

1 AN ACT in relation to courts.

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 and adding Sections 11, 12, and 13 as
6 follows:

7 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

8 Sec. 5. Arrest reports; expungement.

9 (a) All policing bodies of this State shall furnish to
10 the Department, daily, in the form and detail the Department
11 requires, fingerprints and descriptions of all persons who
12 are arrested on charges of violating any penal statute of
13 this State for offenses that are classified as felonies and
14 Class A or B misdemeanors and of all minors of the age of 10
15 and over who have been arrested for an offense which would be
16 a felony if committed by an adult, and may forward such
17 fingerprints and descriptions for minors arrested for Class A
18 or B misdemeanors. Moving or nonmoving traffic violations
19 under the Illinois Vehicle Code shall not be reported except
20 for violations of Chapter 4, Section 11-204.1, or Section
21 11-501 of that Code. In addition, conservation offenses, as
22 defined in the Supreme Court Rule 501(c), that are classified
23 as Class B misdemeanors shall not be reported.

24 Whenever an adult or minor prosecuted as an adult, not
25 having previously been convicted of any criminal offense or
26 municipal ordinance violation, charged with a violation of a
27 municipal ordinance or a felony or misdemeanor, is acquitted
28 or released without being convicted, whether the acquittal or
29 release occurred before, on, or after the effective date of
30 this amendatory Act of 1991, the Chief Judge of the circuit
31 wherein the charge was brought, any judge of that circuit

1 designated by the Chief Judge, or in counties of less than
2 3,000,000 inhabitants, the presiding trial judge at the
3 defendant's trial may upon verified petition of the defendant
4 order the record of arrest expunged from the official records
5 of the arresting authority and the Department and order that
6 the records of the clerk of the circuit court be sealed until
7 further order of the court upon good cause shown and the name
8 of the defendant obliterated on the official index required
9 to be kept by the circuit court clerk under Section 16 of the
10 Clerks of Courts Act, but the order shall not affect any
11 index issued by the circuit court clerk before the entry of
12 the order. The Department may charge the petitioner a fee
13 equivalent to the cost of processing any order to expunge or
14 seal the records, and the fee shall be deposited into the
15 State Police Services Fund. The records of those arrests,
16 however, that result in a disposition of supervision for any
17 offense shall not be expunged from the records of the
18 arresting authority or the Department nor impounded by the
19 court until 2 years after discharge and dismissal of
20 supervision. Those records that result from a supervision
21 for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or
22 11-503 of the Illinois Vehicle Code or a similar provision of
23 a local ordinance, or for a violation of Section 12-3.2,
24 12-15 or 16A-3 of the Criminal Code of 1961, or probation
25 under Section 10 of the Cannabis Control Act, Section 410 of
26 the Illinois Controlled Substances Act, Section 12-4.3(b)(1)
27 and (2) of the Criminal Code of 1961 (as those provisions
28 existed before their deletion by Public Act 89-313), Section
29 10-102 of the Illinois Alcoholism and Other Drug Dependency
30 Act when the judgment of conviction has been vacated, Section
31 40-10 of the Alcoholism and Other Drug Abuse and Dependency
32 Act when the judgment of conviction has been vacated, or
33 Section 10 of the Steroid Control Act shall not be expunged
34 from the records of the arresting authority nor impounded by

1 the court until 5 years after termination of probation or
2 supervision. Those records that result from a supervision
3 for a violation of Section 11-501 of the Illinois Vehicle
4 Code or a similar provision of a local ordinance, shall not
5 be expunged. All records set out above may be ordered by the
6 court to be expunged from the records of the arresting
7 authority and impounded by the court after 5 years, but shall
8 not be expunged by the Department, but shall, on court order
9 be sealed by the Department and may be disseminated by the
10 Department only as required by law or to the arresting
11 authority, the State's Attorney, and the court upon a later
12 arrest for the same or a similar offense or for the purpose
13 of sentencing for any subsequent felony. Upon conviction for
14 any offense, the Department of Corrections shall have access
15 to all sealed records of the Department pertaining to that
16 individual.

