



Rep. Justin Slaughter

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1 AMENDMENT TO HOUSE BILL 2621

2 AMENDMENT NO. _____. Amend House Bill 2621 by replacing
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

1 (iii) Court (730 ILCS 5/5-1-6),
2 (iv) Defendant (730 ILCS 5/5-1-7),
3 (v) Felony (730 ILCS 5/5-1-9),
4 (vi) Imprisonment (730 ILCS 5/5-1-10),
5 (vii) Judgment (730 ILCS 5/5-1-12),
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),
7 (ix) Offense (730 ILCS 5/5-1-15),
8 (x) Parole (730 ILCS 5/5-1-16),
9 (xi) Petty Offense (730 ILCS 5/5-1-17),
10 (xii) Probation (730 ILCS 5/5-1-18),
11 (xiii) Sentence (730 ILCS 5/5-1-19),
12 (xiv) Supervision (730 ILCS 5/5-1-21), and
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated
15 by arrest" means a charge (as defined by 730 ILCS
16 5/5-1-3) brought against a defendant where the
17 defendant is not arrested prior to or as a direct
18 result of the charge.

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

1 successfully completed by the petitioner is not a
2 conviction. An order of supervision or an order of
3 qualified probation that is terminated
4 unsatisfactorily is a conviction, unless the
5 unsatisfactory termination is reversed, vacated, or
6 modified and the judgment of conviction, if any, is
7 reversed or vacated.

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

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

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in
2 any jurisdiction, regardless of whether the petitioner
3 has included the criminal offense for which the
4 sentence or order of supervision or qualified
5 probation was imposed in his or her petition. If
6 multiple sentences, orders of supervision, or orders
7 of qualified probation terminate on the same day and
8 are last in time, they shall be collectively considered
9 the "last sentence" regardless of whether they were
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,
12 business offense, or Class C misdemeanor under the
13 Illinois Vehicle Code or a similar provision of a
14 municipal or local ordinance.

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

20 (I) "Petitioner" means an adult or a minor
21 prosecuted as an adult who has applied for relief under
22 this Section.

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
2 of the Unified Code of Corrections, Section
3 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
4 those provisions existed before their deletion by
5 Public Act 89-313), Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section
7 40-10 of the Substance Use Disorder Act, or Section 10
8 of the Steroid Control Act. For the purpose of this
9 Section, "successful completion" of an order of
10 qualified probation under Section 10-102 of the
11 Illinois Alcoholism and Other Drug Dependency Act and
12 Section 40-10 of the Substance Use Disorder Act means
13 that the probation was terminated satisfactorily and
14 the judgment of conviction was vacated.

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

25 (L) "Sexual offense committed against a minor"
26 includes but is not limited to the offenses of indecent

1 solicitation of a child or criminal sexual abuse when
2 the victim of such offense is under 18 years of age.

3 (M) "Terminate" as it relates to a sentence or
4 order of supervision or qualified probation includes
5 either satisfactory or unsatisfactory termination of
6 the sentence, unless otherwise specified in this
7 Section. A sentence is terminated notwithstanding any
8 outstanding financial legal obligation.

9 (N) "Underlying conduct being later
10 decriminalized" means conduct previously classified as
11 a felony, misdemeanor, or petty offense that has
12 subsequently been reduced to a petty offense, reduced
13 to a civil law violation, or is no longer an offense or
14 violation under the laws of this State, unless the
15 expungement or sealing of that offense is otherwise
16 prohibited under State law.

17 (2) Minor Traffic Offenses. Orders of supervision or
18 convictions for minor traffic offenses shall not affect a
19 petitioner's eligibility to expunge or seal records
20 pursuant to this Section.

21 (2.5) Commencing 180 days after July 29, 2016 (the
22 effective date of Public Act 99-697), the law enforcement
23 agency issuing the citation shall automatically expunge,
24 on or before January 1 and July 1 of each year, the law
25 enforcement records of a person found to have committed a
26 civil law violation of subsection (a) of Section 4 of the

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

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

23 (A) the sealing or expungement of the records of
24 arrests or charges not initiated by arrest that result
25 in an order of supervision for or conviction of: (i)
26 any sexual offense committed against a minor; (ii)

1 Section 11-501 of the Illinois Vehicle Code or a
2 similar provision of a local ordinance; or (iii)
3 Section 11-503 of the Illinois Vehicle Code or a
4 similar provision of a local ordinance, unless the
5 arrest or charge is for a misdemeanor violation of
6 subsection (a) of Section 11-503 or a similar provision
7 of a local ordinance, that occurred prior to the
8 offender reaching the age of 25 years and the offender
9 has no other conviction for violating Section 11-501 or
10 11-503 of the Illinois Vehicle Code or a similar
11 provision of a local ordinance.

