



Rep. Constance A. Howard

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LRB095 09795 RLC 48000 a

1 AMENDMENT TO HOUSE BILL 1831

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1831, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Criminal Identification Act is amended by  
6 changing Section 5 and by adding Section 6 as 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 the  
10 Department, daily, in the form and detail the Department  
11 requires, fingerprints and descriptions of all persons who are  
12 arrested on charges of violating any penal statute of this  
13 State for offenses that are classified as felonies and Class A  
14 or B misdemeanors and of all minors of the age of 10 and over  
15 who have been arrested for an offense which would be a felony  
16 if committed by an adult, and may forward such fingerprints and

1 descriptions for minors arrested for Class A or B misdemeanors.  
2 Moving or nonmoving traffic violations under the Illinois  
3 Vehicle Code shall not be reported except for violations of  
4 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In  
5 addition, conservation offenses, as defined in the Supreme  
6 Court Rule 501(c), that are classified as Class B misdemeanors  
7 shall not be reported.

8 ~~Whenever an adult or minor prosecuted as an adult, not~~  
9 ~~having previously been convicted of any criminal offense or~~  
10 ~~municipal ordinance violation, charged with a violation of a~~  
11 ~~municipal ordinance or a felony or misdemeanor, is acquitted or~~  
12 ~~released without being convicted, whether the acquittal or~~  
13 ~~release occurred before, on, or after the effective date of~~  
14 ~~this amendatory Act of 1991, the Chief Judge of the circuit~~  
15 ~~wherein the charge was brought, any judge of that circuit~~  
16 ~~designated by the Chief Judge, or in counties of less than~~  
17 ~~3,000,000 inhabitants, the presiding trial judge at the~~  
18 ~~defendant's trial may upon verified petition of the defendant~~  
19 ~~order the record of arrest expunged from the official records~~  
20 ~~of the arresting authority and the Department and order that~~  
21 ~~the records of the clerk of the circuit court be sealed until~~  
22 ~~further order of the court upon good cause shown and the name~~  
23 ~~of the defendant obliterated on the official index required to~~  
24 ~~be kept by the circuit court clerk under Section 16 of the~~  
25 ~~Clerks of Courts Act, but the order shall not affect any index~~  
26 ~~issued by the circuit court clerk before the entry of the~~

1 ~~order. The Department may charge the petitioner a fee~~  
2 ~~equivalent to the cost of processing any order to expunge or~~  
3 ~~seal the records, and the fee shall be deposited into the State~~  
4 ~~Police Services Fund. The records of those arrests, however,~~  
5 ~~that result in a disposition of supervision for any offense~~  
6 ~~shall not be expunged from the records of the arresting~~  
7 ~~authority or the Department nor impounded by the court until 2~~  
8 ~~years after discharge and dismissal of supervision. Those~~  
9 ~~records that result from a supervision for a violation of~~  
10 ~~Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois~~  
11 ~~Vehicle Code or a similar provision of a local ordinance, or~~  
12 ~~for a violation of Section 12-3.2, 12-15 or 16A-3 of the~~  
13 ~~Criminal Code of 1961, or probation under Section 10 of the~~  
14 ~~Cannabis Control Act, Section 410 of the Illinois Controlled~~  
15 ~~Substances Act, Section 70 of the Methamphetamine Control and~~  
16 ~~Community Protection Act, Section 12-4.3(b)(1) and (2) of the~~  
17 ~~Criminal Code of 1961 (as those provisions existed before their~~  
18 ~~deletion by Public Act 89-313), Section 10-102 of the Illinois~~  
19 ~~Alcoholism and Other Drug Dependency Act when the judgment of~~  
20 ~~conviction has been vacated, Section 40-10 of the Alcoholism~~  
21 ~~and Other Drug Abuse and Dependency Act when the judgment of~~  
22 ~~conviction has been vacated, or Section 10 of the Steroid~~  
23 ~~Control Act shall not be expunged from the records of the~~  
24 ~~arresting authority nor impounded by the court until 5 years~~  
25 ~~after termination of probation or supervision. Those records~~  
26 ~~that result from a supervision for a violation of Section~~