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

21 (b) Whenever a person has been convicted of a crime or
22 of the violation of a municipal ordinance, in the name of a
23 person whose identity he has stolen or otherwise come into
24 possession of, the aggrieved person from whom the identity
25 was stolen or otherwise obtained without authorization, upon
26 learning of the person having been arrested using his
27 identity, may, upon verified petition to the chief judge of
28 the circuit wherein the arrest was made, have a court order
29 entered nunc pro tunc by the chief judge to correct the
30 arrest record, conviction record, if any, and all official
31 records of the arresting authority, the Department, other
32 criminal justice agencies, the prosecutor, and the trial
33 court concerning such arrest, if any, by removing his name
34 from all such records in connection with the arrest and

1 conviction, if any, and by inserting in the records the name
2 of the offender, if known or ascertainable, in lieu of the
3 aggrieved's name. The records of the clerk of the circuit
4 court clerk shall be sealed until further order of the court
5 upon good cause shown and the name of the aggrieved person
6 obliterated on the official index required to be kept by the
7 circuit court clerk under Section 16 of the Clerks of Courts
8 Act, but the order shall not affect any index issued by the
9 circuit court clerk before the entry of the order. Nothing
10 in this Section shall limit the Department of State Police or
11 other criminal justice agencies or prosecutors from listing
12 under an offender's name the false names he or she has used.
13 For purposes of this Section, convictions for moving and
14 nonmoving traffic violations other than convictions for
15 violations of Chapter 4, Section 11-204.1 or Section 11-501
16 of the Illinois Vehicle Code shall not be a bar to expunging
17 the record of arrest and court records for violation of a
18 misdemeanor or municipal ordinance.

19 (c) Whenever a person who has been convicted of an
20 offense is granted a pardon by the Governor which
21 specifically authorizes expungement, he may, upon verified
22 petition to the chief judge of the circuit where the person
23 had been convicted, any judge of the circuit designated by
24 the Chief Judge, or in counties of less than 3,000,000
25 inhabitants, the presiding trial judge at the defendant's
26 trial, may have a court order entered expunging the record of
27 arrest from the official records of the arresting authority
28 and order that the records of the clerk of the circuit court
29 and the Department be sealed until further order of the court
30 upon good cause shown or as otherwise provided herein, and
31 the name of the defendant obliterated from the official index
32 requested to be kept by the circuit court clerk under Section
33 16 of the Clerks of Courts Act in connection with the arrest
34 and conviction for the offense for which he had been pardoned

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

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

28 (d) Notice of the petition for subsections (a), (b), and
29 (c) shall be served upon the State's Attorney or prosecutor
30 charged with the duty of prosecuting the offense, the
31 Department of State Police, the arresting agency and the
32 chief legal officer of the unit of local government affecting
33 the arrest. Unless the State's Attorney or prosecutor, the
34 Department of State Police, the arresting agency or such

1 chief legal officer objects to the petition within 30 days
2 from the date of the notice, the court shall enter an order
3 granting or denying the petition. The clerk of the court
4 shall promptly mail a copy of the order to the person, the
5 arresting agency, the prosecutor, the Department of State
6 Police and such other criminal justice agencies as may be
7 ordered by the judge.

8 (e) Nothing herein shall prevent the Department of State
9 Police from maintaining all records of any person who is
10 admitted to probation upon terms and conditions and who
11 fulfills those terms and conditions pursuant to Section 10 of
12 the Cannabis Control Act, Section 410 of the Illinois
13 Controlled Substances Act, Section 12-4.3 of the Criminal
14 Code of 1961, Section 10-102 of the Illinois Alcoholism and
15 Other Drug Dependency Act, Section 40-10 of the Alcoholism
16 and Other Drug Abuse and Dependency Act, or Section 10 of the
17 Steroid Control Act.

