

1 AN ACT concerning criminal law.

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 Sections 5 and 13 and by adding Sections 5.2 and 14 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 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
17 descriptions for minors arrested for Class A or B misdemeanors.
18 Moving or nonmoving traffic violations under the Illinois
19 Vehicle Code shall not be reported except for violations of
20 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In
21 addition, conservation offenses, as defined in the Supreme
22 Court Rule 501(c), that are classified as Class B misdemeanors
23 shall not be reported.

1 ~~Whenever an adult or minor prosecuted as an adult, not~~
2 ~~having previously been convicted of any criminal offense or~~
3 ~~municipal ordinance violation, charged with a violation of a~~
4 ~~municipal ordinance or a felony or misdemeanor, is acquitted or~~
5 ~~released without being convicted, whether the acquittal or~~
6 ~~release occurred before, on, or after the effective date of~~
7 ~~this amendatory Act of 1991, the Chief Judge of the circuit~~
8 ~~wherein the charge was brought, any judge of that circuit~~
9 ~~designated by the Chief Judge, or in counties of less than~~
10 ~~3,000,000 inhabitants, the presiding trial judge at the~~
11 ~~defendant's trial may upon verified petition of the defendant~~
12 ~~order the record of arrest expunged from the official records~~
13 ~~of the arresting authority and the Department and order that~~
14 ~~the records of the clerk of the circuit court be sealed until~~
15 ~~further order of the court upon good cause shown and the name~~
16 ~~of the defendant obliterated on the official index required to~~
17 ~~be kept by the circuit court clerk under Section 16 of the~~
18 ~~Clerks of Courts Act, but the order shall not affect any index~~
19 ~~issued by the circuit court clerk before the entry of the~~
20 ~~order. The Department may charge the petitioner a fee~~
21 ~~equivalent to the cost of processing any order to expunge or~~
22 ~~seal the records, and the fee shall be deposited into the State~~
23 ~~Police Services Fund. The records of those arrests, however,~~
24 ~~that result in a disposition of supervision for any offense~~
25 ~~shall not be expunged from the records of the arresting~~
26 ~~authority or the Department nor impounded by the court until 2~~

1 ~~years after discharge and dismissal of supervision. Those~~
2 ~~records that result from a supervision for a violation of~~
3 ~~Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois~~
4 ~~Vehicle Code or a similar provision of a local ordinance, or~~
5 ~~for a violation of Section 12-3.2, 12-15 or 16A-3 of the~~
6 ~~Criminal Code of 1961, or probation under Section 10 of the~~
7 ~~Cannabis Control Act, Section 410 of the Illinois Controlled~~
8 ~~Substances Act, Section 70 of the Methamphetamine Control and~~
9 ~~Community Protection Act, Section 12-4.3(b)(1) and (2) of the~~
10 ~~Criminal Code of 1961 (as those provisions existed before their~~
11 ~~deletion by Public Act 89-313), Section 10-102 of the Illinois~~
12 ~~Alcoholism and Other Drug Dependency Act when the judgment of~~
13 ~~conviction has been vacated, Section 40-10 of the Alcoholism~~
14 ~~and Other Drug Abuse and Dependency Act when the judgment of~~
15 ~~conviction has been vacated, or Section 10 of the Steroid~~
16 ~~Control Act shall not be expunged from the records of the~~
17 ~~arresting authority nor impounded by the court until 5 years~~
18 ~~after termination of probation or supervision. Those records~~
19 ~~that result from a supervision for a violation of Section~~
20 ~~11-501 of the Illinois Vehicle Code or a similar provision of a~~
21 ~~local ordinance, shall not be expunged. All records set out~~
22 ~~above may be ordered by the court to be expunged from the~~
23 ~~records of the arresting authority and impounded by the court~~
24 ~~after 5 years, but shall not be expunged by the Department, but~~
25 ~~shall, on court order be sealed by the Department and may be~~
26 ~~disseminated by the Department only as required by law or to~~