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

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

17 ~~(b) Whenever a person has been convicted of a crime or of~~  
18 ~~the violation of a municipal ordinance, in the name of a person~~  
19 ~~whose identity he has stolen or otherwise come into possession~~  
20 ~~of, the aggrieved person from whom the identity was stolen or~~  
21 ~~otherwise obtained without authorization, upon learning of the~~  
22 ~~person having been arrested using his identity, may, upon~~  
23 ~~verified petition to the chief judge of the circuit wherein the~~  
24 ~~arrest was made, have a court order entered nunc pro tunc by~~  
25 ~~the chief judge to correct the arrest record, conviction~~  
26 ~~record, if any, and all official records of the arresting~~

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

22 ~~(c) Whenever a person who has been convicted of an offense~~  
23 ~~is granted a pardon by the Governor which specifically~~  
24 ~~authorizes expungement, he may, upon verified petition to the~~  
25 ~~chief judge of the circuit where the person had been convicted,~~  
26 ~~any judge of the circuit designated by the Chief Judge, or in~~

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

24 ~~(c-5) Whenever a person has been convicted of criminal~~  
25 ~~sexual assault, aggravated criminal sexual assault, predatory~~  
26 ~~criminal sexual assault of a child, criminal sexual abuse, or~~

1 ~~aggravated criminal sexual abuse, the victim of that offense~~  
2 ~~may request that the State's Attorney of the county in which~~  
3 ~~the conviction occurred file a verified petition with the~~  
4 ~~presiding trial judge at the defendant's trial to have a court~~  
5 ~~order entered to seal the records of the clerk of the circuit~~  
6 ~~court in connection with the proceedings of the trial court~~  
7 ~~concerning that offense. However, the records of the arresting~~  
8 ~~authority and the Department of State Police concerning the~~  
9 ~~offense shall not be sealed. The court, upon good cause shown,~~  
10 ~~shall make the records of the clerk of the circuit court in~~  
11 ~~connection with the proceedings of the trial court concerning~~  
12 ~~the offense available for public inspection.~~

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

19 ~~(d) Notice of the petition for subsections (a), (b), and~~  
20 ~~(c) shall be served upon the State's Attorney or prosecutor~~  
21 ~~charged with the duty of prosecuting the offense, the~~  
22 ~~Department of State Police, the arresting agency and the chief~~  
23 ~~legal officer of the unit of local government affecting the~~  
24 ~~arrest. Unless the State's Attorney or prosecutor, the~~  
25 ~~Department of State Police, the arresting agency or such chief~~  
26 ~~legal officer objects to the petition within 30 days from the~~

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

6 ~~(e) Nothing herein shall prevent the Department of State~~  
7 ~~Police from maintaining all records of any person who is~~  
8 ~~admitted to probation upon terms and conditions and who~~  
9 ~~fulfills those terms and conditions pursuant to Section 10 of~~  
10 ~~the Cannabis Control Act, Section 410 of the Illinois~~  
11 ~~Controlled Substances Act, Section 70 of the Methamphetamine~~  
12 ~~Control and Community Protection Act, Section 12-4.3 of the~~  
13 ~~Criminal Code of 1961, Section 10-102 of the Illinois~~  
14 ~~Alcoholism and Other Drug Dependency Act, Section 40-10 of the~~  
15 ~~Alcoholism and Other Drug Abuse and Dependency Act, or Section~~  
16 ~~10 of the Steroid Control Act.~~

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

21 ~~(g) Except as otherwise provided in subsection (c-5) of~~  
22 ~~this Section, the court shall not order the sealing or~~  
23 ~~expungement of the arrest records and records of the circuit~~  
24 ~~court clerk of any person granted supervision for or convicted~~  
25 ~~of any sexual offense committed against a minor under 18 years~~  
26 ~~of age. For the purposes of this Section, "sexual offense~~



1 ~~committed against a minor" includes but is not limited to the~~  
2 ~~offenses of indecent solicitation of a child or criminal sexual~~  
3 ~~abuse when the victim of such offense is under 18 years of age.~~

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

9 ~~(2) Sealable offenses. The following offenses may be~~  
10 ~~sealed:~~

11 ~~(A) All municipal ordinance violations and~~  
12 ~~misdemeanors, with the exception of the following:~~

13 ~~(i) violations of Section 11-501 of the Illinois~~  
14 ~~Vehicle Code or a similar provision of a local~~  
15 ~~ordinance;~~

16 ~~(ii) violations of Article 11 of the Criminal Code~~  
17 ~~of 1961 or a similar provision of a local ordinance,~~  
18 ~~except Section 11-14 of the Criminal Code of 1961 as~~  
19 ~~provided in clause B(i) of this subsection (h);~~