18 (f) No court order issued pursuant to the expungement
19 provisions of this Section shall become final for purposes of
20 appeal until 30 days after notice is received by the
21 Department. Any court order contrary to the provisions of
22 this Section is void.

23 (g) Except as otherwise provided in subsection (c-5) of
24 this Section, the court shall not order the sealing or
25 expungement of the arrest records and records of the circuit
26 court clerk of any person granted supervision for or
27 convicted of any sexual offense committed against a minor
28 under 18 years of age. For the purposes of this Section,
29 "sexual offense committed against a minor" includes but is
30 not limited to the offenses of indecent solicitation of a
31 child or criminal sexual abuse when the victim of such
32 offense is under 18 years of age.

33 (h) (1) Notwithstanding any other provision of this Act
34 to the contrary and cumulative with any rights to expungement

1 of criminal records, whenever an adult or minor prosecuted as
2 an adult charged with a violation of a municipal ordinance or
3 a misdemeanor is acquitted or released without being
4 convicted, or if the person is convicted but the conviction
5 is reversed, or if the person has been placed on supervision
6 for a misdemeanor and has not been convicted of a felony or
7 misdemeanor or placed on supervision for a misdemeanor within
8 3 years after the acquittal or release or reversal of
9 conviction, or the completion of the terms and conditions of
10 the supervision, if the acquittal, release, finding of not
11 guilty, or reversal of conviction occurred on or after the
12 effective date of this amendatory Act of the 93rd General
13 Assembly, the Chief Judge of the circuit in which the charge
14 was brought may have the official records of the arresting
15 authority, the Department, and the clerk of the circuit court
16 sealed 3 years after the dismissal of the charge, the finding
17 of not guilty, the reversal of conviction, or the completion
18 of the terms and conditions of the supervision, except those
19 records are subject to inspection and use by the court for
20 the purposes of subsequent sentencing for misdemeanor and
21 felony violations and inspection and use by law enforcement
22 agencies and State's Attorneys or other prosecutors in
23 carrying out the duties of their offices. This subsection
24 (h) does not apply to persons placed on supervision for: (1)
25 a violation of Section 11-501 of the Illinois Vehicle Code or
26 a similar provision of a local ordinance; (2) a misdemeanor
27 violation of Article 11 of the Criminal Code of 1961 or a
28 similar provision of a local ordinance; (3) a misdemeanor
29 violation of Section 12-15, 12-30, or 26-5 of the Criminal
30 Code of 1961 or a similar provision of a local ordinance; (4)
31 a misdemeanor violation that is a crime of violence as
32 defined in Section 2 of the Crime Victims Compensation Act or
33 a similar provision of a local ordinance; (5) a Class A
34 misdemeanor violation of the Humane Care for Animals Act; or

1 (6) any offense or attempted offense that would subject a
2 person to registration under the Sex Offender Registration
3 Act.

4 (2) Upon acquittal, release without conviction, or being
5 placed on supervision, the person charged with the offense
6 shall be informed by the court of the right to have the
7 records sealed and the procedures for the sealing of the
8 records. Three years after the dismissal of the charge, the
9 finding of not guilty, the reversal of conviction, or the
10 completion of the terms and conditions of the supervision,
11 the defendant shall provide the clerk of the court with a
12 notice of request for sealing of records and payment of the
13 applicable fee and a current address and shall promptly
14 notify the clerk of the court of any change of address. The
15 clerk shall promptly serve notice that the person's records
16 are to be sealed on the State's Attorney or prosecutor
17 charged with the duty of prosecuting the offense, the
18 Department of State Police, the arresting agency and the
19 chief legal officer of the unit of local government effecting
20 the arrest. Unless the State's Attorney or prosecutor, the
21 Department of State Police, the arresting agency or such
22 chief legal officer objects to sealing of the records within
23 90 days of notice the court shall enter an order sealing the
24 defendant's records 3 years after the dismissal of the
25 charge, the finding of not guilty, the reversal of
26 conviction, or the completion of the terms and conditions of
27 the supervision. The clerk of the court shall promptly serve
28 by mail or in person a copy of the order to the person, the
29 arresting agency, the prosecutor, the Department of State
30 Police and such other criminal justice agencies as may be
31 ordered by the judge. If an objection is filed, the court
32 shall set a date for hearing. At the hearing the court shall
33 hear evidence on whether the sealing of the records should or
34 should not be granted.