12 (B) the sealing or expungement of records of minor
13 traffic offenses (as defined in subsection (a)(1)(G)),
14 unless the petitioner was arrested and released
15 without charging.

16 (C) the sealing of the records of arrests or
17 charges not initiated by arrest which result in an
18 order of supervision or a conviction for the following
19 offenses:

20 (i) offenses included in Article 11 of the
21 Criminal Code of 1961 or the Criminal Code of 2012
22 or a similar provision of a local ordinance, except
23 Section 11-14 and a misdemeanor violation of
24 Section 11-30 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, or a similar provision of a
26 local ordinance;

1 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
2 26-5, or 48-1 of the Criminal Code of 1961 or the
3 Criminal Code of 2012, or a similar provision of a
4 local ordinance;

5 (iii) Sections 12-3.1 or 12-3.2 of the
6 Criminal Code of 1961 or the Criminal Code of 2012,
7 or Section 125 of the Stalking No Contact Order
8 Act, or Section 219 of the Civil No Contact Order
9 Act, or a similar provision of a local ordinance;

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

12 (v) any offense or attempted offense that
13 would subject a person to registration under the
14 Sex Offender Registration Act.

15 (D) (blank).

16 (b) Expungement.

17 (1) A petitioner may petition the circuit court to
18 expunge the records of his or her arrests and charges not
19 initiated by arrest when each arrest or charge not
20 initiated by arrest sought to be expunged resulted in: (i)
21 acquittal, dismissal, or the petitioner's release without
22 charging, unless excluded by subsection (a) (3) (B); (ii) a
23 conviction which was vacated or reversed, unless excluded
24 by subsection (a) (3) (B); (iii) an order of supervision and
25 such supervision was successfully completed by the
26 petitioner, unless excluded by subsection (a) (3) (A) or

1 (a) (3) (B); ~~or~~ (iv) an order of qualified probation (as
2 defined in subsection (a) (1) (J)) and such probation was
3 successfully completed by the petitioner; or (v) the
4 underlying conduct being later decriminalized.

5 (1.5) When a petitioner seeks to have a record of
6 arrest expunged under this Section, and the offender has
7 been convicted of a criminal offense, the State's Attorney
8 may object to the expungement on the grounds that the
9 records contain specific relevant information aside from
10 the mere fact of the arrest.

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

12 (A) When the arrest or charge not initiated by
13 arrest sought to be expunged resulted in an acquittal,
14 dismissal, the petitioner's release without charging,
15 or the reversal or vacation of a conviction, there is
16 no waiting period to petition for the expungement of
17 such records.

18 (B) When the arrest or charge not initiated by
19 arrest sought to be expunged resulted in an order of
20 supervision, successfully completed by the petitioner,
21 the following time frames will apply:

22 (i) Those arrests or charges that resulted in
23 orders of supervision under Section 3-707, 3-708,
24 3-710, or 5-401.3 of the Illinois Vehicle Code or a
25 similar provision of a local ordinance, or under
26 Section 11-1.50, 12-3.2, or 12-15 of the Criminal

1 Code of 1961 or the Criminal Code of 2012, or a
2 similar provision of a local ordinance, shall not
3 be eligible for expungement until 5 years have
4 passed following the satisfactory termination of
5 the supervision.

6 (i-5) Those arrests or charges that resulted
7 in orders of supervision for a misdemeanor
8 violation of subsection (a) of Section 11-503 of
9 the Illinois Vehicle Code or a similar provision of
10 a local ordinance, that occurred prior to the
11 offender reaching the age of 25 years and the
12 offender has no other conviction for violating
13 Section 11-501 or 11-503 of the Illinois Vehicle
14 Code or a similar provision of a local ordinance
15 shall not be eligible for expungement until the
16 petitioner has reached the age of 25 years.

17 (ii) Those arrests or charges that resulted in
18 orders of supervision for any other offenses shall
19 not be eligible for expungement until 2 years have
20 passed following the satisfactory termination of
21 the supervision.

22 (C) When the arrest or charge not initiated by
23 arrest sought to be expunged resulted in an order of
24 qualified probation, successfully completed by the
25 petitioner, such records shall not be eligible for
26 expungement until 5 years have passed following the

1 satisfactory termination of the probation.

2 (D) When the arrest, charge not initiated by
3 arrest, or conviction sought to be expunged resulted in
4 the underlying conduct being later decriminalized,
5 there is no waiting period to petition for the
6 expungement of such records.