20 ~~(iii) violations of Section 12-15, 12-30, or 26-5~~  
21 ~~of the Criminal Code of 1961 or a similar provision of~~  
22 ~~a local ordinance;~~

23 ~~(iv) violations that are a crime of violence as~~  
24 ~~defined in Section 2 of the Crime Victims Compensation~~  
25 ~~Act or a similar provision of a local ordinance;~~

26 ~~(v) Class A misdemeanor violations of the Humane~~

1 ~~Care for Animals Act; and~~

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

5 ~~(B) Misdemeanor and Class 4 felony violations of:~~

6 ~~(i) Section 11-14 of the Criminal Code of 1961;~~

7 ~~(ii) Section 4 of the Cannabis Control Act;~~

8 ~~(iii) Section 402 of the Illinois Controlled~~  
9 ~~Substances Act; and~~

10 ~~(iv) Section 60 of the Methamphetamine Control and~~  
11 ~~Community Protection Act.~~

12 ~~However, for purposes of this subsection (h), a~~  
13 ~~sentence of first offender probation under Section 10 of~~  
14 ~~the Cannabis Control Act, Section 410 of the Illinois~~  
15 ~~Controlled Substances Act, or Section 70 of the~~  
16 ~~Methamphetamine Control and Community Protection Act shall~~  
17 ~~be treated as a Class 4 felony conviction.~~

18 ~~(3) Requirements for sealing. Records identified as~~  
19 ~~sealable under clause (h) (2) may be sealed when the individual~~  
20 ~~was:~~

21 ~~(A) Acquitted of the offense or offenses or released~~  
22 ~~without being convicted.~~

23 ~~(B) Convicted of the offense or offenses and the~~  
24 ~~conviction or convictions were reversed.~~

25 ~~(C) Placed on misdemeanor supervision for an offense or~~  
26 ~~offenses; and~~

1           ~~(i) at least 3 years have elapsed since the~~  
2 ~~completion of the term of supervision, or terms of~~  
3 ~~supervision, if more than one term has been ordered;~~  
4 ~~and~~

5           ~~(ii) the individual has not been convicted of a~~  
6 ~~felony or misdemeanor or placed on supervision for a~~  
7 ~~misdemeanor or felony during the period specified in~~  
8 ~~clause (i).~~

9 ~~(D) Convicted of an offense or offenses; and~~

10           ~~(i) at least 4 years have elapsed since the last~~  
11 ~~such conviction or term of any sentence, probation,~~  
12 ~~parole, or supervision, if any, whichever is last in~~  
13 ~~time; and~~

14           ~~(ii) the individual has not been convicted of a~~  
15 ~~felony or misdemeanor or placed on supervision for a~~  
16 ~~misdemeanor or felony during the period specified in~~  
17 ~~clause (i).~~

18           ~~(4) Requirements for sealing of records when more than one~~  
19 ~~charge and disposition have been filed. When multiple offenses~~  
20 ~~are petitioned to be sealed under this subsection (h), the~~  
21 ~~requirements of the relevant provisions of clauses (h) (3) (A)~~  
22 ~~through (D) each apply. In instances in which more than one~~  
23 ~~waiting period is applicable under clauses (h) (C) (i) and (ii)~~  
24 ~~and (h) (D) (i) and (ii), the longer applicable period applies,~~  
25 ~~and the requirements of clause (h) (3) shall be considered met~~  
26 ~~when the petition is filed after the passage of the longer~~

1 ~~applicable waiting period. That period commences on the date of~~  
2 ~~the completion of the last sentence or the end of supervision,~~  
3 ~~probation, or parole, whichever is last in time.~~

4 ~~(5) Subsequent convictions. A person may not have~~  
5 ~~subsequent felony conviction records sealed as provided in this~~  
6 ~~subsection (h) if he or she is convicted of any felony offense~~  
7 ~~after the date of the sealing of prior felony records as~~  
8 ~~provided in this subsection (h).~~

9 ~~(6) Notice of eligibility for sealing. Upon acquittal,~~  
10 ~~release without conviction, or being placed on supervision for~~  
11 ~~a sealable offense, or upon conviction of a sealable offense,~~  
12 ~~the person shall be informed by the court of the right to have~~  
13 ~~the records sealed and the procedures for the sealing of the~~  
14 ~~records.~~