1 (3) The clerk may charge a fee equivalent to the cost
2 associated with the sealing of records by the clerk and the
3 Department of State Police. The clerk shall forward the
4 Department of State Police portion of the fee to the
5 Department and it shall be deposited into the State Police
6 Services Fund.

7 (4) Whenever sealing of records is required under this
8 subsection (h), the notification of the sealing must be given
9 by the circuit court where the arrest occurred to the
10 Department in a form and manner prescribed by the Department.

11 (5) An adult or a minor prosecuted as an adult who was
12 charged with a violation of a municipal ordinance or a
13 misdemeanor who was acquitted, released without being
14 convicted, convicted and the conviction was reversed, or
15 placed on supervision for a misdemeanor before the date of
16 this amendatory Act of the 93rd General Assembly and was not
17 convicted of a felony or misdemeanor or placed on supervision
18 for a misdemeanor for 3 years after the acquittal or release
19 or reversal of conviction, or completion of the terms and
20 conditions of the supervision may petition the Chief Judge of
21 the circuit in which the charge was brought, any judge of
22 that circuit in which the charge was brought, any judge of
23 the circuit designated by the Chief Judge, or, in counties of
24 less than 3,000,000 inhabitants, the presiding trial judge at
25 that defendant's trial, to seal the official records of the
26 arresting authority, the Department, and the clerk of the
27 court, except those records are subject to inspection and use
28 by the court for the purposes of subsequent sentencing for
29 misdemeanor and felony violations and inspection and use by
30 law enforcement agencies, the Department of Corrections, and
31 State's Attorneys and other prosecutors in carrying out the
32 duties of their offices. This subsection (h) does not apply
33 to persons placed on supervision for: (1) a violation of
34 Section 11-501 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance; (2) a misdemeanor violation
2 of Article 11 of the Criminal Code of 1961 or a similar
3 provision of a local ordinance; (3) a misdemeanor violation
4 of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961
5 or a similar provision of a local ordinance; (4) a
6 misdemeanor violation that is a crime of violence as defined
7 in Section 2 of the Crime Victims Compensation Act or a
8 similar provision of a local ordinance; (5) a Class A
9 misdemeanor violation of the Humane Care for Animals Act; or
10 (6) any offense or attempted offense that would subject a
11 person to registration under the Sex Offender Registration
12 Act. The State's Attorney or prosecutor charged with the
13 duty of prosecuting the offense, the Department of State
14 Police, the arresting agency and the chief legal officer of
15 the unit of local government effecting the arrest shall be
16 served with a copy of the verified petition and shall have 90
17 days to object. If an objection is filed, the court shall set
18 a date for hearing. At the hearing the court shall hear
19 evidence on whether the sealing of the records should or
20 should not be granted. The person whose records are sealed
21 under the provisions of this Act shall pay to the clerk of
22 the court and the Department of State Police a fee equivalent
23 to the cost associated with the sealing of records. The fees
24 shall be paid to the clerk of the court who shall forward the
25 appropriate portion to the Department at the time the court
26 order to seal the defendant's record is forwarded to the
27 Department for processing. The Department of State Police
28 portion of the fee shall be deposited into the State Police
29 Services Fund.