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

11 (4) Whenever a person has been arrested for or
12 convicted of any offense, in the name of a person whose
13 identity he or she has stolen or otherwise come into
14 possession of, the aggrieved person from whom the identity
15 was stolen or otherwise obtained without authorization,
16 upon learning of the person having been arrested using his
17 or her identity, may, upon verified petition to the chief
18 judge of the circuit wherein the arrest was made, have a
19 court order entered nunc pro tunc by the Chief Judge to
20 correct the arrest record, conviction record, if any, and
21 all official records of the arresting authority, the
22 Department, other criminal justice agencies, the
23 prosecutor, and the trial court concerning such arrest, if
24 any, by removing his or her name from all such records in
25 connection with the arrest and conviction, if any, and by
26 inserting in the records the name of the offender, if known

1 or ascertainable, in lieu of the aggrieved's name. The
2 records of the circuit court clerk shall be sealed until
3 further order of the court upon good cause shown and the
4 name of the aggrieved person obliterated on the official
5 index required to be kept by the circuit court clerk under
6 Section 16 of the Clerks of Courts Act, but the order shall
7 not affect any index issued by the circuit court clerk
8 before the entry of the order. Nothing in this Section
9 shall limit the Department of State Police or other
10 criminal justice agencies or prosecutors from listing
11 under an offender's name the false names he or she has
12 used.

13 (5) Whenever a person has been convicted of criminal
14 sexual assault, aggravated criminal sexual assault,
15 predatory criminal sexual assault of a child, criminal
16 sexual abuse, or aggravated criminal sexual abuse, the
17 victim of that offense may request that the State's
18 Attorney of the county in which the conviction occurred
19 file a verified petition with the presiding trial judge at
20 the petitioner's trial to have a court order entered to
21 seal the records of the circuit court clerk in connection
22 with the proceedings of the trial court concerning that
23 offense. However, the records of the arresting authority
24 and the Department of State Police concerning the offense
25 shall not be sealed. The court, upon good cause shown,
26 shall make the records of the circuit court clerk in

1 connection with the proceedings of the trial court
2 concerning the offense available for public inspection.

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

11 (7) Nothing in this Section shall prevent the
12 Department of State Police from maintaining all records of
13 any person who is admitted to probation upon terms and
14 conditions and who fulfills those terms and conditions
15 pursuant to Section 10 of the Cannabis Control Act, Section
16 410 of the Illinois Controlled Substances Act, Section 70
17 of the Methamphetamine Control and Community Protection
18 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
19 Corrections, Section 12-4.3 or subdivision (b)(1) of
20 Section 12-3.05 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, Section 10-102 of the Illinois
22 Alcoholism and Other Drug Dependency Act, Section 40-10 of
23 the Substance Use Disorder Act, or Section 10 of the
24 Steroid Control Act.

25 (8) If the petitioner has been granted a certificate of
26 innocence under Section 2-702 of the Code of Civil

1 Procedure, the court that grants the certificate of
2 innocence shall also enter an order expunging the
3 conviction for which the petitioner has been determined to
4 be innocent as provided in subsection (h) of Section 2-702
5 of the Code of Civil Procedure.

6 (c) Sealing.

7 (1) Applicability. Notwithstanding any other provision
8 of this Act to the contrary, and cumulative with any rights
9 to expungement of criminal records, this subsection
10 authorizes the sealing of criminal records of adults and of
11 minors prosecuted as adults. Subsection (g) of this Section
12 provides for immediate sealing of certain records.

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

15 (A) All arrests resulting in release without
16 charging;

17 (B) Arrests or charges not initiated by arrest
18 resulting in acquittal, dismissal, or conviction when
19 the conviction was reversed or vacated, except as
20 excluded by subsection (a) (3) (B);

21 (C) Arrests or charges not initiated by arrest
22 resulting in orders of supervision, including orders
23 of supervision for municipal ordinance violations,
24 successfully completed by the petitioner, unless
25 excluded by subsection (a) (3);

26 (D) Arrests or charges not initiated by arrest

1 resulting in convictions, including convictions on
2 municipal ordinance violations, unless excluded by
3 subsection (a) (3);

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

11 (F) Arrests or charges not initiated by arrest
12 resulting in felony convictions unless otherwise
13 excluded by subsection (a) paragraph (3) of this
14 Section.

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

18 (A) Records identified as eligible under
19 subsection (c) (2) (A) and (c) (2) (B) may be sealed at any
20 time.