15 ~~(7) Procedure. Upon becoming eligible for the sealing of~~  
16 ~~records under this subsection (h), the person who seeks the~~  
17 ~~sealing of his or her records shall file a petition requesting~~  
18 ~~the sealing of records with the clerk of the court where the~~  
19 ~~charge or charges were brought. The records may be sealed by~~  
20 ~~the Chief Judge of the circuit wherein the charge was brought,~~  
21 ~~any judge of that circuit designated by the Chief Judge, or in~~  
22 ~~counties of less than 3,000,000 inhabitants, the presiding~~  
23 ~~trial judge at the defendant's trial, if any. If charges were~~  
24 ~~brought in multiple jurisdictions, a petition must be filed in~~  
25 ~~each such jurisdiction. The petitioner shall pay the applicable~~  
26 ~~fee, if not waived.~~

1           ~~(A) Contents of petition. The petition shall contain~~  
2           ~~the petitioner's name, date of birth, current address, each~~  
3           ~~charge, each case number, the date of each charge, the~~  
4           ~~identity of the arresting authority, and such other~~  
5           ~~information as the court may require. During the pendency~~  
6           ~~of the proceeding, the petitioner shall promptly notify the~~  
7           ~~clerk of the court of any change of address.~~

8           ~~(B) Drug test. A person filing a petition to have his~~  
9           ~~or her records sealed for a Class 4 felony violation of~~  
10           ~~Section 4 of the Cannabis Control Act or for a Class 4~~  
11           ~~felony violation of Section 402 of the Illinois Controlled~~  
12           ~~Substances Act must attach to the petition proof that the~~  
13           ~~petitioner has passed a test taken within the previous 30~~  
14           ~~days before the filing of the petition showing the absence~~  
15           ~~within his or her body of all illegal substances in~~  
16           ~~violation of either the Illinois Controlled Substances Act~~  
17           ~~or the Cannabis Control Act.~~

18           ~~(C) Service of petition. The clerk shall promptly serve~~  
19           ~~a copy of the petition on the State's Attorney or~~  
20           ~~prosecutor charged with the duty of prosecuting the~~  
21           ~~offense, the Department of State Police, the arresting~~  
22           ~~agency and the chief legal officer of the unit of local~~  
23           ~~government effecting the arrest.~~

24           ~~(D) Entry of order. Unless the State's Attorney or~~  
25           ~~prosecutor, the Department of State Police, the arresting~~  
26           ~~agency or such chief legal officer objects to sealing of~~

1 ~~the records within 90 days of notice the court shall enter~~  
2 ~~an order sealing the defendant's records.~~

3 ~~(E) Hearing upon objection. If an objection is filed,~~  
4 ~~the court shall set a date for a hearing and notify the~~  
5 ~~petitioner and the parties on whom the petition had been~~  
6 ~~served, and shall hear evidence on whether the sealing of~~  
7 ~~the records should or should not be granted, and shall make~~  
8 ~~a determination on whether to issue an order to seal the~~  
9 ~~records based on the evidence presented at the hearing.~~

10 ~~(F) Service of order. After entering the order to seal~~  
11 ~~records, the court must provide copies of the order to the~~  
12 ~~Department, in a form and manner prescribed by the~~  
13 ~~Department, to the petitioner, to the State's Attorney or~~  
14 ~~prosecutor charged with the duty of prosecuting the~~  
15 ~~offense, to the arresting agency, to the chief legal~~  
16 ~~officer of the unit of local government effecting the~~  
17 ~~arrest, and to such other criminal justice agencies as may~~  
18 ~~be ordered by the court.~~

19 ~~(8) Fees. Notwithstanding any provision of the Clerk of the~~  
20 ~~Courts Act to the contrary, and subject to the approval of the~~  
21 ~~county board, the clerk may charge a fee equivalent to the cost~~  
22 ~~associated with the sealing of records by the clerk and the~~  
23 ~~Department of State Police. The clerk shall forward the~~  
24 ~~Department of State Police portion of the fee to the Department~~  
25 ~~and it shall be deposited into the State Police Services Fund.~~

26 ~~(i) Subject to available funding, the Illinois Department~~

1 ~~of Corrections shall conduct a study of the impact of sealing,~~  
2 ~~especially on employment and recidivism rates, utilizing a~~  
3 ~~random sample of those who apply for the sealing of their~~  
4 ~~criminal records under Public Act 93-211, in accordance to~~  
5 ~~rules adopted by the Department. At the request of the Illinois~~  
6 ~~Department of Corrections, records of the Illinois Department~~  
7 ~~of Employment Security shall be utilized as appropriate to~~  
8 ~~assist in the study. The study shall not disclose any data in a~~  
9 ~~manner that would allow the identification of any particular~~  
10 ~~individual or employing unit. The study shall be made available~~  
11 ~~to the General Assembly no later than September 1, 2006.~~

12 (Source: P.A. 93-210, eff. 7-18-03; 93-211, eff. 1-1-04;  
13 93-1084, eff. 6-1-05; 94-556, eff. 9-11-05.)