30 (i) (1) Notwithstanding any other provision of this Act
31 to the contrary and cumulative with any rights to expungement
32 of criminal records, whenever an adult or minor prosecuted as
33 an adult charged with a violation of a municipal ordinance or
34 a misdemeanor is convicted of a misdemeanor and has not been

1 convicted of a felony or misdemeanor or placed on supervision
2 for a misdemeanor within 4 years after the completion of the
3 sentence, if the conviction occurred on or after the
4 effective date of this amendatory Act of the 93rd General
5 Assembly, the Chief Judge of the circuit in which the charge
6 was brought may have the official records of the arresting
7 authority, the Department, and the clerk of the circuit court
8 sealed 4 years after the completion of the sentence, except
9 those records are subject to inspection and use by the court
10 for the purposes of subsequent sentencing for misdemeanor and
11 felony violations and inspection and use by law enforcement
12 agencies and State's Attorneys or other prosecutors in
13 carrying out the duties of their offices. This subsection
14 (i) does not apply to persons convicted of: (1) a violation
15 of Section 11-501 of the Illinois Vehicle Code or a similar
16 provision of a local ordinance; (2) a misdemeanor violation
17 of Article 11 of the Criminal Code of 1961 or a similar
18 provision of a local ordinance; (3) a misdemeanor violation
19 of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961
20 or a similar provision of a local ordinance; (4) a
21 misdemeanor violation that is a crime of violence as defined
22 in Section 2 of the Crime Victims Compensation Act or a
23 similar provision of a local ordinance; (5) a Class A
24 misdemeanor violation of the Humane Care for Animals Act; or
25 (6) any offense or attempted offense that would subject a
26 person to registration under the Sex Offender Registration
27 Act.

28 (2) Upon the conviction of such offense, the person
29 charged with the offense shall be informed by the court of
30 the right to have the records sealed and the procedures for
31 the sealing of the records. Four years after the completion
32 of the sentence, the defendant shall provide the clerk of the
33 court with a notice of request for sealing of records and
34 payment of the applicable fee and a current address and shall

1 promptly notify the clerk of the court of any change of
2 address. The clerk shall promptly serve notice that the
3 person's records are to be sealed on the State's Attorney or
4 prosecutor charged with the duty of prosecuting the offense,
5 the Department of State Police, the arresting agency and the
6 chief legal officer of the unit of local government effecting
7 the arrest. Unless the State's Attorney or prosecutor, the
8 Department of State Police, the arresting agency or such
9 chief legal officer objects to sealing of the records within
10 90 days of notice the court shall enter an order sealing the
11 defendant's records 4 years after the completion of the
12 sentence. The clerk of the court shall promptly serve by mail
13 or in person a copy of the order to the person, the arresting
14 agency, the prosecutor, the Department of State Police and
15 such other criminal justice agencies as may be ordered by the
16 judge. If an objection is filed, the court shall set a date
17 for hearing. At the hearing the court shall hear evidence on
18 whether the sealing of the records should or should not be
19 granted.

20 (3) The clerk may charge a fee equivalent to the cost
21 associated with the sealing of records by the clerk and the
22 Department of State Police. The clerk shall forward the
23 Department of State Police portion of the fee to the
24 Department and it shall be deposited into the State Police
25 Services Fund.

26 (4) Whenever sealing of records is required under this
27 subsection (i), the notification of the sealing must be given
28 by the circuit court where the arrest occurred to the
29 Department in a form and manner prescribed by the Department.

30 (5) An adult or a minor prosecuted as an adult who was
31 charged with a violation of a municipal ordinance or a
32 misdemeanor who was convicted of a misdemeanor before the
33 date of this amendatory Act of the 93rd General Assembly and
34 was not convicted of a felony or misdemeanor or placed on

