 subparagraph (L) of this subsection (g).

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

9 (h) Sealing; trafficking victims.

10 (1) A trafficking victim as defined by paragraph (10)
11 of subsection (a) of Section 10-9 of the Criminal Code of
12 2012 shall be eligible to petition for immediate sealing of
13 his or her criminal record upon the completion of his or
14 her last sentence if his or her participation in the
15 underlying offense was a direct result of human trafficking
16 under Section 10-9 of the Criminal Code of 2012 or a severe
17 form of trafficking under the federal Trafficking Victims
18 Protection Act.

19 (2) A petitioner under this subsection (h), in addition
20 to the requirements provided under paragraph (4) of
21 subsection (d) of this Section, shall include in his or her
22 petition a clear and concise statement that: (A) he or she
23 was a victim of human trafficking at the time of the
24 offense; and (B) that his or her participation in the
25 offense was a direct result of human trafficking under
26 Section 10-9 of the Criminal Code of 2012 or a severe form

1 of trafficking under the federal Trafficking Victims
2 Protection Act.

3 (3) If an objection is filed alleging that the
4 petitioner is not entitled to immediate sealing under this
5 subsection (h), the court shall conduct a hearing under
6 paragraph (7) of subsection (d) of this Section and the
7 court shall determine whether the petitioner is entitled to
8 immediate sealing under this subsection (h). A petitioner
9 is eligible for immediate relief under this subsection (h)
10 if he or she shows, by a preponderance of the evidence,
11 that: (A) he or she was a victim of human trafficking at
12 the time of the offense; and (B) that his or her
13 participation in the offense was a direct result of human
14 trafficking under Section 10-9 of the Criminal Code of 2012
15 or a severe form of trafficking under the federal
16 Trafficking Victims Protection Act.

17 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
18 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
19 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
20 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692,
21 eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18;
22 100-863, eff. 8-14-18; revised 8-30-18.)