14 (20 ILCS 2630/6 new)

15 Sec. 6. Expungement and sealing.

16 (a) General Provisions.

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

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

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

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

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

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

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

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



1           conviction. An order of supervision or an order of  
2           qualified probation that is terminated  
3           unsatisfactorily is a conviction, unless the  
4           unsatisfactory termination is reversed, vacated, or  
5           modified and the judgment of conviction, if any, is  
6           reversed or vacated.

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

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

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

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

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

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

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

22           (J) "Qualified probation" means an order of  
23           probation under Section 10 of the Cannabis Control Act,  
24           Section 410 of the Illinois Controlled Substances Act,  
25           Section 70 of the Methamphetamine Control and  
26           Community Protection Act, Section 12-4.3(b) (1) and (2)

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

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

24           (L) "Sexual offense committed against a minor"  
25           includes but is not limited to the offenses of indecent  
26           solicitation of a child or criminal sexual abuse when

1           the victim of such offense is under 18 years of age.

2           (M) "Terminate" as it relates to a sentence or  
3           order of supervision or qualified probation includes  
4           either satisfactory or unsatisfactory termination of  
5           the sentence, unless otherwise specified in this  
6           Section.

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

11           (3) Exclusions. Except as otherwise provided in  
12           subsections (b) (5), (b) (6), and subsection (e) of this  
13           Section, the court shall not order:

14           (A) the sealing or expungement of the records of  
15           arrests or charges not initiated by arrest that result in  
16           an order of supervision for or conviction of: (i) any  
17           sexual offense committed against a minor; or (ii) Section  
18           11-501 of the Illinois Vehicle Code or a similar provision  
19           of a local ordinance.

20           (B) the sealing or expungement of records of minor  
21           traffic offenses (as defined in subsection (a) (1) (G)),  
22           unless the petitioner was arrested and released  
23           without charging.

24           (C) the sealing of the records of arrests or  
25           charges not initiated by arrest which result in an  
26           order of supervision, an order of qualified probation

1           (as defined in subsection (a)(1)(J)), or a conviction  
2           for the following offenses:

3                   (i) offenses included in Article 11 of the  
4                   Criminal Code of 1961 or a similar provision of a  
5                   local ordinance, except Section 11-14 of the  
6                   Criminal Code of 1961 or a similar provision of a  
7                   local ordinance;

8                   (ii) Section 12-15, 12-30, or 26-5 of the  
9                   Criminal Code of 1961 or a similar provision of a  
10                   local ordinance;

11                   (iv) offenses defined as "crimes of violence"  
12                   in Section 2 of the Crime Victims Compensation Act  
13                   or a similar provision of a local ordinance;

14                   (v) offenses which are Class A misdemeanors  
15                   under the Humane Care for Animals Act; or

16                   (vi) any offense or attempted offense that  
17                   would subject a person to registration under the  
18                   Sex Offender Registration Act.

19           (D) the sealing of the records of an arrest which  
20           results in the petitioner being charged with a felony  
21           offense or records of a charge not initiated by arrest  
22           for a felony offense, regardless of the disposition,  
23           unless:

24                   (i) the charge is amended to a misdemeanor and  
25                   is otherwise eligible to be sealed pursuant to  
26                   subsection (c);

1           (ii) the charge results in first offender  
2           probation as set forth in subsection (c)(2)(E); or  
3           (iii) the charge is for a Class 4 felony  
4           offense listed in subsection (c)(2)(F) or the  
5           charge is amended to a Class 4 felony offense  
6           listed in subsection (c)(2)(F). Records of arrests  
7           which result in the petitioner being charged with a  
8           Class 4 felony offense listed in subsection  
9           (c)(2)(F), records of charges not initiated by  
10           arrest for Class 4 felony offenses listed in  
11           subsection (c)(2)(F), and records of charges  
12           amended to a Class 4 felony offense listed in  
13           (c)(2)(F) may be sealed, regardless of the  
14           disposition, subject to any waiting periods set  
15           forth in subsection (c)(3).