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

26 (C) Except as otherwise provided in subparagraph

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

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

14 (E) Records identified as eligible under
15 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
16 (c)(2)(F) may be sealed upon termination of the
17 petitioner's last sentence if the petitioner earned a
18 high school diploma, associate's degree, career
19 certificate, vocational technical certification, or
20 bachelor's degree, or passed the high school level Test
21 of General Educational Development, during the period
22 of his or her sentence, aftercare release, or mandatory
23 supervised release. This subparagraph shall apply only
24 to a petitioner who has not completed the same
25 educational goal prior to the period of his or her
26 sentence, aftercare release, or mandatory supervised

1 release. If a petition for sealing eligible records
2 filed under this subparagraph is denied by the court,
3 the time periods under subparagraph (B) or (C) shall
4 apply to any subsequent petition for sealing filed by
5 the petitioner.

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

14 (5) Notice of eligibility for sealing. Upon entry of a
15 disposition for an eligible record under this subsection
16 (c), the petitioner shall be informed by the court of the
17 right to have the records sealed and the procedures for the
18 sealing of the records.

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

22 (1) Filing the petition. Upon becoming eligible to
23 petition for the expungement or sealing of records under
24 this Section, the petitioner shall file a petition
25 requesting the expungement or sealing of records with the
26 clerk of the court where the arrests occurred or the

1 charges were brought, or both. If arrests occurred or
2 charges were brought in multiple jurisdictions, a petition
3 must be filed in each such jurisdiction. The petitioner
4 shall pay the applicable fee, except no fee shall be
5 required if the petitioner has obtained a court order
6 waiving fees under Supreme Court Rule 298 or it is
7 otherwise waived.

8 (1.5) County fee waiver pilot program. In a county of
9 3,000,000 or more inhabitants, no fee shall be required to
10 be paid by a petitioner if the records sought to be
11 expunged or sealed were arrests resulting in release
12 without charging or arrests or charges not initiated by
13 arrest resulting in acquittal, dismissal, or conviction
14 when the conviction was reversed or vacated, unless
15 excluded by subsection (a) (3) (B). The provisions of this
16 paragraph (1.5), other than this sentence, are inoperative
17 on and after January 1, 2019.

18 (2) Contents of petition. The petition shall be
19 verified and shall contain the petitioner's name, date of
20 birth, current address and, for each arrest or charge not
21 initiated by arrest sought to be sealed or expunged, the
22 case number, the date of arrest (if any), the identity of
23 the arresting authority, and such other information as the
24 court may require. During the pendency of the proceeding,
25 the petitioner shall promptly notify the circuit court
26 clerk of any change of his or her address. If the

1 petitioner has received a certificate of eligibility for
2 sealing from the Prisoner Review Board under paragraph (10)
3 of subsection (a) of Section 3-3-2 of the Unified Code of
4 Corrections, the certificate shall be attached to the
5 petition.

6 (3) Drug test. The petitioner must attach to the
7 petition proof that the petitioner has passed a test taken
8 within 30 days before the filing of the petition showing
9 the absence within his or her body of all illegal
10 substances as defined by the Illinois Controlled
11 Substances Act, the Methamphetamine Control and Community
12 Protection Act, and the Cannabis Control Act if he or she
13 is petitioning to:

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

15 (B) seal felony records for a violation of the
16 Illinois Controlled Substances Act, the
17 Methamphetamine Control and Community Protection Act,
18 or the Cannabis Control Act under clause (c) (2) (F);

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

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

22 (4) Service of petition. The circuit court clerk shall
23 promptly serve a copy of the petition and documentation to
24 support the petition under subsection (e-5) or (e-6) on the
25 State's Attorney or prosecutor charged with the duty of
26 prosecuting the offense, the Department of State Police,

1 the arresting agency and the chief legal officer of the
2 unit of local government effecting the arrest.

3 (5) Objections.

4 (A) Any party entitled to notice of the petition
5 may file an objection to the petition. All objections
6 shall be in writing, shall be filed with the circuit
7 court clerk, and shall state with specificity the basis
8 of the objection. Whenever a person who has been
9 convicted of an offense is granted a pardon by the
10 Governor which specifically authorizes expungement, an
11 objection to the petition may not be filed.

12 (B) Objections to a petition to expunge or seal
13 must be filed within 60 days of the date of service of
14 the petition.

15 (6) Entry of order.

16 (A) The Chief Judge of the circuit wherein the
17 charge was brought, any judge of that circuit
18 designated by the Chief Judge, or in counties of less
19 than 3,000,000 inhabitants, the presiding trial judge
20 at the petitioner's trial, if any, shall rule on the
21 petition to expunge or seal as set forth in this
22 subsection (d) (6).

