



Filed: 5/14/2004

09300SB3007ham002

LRB093 21097 RLC 51122 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007, AS AMENDED,
3 by replacing paragraph (1) of subsection (h) of Sec. 5 of
4 Section 5 with the following:

5 "(h) (1) Notwithstanding any other provision of this Act to
6 the contrary and cumulative with any rights to expungement of
7 criminal records, the Chief Judge of the circuit in which the
8 charge or charges were brought may have the official records of
9 the charges and disposition that are held by the arresting
10 authority, the Department, and the clerk of the circuit court
11 regarding an adult or minor prosecuted as an adult sealed if
12 the adult or minor prosecuted as an adult was:

13 (A) charged with one or more municipal ordinance
14 violations or misdemeanors, and thereafter was either
15 acquitted or released without being convicted; or

16 (B) regardless of the original charge or charges,
17 placed on misdemeanor supervision; and

18 (i) at least 3 years have elapsed since the
19 completion of the term of supervision for the last such
20 event; and

21 (ii) the individual has not been convicted of a
22 felony or misdemeanor or placed on supervision for a
23 misdemeanor during the period specified in clause (i);
24 or

25 (C) regardless of the original charge or charges,
26 placed on misdemeanor supervision or convicted of a

1 municipal ordinance violation or a misdemeanor and the
2 conviction was reversed.

3 However, all such records are nonetheless subject to
4 inspection and use by the court and inspection and use by law
5 enforcement agencies and State's Attorneys or other
6 prosecutors in carrying out the duties of their offices.

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

1 ordinance; (2) a misdemeanor violation of Article 11 of the
2 Criminal Code of 1961 or a similar provision of a local
3 ordinance; (3) a misdemeanor violation of Section 12-15, 12-30,
4 or 26-5 of the Criminal Code of 1961 or a similar provision of
5 a local ordinance; (4) a misdemeanor violation that is a crime
6 of violence as defined in Section 2 of the Crime Victims
7 Compensation Act or a similar provision of a local ordinance;
8 (5) a Class A misdemeanor violation of the Humane Care for
9 Animals Act; or (6) any offense or attempted offense that would
10 subject a person to registration under the Sex Offender
11 Registration Act."; and

12 by replacing paragraph (1) of subsection (i) of Sec. 5 of
13 Section 5 with the following:

14 "(i) (1) Notwithstanding any other provision of this Act to
15 the contrary and cumulative with any rights to expungement of
16 criminal records, the Chief Judge of the circuit in which the
17 charge or charges were brought may have the official records of
18 the charges and disposition that are held by the arresting
19 authority, the Department, and the clerk of the circuit court
20 regarding an adult or minor prosecuted as an adult sealed if:

21 (A) the adult or minor prosecuted as an adult has been
22 convicted of one or more municipal ordinance violations or
23 misdemeanors; and

24 (B) at least 4 years have elapsed since the last such
25 conviction or term of any sentence, probation, or
26 supervision, if any; and

27 (C) the individual, since the last such conviction or
28 term of any sentence, probation or supervision, if any, has
29 not been convicted of a felony or misdemeanor or placed on
30 supervision for a misdemeanor.

31 However, all such records are nonetheless subject to
32 inspection and use by the court and inspection and use by law
33 enforcement agencies and State's Attorneys or other

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

1 in subsection (j) of Sec. 5 of Section 5, by inserting after
2 "met." the following:

3 "A person filing a petition to have his or her records sealed
4 for a Class 4 felony violation of Section 4 of the Cannabis
5 Control Act or for a Class 4 felony violation of Section 402 of
6 the Illinois Controlled Substances Act must attach to the
7 petition proof that the petitioner has passed a test taken
8 within the previous 30 days before the filing of the petition
9 showing the absence within his or her body of all illegal
10 substances in violation of either the Illinois Controlled
11 Substances Act or the Cannabis Control Act."; and

12 by inserting after the last line of subsection (k) of Sec. 5 of
13 Section 5 the following:

14 "(l) Criminal history records sealed as prescribed in
15 subsections (h), (i), and (j) shall not remain sealed to
16 employers, authorizing bodies, and government agencies when
17 State or federal law or regulation would otherwise prohibit
18 employment or licensure by the person had his or her criminal
19 history records not been sealed. A felony record of arrest or
20 conviction shall not be sealed until the Department of State
21 Police has implemented the system to provide these records,
22 which shall be accomplished in no more than one year from the
23 effective date of this amendatory Act of the 93rd General
24 Assembly. Subject to the approval by the Illinois Commerce
25 Commission, an amount not to exceed \$885,000 shall be
26 transferred from the Digital Divide Elimination Infrastructure
27 Fund to the State Police Services Fund for the purpose of
28 establishing the computer system necessary for the
29 implementation of this amendatory Act of the 93rd General
30 Assembly."; and

31 by relettering subsection "(l)" of Sec. 5 of Section 5 as
32 subsection "(m)"; and

1 in the relettered subsection (m), by replacing "The Illinois
2 Department of Corrections shall conduct" with "Subject to
3 available funding, the Illinois Department of Corrections
4 shall conduct".