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:

20           (A) He or she has never been convicted of a  
21           criminal offense; and

22           (B) Each arrest or charge not initiated by arrest  
23           sought to be expunged resulted in: (i) acquittal,  
24           dismissal, or the petitioner's release without  
25           charging, unless excluded by subsection (a)(3)(B);  
26           (ii) a conviction which was vacated or reversed, unless

1 excluded by subsection (a) (3) (B); (iii) an order of  
2 supervision and such supervision was successfully  
3 completed by the petitioner, unless excluded by  
4 subsection (a) (3) (A) or (a) (3) (B); or (iv) an order of  
5 qualified probation (as defined in subsection  
6 (a) (1) (J)) and such probation was successfully  
7 completed by the petitioner.

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

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

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

19 (i) Those arrests or charges that resulted in  
20 orders of supervision under Section 3-707, 3-708,  
21 3-710, 5-401.3, or 11-503 of the Illinois Vehicle  
22 Code or a similar provision of a local ordinance,  
23 or under Section 12-3.2, 12-15 or 16A-3 of the  
24 Criminal Code of 1961, shall not be eligible for  
25 expungement until 5 years have passed following  
26 the satisfactory termination of the supervision.

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

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

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

16           (4) Whenever a person has been arrested for or  
17           convicted of any offense, in the name of a person whose  
18           identity he has stolen or otherwise come into possession  
19           of, the aggrieved person from whom the identity was stolen  
20           or otherwise obtained without authorization, upon learning  
21           of the person having been arrested using his identity, may,  
22           upon verified petition to the chief judge of the circuit  
23           wherein the arrest was made, have a court order entered  
24           nunc pro tunc by the chief judge to correct the arrest  
25           record, conviction record, if any, and all official records  
26           of the arresting authority, the Department, other criminal



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

18 (5) Whenever a person has been convicted of criminal  
19 sexual assault, aggravated criminal sexual assault,  
20 predatory criminal sexual assault of a child, criminal  
21 sexual abuse, or aggravated criminal sexual abuse, the  
22 victim of that offense may request that the State's  
23 Attorney of the county in which the conviction occurred  
24 file a verified petition with the presiding trial judge at  
25 the petitioner's trial to have a court order entered to  
26 seal the records of the clerk of the circuit court in

1 connection with the proceedings of the trial court  
2 concerning that offense. However, the records of the  
3 arresting authority and the Department of State Police  
4 concerning the offense shall not be sealed. The court, upon  
5 good cause shown, shall make the records of the clerk of  
6 the circuit court in connection with the proceedings of the  
7 trial court concerning the offense available for public  
8 inspection.

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

15 (7) Nothing herein shall prevent the Department of  
16 State Police from maintaining all records of any person who  
17 is admitted to probation upon terms and conditions and who  
18 fulfills those terms and conditions pursuant to Section 10  
19 of the Cannabis Control Act, Section 410 of the Illinois  
20 Controlled Substances Act, Section 70 of the  
21 Methamphetamine Control and Community Protection Act,  
22 Section 12-4.3 of the Criminal Code of 1961, Section 10-102  
23 of the Illinois Alcoholism and Other Drug Dependency Act,  
24 Section 40-10 of the Alcoholism and Other Drug Abuse and  
25 Dependency Act, or Section 10 of the Steroid Control Act.

26 (c) Sealing.

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

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

8                   (A) All arrests resulting in release without  
9                   charging;

10                   (B) Arrests or charges not initiated by arrest  
11                   resulting in acquittal, dismissal, or conviction when  
12                   the conviction was reversed or vacated, except as  
13                   excluded by subsection (a) (3) (B) or (a) (3) (D);

14                   (C) Arrests or charges not initiated by arrest  
15                   resulting in orders of supervision successfully  
16                   completed by the petitioner, unless excluded by  
17                   subsection (a) (3);

18                   (D) Arrests or charges not initiated by arrest  
19                   resulting in convictions unless excluded by subsection  
20                   (a) (3);

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

1           (F) Arrests or charges not initiated by arrest  
2           resulting in Class 4 felony convictions for the  
3           following offenses:

4                   (i) Section 11-14 of the Criminal Code of 1961;

5                   (ii) Section 4 of the Cannabis Control Act;

6                   (iii) Section 402 of the Illinois Controlled  
7                   Substances Act;

8                   (iv) the Methamphetamine Precursor Control  
9                   Act; and

10                   (v) the Steroid Control Act.