23 (B) Unless the State's Attorney or prosecutor, the
24 Department of State Police, the arresting agency, or
25 the chief legal officer files an objection to the
26 petition to expunge or seal within 60 days from the

1 date of service of the petition, the court shall enter
2 an order granting or denying the petition.

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

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 (E) Upon motion, the court may order that a sealed
19 judgment or other court record necessary to
20 demonstrate the amount of any legal financial
21 obligation due and owing be made available for the
22 limited purpose of collecting any legal financial
23 obligations owed by the petitioner that were
24 established, imposed, or originated in the criminal
25 proceeding for which those records have been sealed.
26 The records made available under this subparagraph (E)

1 shall not be entered into the official index required
2 to be kept by the circuit court clerk under Section 16
3 of the Clerks of Courts Act and shall be immediately
4 re-impounded upon the collection of the outstanding
5 financial obligations.

6 (F) Notwithstanding any other provision of this
7 Section, a circuit court clerk may access a sealed
8 record for the limited purpose of collecting payment
9 for any legal financial obligations that were
10 established, imposed, or originated in the criminal
11 proceedings for which those records have been sealed.

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

1 the State Police Services Fund. If the record brought under
2 an expungement petition was previously sealed under this
3 Section, the fee for the expungement petition for that same
4 record shall be waived.

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

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

22 (13) Effect of Order. An order granting a petition
23 under the expungement or sealing provisions of this Section
24 shall not be considered void because it fails to comply
25 with the provisions of this Section or because of any error
26 asserted in a motion to vacate, modify, or reconsider. The

1 circuit court retains jurisdiction to determine whether
2 the order is voidable and to vacate, modify, or reconsider
3 its terms based on a motion filed under paragraph (12) of
4 this subsection (d).

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

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

22 (16) The changes to this subsection (d) made by Public
23 Act 98-163 apply to all petitions pending on August 5, 2013
24 (the effective date of Public Act 98-163) and to all orders
25 ruling on a petition to expunge or seal on or after August
26 5, 2013 (the effective date of Public Act 98-163).

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

1 the person who was pardoned.

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

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

1 enforcement agency, 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 expunged records of the Department
6 pertaining to that individual. Upon entry of the order of
7 expungement, the circuit court clerk shall promptly mail a copy
8 of the order to the person who was granted the certificate of
9 eligibility for expungement.

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

22 (g) Immediate Sealing.

23 (1) Applicability. Notwithstanding any other provision
24 of this Act to the contrary, and cumulative with any rights
25 to expungement or sealing of criminal records, this
26 subsection authorizes the immediate sealing of criminal

1 records of adults and of minors prosecuted as adults.

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

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

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

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

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

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

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

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

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

23 (E) Entry of Order. The presiding trial judge shall
24 enter an order granting or denying the petition for
25 immediate sealing during the hearing in which it is
26 filed. Petitions for immediate sealing shall be ruled

1 on in the same hearing in which the final disposition
2 of the case is entered.

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

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

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

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

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

20 (K) Motion to Vacate, Modify, or Reconsider. Under
21 Section 2-1203 of the Code of Civil Procedure, the
22 petitioner, State's Attorney, or the Department of
23 State Police may file a motion to vacate, modify, or
24 reconsider the order denying the petition to
25 immediately seal within 60 days of service of the
26 order. If filed more than 60 days after service of the

1 order, a petition to vacate, modify, or reconsider
2 shall comply with subsection (c) of Section 2-1401 of
3 the Code of Civil Procedure.

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

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

19 (h) Sealing; trafficking victims.

20 (1) A trafficking victim as defined by paragraph (10)
21 of subsection (a) of Section 10-9 of the Criminal Code of
22 2012 shall be eligible to petition for immediate sealing of
23 his or her criminal record upon the completion of his or
24 her last sentence if his or her participation in the
25 underlying offense was a direct result of human trafficking
26 under Section 10-9 of the Criminal Code of 2012 or a severe

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

3 (2) A petitioner under this subsection (h), in addition
4 to the requirements provided under paragraph (4) of
5 subsection (d) of this Section, shall include in his or her
6 petition a clear and concise statement that: (A) he or she
7 was a victim of human trafficking at the time of the
8 offense; and (B) that his or her participation in the
9 offense was a direct result of human trafficking under
10 Section 10-9 of the Criminal Code of 2012 or a severe form
11 of trafficking under the federal Trafficking Victims
12 Protection Act.

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

1 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
2 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
3 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
4 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692,
5 eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18;
6 100-863, eff. 8-14-18; revised 8-30-18.)".