1 supervision for a misdemeanor for 4 years after the
2 completion of the sentence may petition the Chief Judge of
3 the circuit in which the charge was brought, any judge of
4 that circuit in which the charge was brought, any judge of
5 the circuit designated by the Chief Judge, or, in counties of
6 less than 3,000,000 inhabitants, the presiding trial judge at
7 that defendant's trial, to seal the official records of the
8 arresting authority, the Department, and the clerk of the
9 court, except those records are subject to inspection and use
10 by the court for the purposes of subsequent sentencing for
11 misdemeanor and felony violations and inspection and use by
12 law enforcement agencies, the Department of Corrections, and
13 State's Attorneys and other prosecutors in carrying out the
14 duties of their offices. This subsection (i) does not apply
15 to persons convicted of: (1) a violation of Section 11-501 of
16 the Illinois Vehicle Code or a similar provision of a local
17 ordinance; (2) a misdemeanor violation of Article 11 of the
18 Criminal Code of 1961 or a similar provision of a local
19 ordinance; (3) a misdemeanor violation of Section 12-15,
20 12-30, or 26-5 of the Criminal Code of 1961 or a similar
21 provision of a local ordinance; (4) a misdemeanor violation
22 that is a crime of violence as defined in Section 2 of the
23 Crime Victims Compensation Act or a similar provision of a
24 local ordinance; (5) a Class A misdemeanor violation of the
25 Humane Care for Animals Act; or (6) any offense or attempted
26 offense that would subject a person to registration under the
27 Sex Offender Registration Act. The State's Attorney or
28 prosecutor charged with the duty of prosecuting the offense,
29 the Department of State Police, the arresting agency and the
30 chief legal officer of the unit of local government effecting
31 the arrest shall be served with a copy of the verified
32 petition and shall have 90 days to object. If an objection is
33 filed, the court shall set a date for hearing. At the hearing
34 the court shall hear evidence on whether the sealing of the

1 records should or should not be granted. The person whose
2 records are sealed under the provisions of this Act shall pay
3 to the clerk of the court and the Department of State Police
4 a fee equivalent to the cost associated with the sealing of
5 records. The fees shall be paid to the clerk of the court who
6 shall forward the appropriate portion to the Department at
7 the time the court order to seal the defendant's record is
8 forwarded to the Department for processing. The Department of
9 State Police portion of the fee shall be deposited into the
10 State Police Services Fund.

11 (Source: P.A. 91-295, eff. 1-1-00; 91-357, eff. 7-29-99;
12 92-651, eff. 7-11-02.)

13 (20 ILCS 2630/11 new)

14 Sec. 11. Legal assistance and education. Subject to
15 appropriation, the State Appellate Defender shall establish,
16 maintain, and carry out a sealing and expungement program to
17 provide information to persons eligible to have their arrest
18 or criminal history records expunged or sealed.

19 (20 ILCS 2630/12 new)

20 Sec. 12. Entry of order; effect of expungement or
21 sealing.

22 (a) Except with respect to law enforcement agencies, the
23 Department of Corrections, State's Attorneys, or other
24 prosecutors, an expunged or sealed record may not be
25 considered by any private or public entity in employment
26 matters, certification, licensing, revocation of
27 certification or licensure, or registration. Applications for
28 employment must contain specific language which states that
29 the applicant is not obligated to disclose sealed or expunged
30 records of conviction or arrest. Employers may not ask if an
31 applicant has had records expunged or sealed.

32 (b) A person whose records have been sealed or expunged

1 is not entitled to remission of any fines, costs, or other
2 money paid as a consequence of the sealing or expungement.
3 This amendatory Act of the 93rd General Assembly does not
4 affect the right of the victim of a crime to prosecute or
5 defend a civil action for damages. Persons engaged in civil
6 litigation involving criminal records that have been sealed
7 may petition the court to open the records for the limited
8 purpose of using them in the course of litigation.

9 (20 ILCS 2630/13 new)

10 Sec. 13. Prohibited conduct; misdemeanor; penalty.

11 (a) The Department of State Police shall retain records
12 sealed under subsections (h) and (i) of Section 5. The sealed
13 records shall be used and disseminated by the Department only
14 as allowed by law. Upon conviction for any offense, the
15 Department of Corrections shall have access to all sealed
16 records of the Department pertaining to that individual.

17 (b) The sealed records maintained under subsection (a)
18 are exempt from disclosure under the Freedom of Information
19 Act.