11           (3) When Records Are Eligible to Be Sealed. Records  
12           identified as eligible under subsection (c)(2) may be  
13           sealed as follows:

14                   (A) Records identified as eligible under  
15                   subsection (c)(2)(A) and (c)(2)(B) may be sealed at any  
16                   time.

17                   (B) Records identified as eligible under  
18                   subsection (c)(2)(C) may be sealed (i) 3 years after  
19                   the termination of petitioner's last sentence (as  
20                   defined in subsection (a)(1)(F)) if the petitioner has  
21                   never been convicted of a criminal offense (as defined  
22                   in subsection (a)(1)(D)); or (ii) 4 years after the  
23                   termination of the petitioner's last sentence (as  
24                   defined in subsection (a)(1)(F)) if the petitioner has  
25                   ever been convicted of a criminal offense (as defined  
26                   in subsection (a)(1)(D)).

1           (C) Records identified as eligible under  
2           subsections (c) (2) (D), (c) (2) (E), and (c) (2) (F) may be  
3           sealed 4 years after the termination of the  
4           petitioner's last sentence (as defined in subsection  
5           (a) (1) (F)).

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).

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

17           (d) Procedure. The following procedures apply to  
18           expungement under subsection (b) and sealing under subsection  
19           (c):

20           (1) Filing the petition. Upon becoming eligible to  
21           petition for the expungement or sealing of records under  
22           this Section, the petitioner shall file a petition  
23           requesting the expungement or sealing of records with the  
24           clerk of the court where the arrests occurred or the  
25           charges were brought, or both. If arrests occurred or  
26           charges were brought in multiple jurisdictions, a petition

1 must be filed in each such jurisdiction. The petitioner  
2 shall pay the applicable fee, if not waived.

3 (2) Contents of petition. The petition shall be  
4 verified and shall contain the petitioner's name, date of  
5 birth, current address and, for each arrest or charge not  
6 initiated by arrest sought to be sealed or expunged, the  
7 case number, the date of arrest (if any), the identity of  
8 the arresting authority, and such other information as the  
9 court may require. During the pendency of the proceeding,  
10 the petitioner shall promptly notify the clerk of the court  
11 of any change of his or her address.

12 (3) Drug test. The petitioner must attach to the  
13 petition proof that the petitioner has passed a test taken  
14 within 30 days before the filing of the petition showing  
15 the absence within his or her body of all illegal  
16 substances as defined by the Illinois Controlled  
17 Substances Act and the Cannabis Control Act if he or she is  
18 petitioning to seal felony records pursuant to clause  
19 (c) (2) (E) or (c) (2) (F) (ii)-(v).

20 (4) Service of petition. The clerk of the court shall  
21 promptly serve a copy of the petition on the State's  
22 Attorney or prosecutor charged with the duty of prosecuting  
23 the offense, the Department of State Police, the arresting  
24 agency and the chief legal officer of the unit of local  
25 government effecting the arrest.

26 (5) Objections.

1           (A) Any party entitled to notice of the petition  
2           may file an objection to the petition. All objections  
3           shall be in writing, shall be filed with the Clerk of  
4           Court, and shall state with specificity the basis of  
5           the objection.

6           (B) Objections to petitions to expunge or seal must  
7           be filed within 60 days of the date of service of the  
8           petition(s). Any objection not filed within the time  
9           allowed shall be waived.

10          (6) Entry of order.

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

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

24           (7) Hearings. If an objection is filed, the court shall  
25           set a date for a hearing and notify the petitioner and all  
26           parties entitled to notice of the petition of the hearing

1 date at least 14 days prior to the hearing, and shall hear  
2 evidence on whether the petition(s) should or should not be  
3 granted, and shall grant or deny the petition(s) to expunge  
4 or seal the records based on the evidence presented at the  
5 hearing.

6 (8) Service of order. After entering an order to  
7 expunge or seal records, the court must provide copies of  
8 the order to the Department, in a form and manner  
9 prescribed by the Department, to the petitioner, to the  
10 State's Attorney or prosecutor charged with the duty of  
11 prosecuting the offense, to the arresting agency, to the  
12 chief legal officer of the unit of local government  
13 effecting the arrest, and to such other criminal justice  
14 agencies as may be ordered by the court.

15 (9) Effect of order.

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

18 (i) the records shall be expunged (as defined  
19 in subsection (a) (1) (E)) by the arresting agency,  
20 the Department, and any other agency as ordered by  
21 the court; and

22 (ii) the records of the clerk of the circuit  
23 court shall be impounded until further order of the  
24 court upon good cause shown and the name of the  
25 petitioner obliterated on the official index  
26 required to be kept by the circuit court clerk



1           under Section 16 of the Clerks of Courts Act, but  
2           the order shall not affect any index issued by the  
3           circuit court clerk before the entry of the order.

4           (iii) In response to an inquiry for expunged  
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) Upon entry of an order to expunge records  
10          pursuant to (b) (2) (B) (i) or (b) (2) (C), or both,

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

22          and

23           (iii) the records shall be impounded by the  
24          Department.

25           (iv) Records impounded by the Department may  
26          be disseminated by the Department only to the

1           arresting authority, the State's Attorney, and the  
2           court upon a later arrest for the same or a similar  
3           offense or for the purpose of sentencing for any  
4           subsequent felony, and to the Department of  
5           Corrections upon conviction for any offense.

6           (v) In response to an inquiry for such records  
7           from anyone not authorized by law to access such  
8           records the court, the Department, or the agency  
9           receiving such inquiry shall reply as it does in  
10          response to inquiries when no records ever  
11          existed.

12          (C) Upon entry of an order to seal records under  
13          subsection (c), the arresting agency, any other agency  
14          as ordered by the court, the Department, and the court  
15          shall seal the records (as defined in subsection  
16          (a) (1) (K)). In response to an inquiry for such records  
17          from anyone not authorized by law to access such  
18          records the court, the Department, or the agency  
19          receiving such inquiry shall reply as it does in  
20          response to inquiries when no records ever existed.

21          (10) Fees. Notwithstanding any provision of the Clerk  
22          of Courts Act to the contrary, and subject to the approval  
23          of the county board, the clerk may charge a fee equivalent  
24          to the cost associated with the sealing of records by the  
25          clerk and the Department of State Police. The clerk shall  
26          forward the Department of State Police portion of the fee

1       to the Department and it shall be deposited into the State  
2       Police Services Fund.

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

8       (12) Motion to Vacate, Modify, or Reconsider. The  
9       petitioner or any party entitled to notice may file a  
10      motion to vacate, modify, or reconsider the order(s)  
11      granting or denying the petition(s) to expunge or seal  
12      within 60 days of service of the order(s).

13      (e) Expungement after Pardon. Whenever a person who has  
14      been convicted of an offense is granted a pardon by the  
15      Governor which specifically authorizes expungement, he or she  
16      may, upon verified petition to the chief judge of the circuit  
17      where the he or she had been convicted, any judge of the  
18      circuit designated by the Chief Judge, or in counties of less  
19      than 3,000,000 inhabitants, the presiding trial judge at his or  
20      her trial, have an order entered expunging the record of the  
21      arrest or arrests from the official records of the arresting  
22      authority and ordering that the records of the clerk of the  
23      circuit court and the Department be impounded until further  
24      order of the court upon good cause shown or as otherwise  
25      provided in this subsection (e), and the name of the petitioner  
26      obliterated from the official index requested to be kept by the

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

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

1 later than September 1, 2009.

2 (g) Notwithstanding any other rulemaking authority that  
3 may exist, neither the Governor nor any agency or agency head  
4 under the jurisdiction of the Governor has any authority to  
5 make or promulgate rules to implement or enforce the provisions  
6 of this amendatory Act of the 95th General Assembly. If,  
7 however, the Governor believes that rules are necessary to  
8 implement or enforce the provisions of this amendatory Act of  
9 the 95th General Assembly, the Governor may suggest rules to  
10 the General Assembly by filing them with the Clerk of the House  
11 and the Secretary of the Senate and by requesting that the  
12 General Assembly authorize such rulemaking by law, enact those  
13 suggested rules into law, or take any other appropriate action  
14 in the General Assembly's discretion. Nothing contained in this  
15 amendatory Act of the 95th General Assembly shall be  
16 interpreted to grant rulemaking authority under any other  
17 Illinois statute where such authority is not otherwise  
18 explicitly given. For the purposes of this subsection (g),  
19 "rules" is given the meaning contained in Section 1-70 of the  
20 Illinois Administrative Procedure Act, and "agency" and  
21 "agency head" are given the meanings contained in Sections 1-20  
22 and 1-25 of the Illinois Administrative Procedure Act to the  
23 extent that such definitions apply to agencies or agency heads  
24 under the jurisdiction of the Governor."