1 ~~the arresting authority, the State's Attorney, and the court~~
2 ~~upon a later arrest for the same or a similar offense or for~~
3 ~~the purpose of sentencing for any subsequent felony. Upon~~
4 ~~conviction for any offense, the Department of Corrections shall~~
5 ~~have access to all sealed records of the Department pertaining~~
6 ~~to that individual.~~

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

10 ~~(b) Whenever a person has been convicted of a crime or of~~
11 ~~the violation of a municipal ordinance, in the name of a person~~
12 ~~whose identity he has stolen or otherwise come into possession~~
13 ~~of, the aggrieved person from whom the identity was stolen or~~
14 ~~otherwise obtained without authorization, upon learning of the~~
15 ~~person having been arrested using his identity, may, upon~~
16 ~~verified petition to the chief judge of the circuit wherein the~~
17 ~~arrest was made, have a court order entered nunc pro tunc by~~
18 ~~the chief judge to correct the arrest record, conviction~~
19 ~~record, if any, and all official records of the arresting~~
20 ~~authority, the Department, other criminal justice agencies,~~
21 ~~the prosecutor, and the trial court concerning such arrest, if~~
22 ~~any, by removing his name from all such records in connection~~
23 ~~with the arrest and conviction, if any, and by inserting in the~~
24 ~~records the name of the offender, if known or ascertainable, in~~
25 ~~lieu of the aggrieved's name. The records of the clerk of the~~
26 ~~circuit court clerk shall be sealed until further order of the~~

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

15 ~~(c) Whenever a person who has been convicted of an offense~~
16 ~~is granted a pardon by the Governor which specifically~~
17 ~~authorizes expungement, he may, upon verified petition to the~~
18 ~~chief judge of the circuit where the person had been convicted,~~
19 ~~any judge of the circuit designated by the Chief Judge, or in~~
20 ~~counties of less than 3,000,000 inhabitants, the presiding~~
21 ~~trial judge at the defendant's trial, may have a court order~~
22 ~~entered expunging the record of arrest from the official~~
23 ~~records of the arresting authority and order that the records~~
24 ~~of the clerk of the circuit court and the Department be sealed~~
25 ~~until further order of the court upon good cause shown or as~~
26 ~~otherwise provided herein, and the name of the defendant~~

1 ~~obliterated from the official index requested to be kept by the~~
2 ~~circuit court clerk under Section 16 of the Clerks of Courts~~
3 ~~Act in connection with the arrest and conviction for the~~
4 ~~offense for which he had been pardoned but the order shall not~~
5 ~~affect any index issued by the circuit court clerk before the~~
6 ~~entry of the order. All records sealed by the Department 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 similar offense or for the~~
10 ~~purpose of sentencing for any subsequent felony. Upon~~
11 ~~conviction for any subsequent offense, the Department of~~
12 ~~Corrections shall have access to all sealed records of the~~
13 ~~Department pertaining to that individual. Upon entry of the~~
14 ~~order of expungement, the clerk of the circuit court shall~~
15 ~~promptly mail a copy of the order to the person who was~~
16 ~~pardoned.~~

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

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

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

12 ~~(d) Notice of the petition for subsections (a), (b), and~~
13 ~~(c) shall be served by the clerk upon the State's Attorney or~~
14 ~~prosecutor charged with the duty of prosecuting the offense,~~
15 ~~the Department of State Police, the arresting agency and the~~
16 ~~chief legal officer of the unit of local government affecting~~
17 ~~the arrest. Unless the State's Attorney or prosecutor, the~~
18 ~~Department of State Police, the arresting agency or such chief~~
19 ~~legal officer objects to the petition within 30 days from the~~
20 ~~date of the notice, the court shall enter an order granting or~~
21 ~~denying the petition. The clerk of the court shall promptly~~
22 ~~mail a copy of the order to the person, the arresting agency,~~
23 ~~the prosecutor, the Department of State Police and such other~~
24 ~~criminal justice agencies as may be ordered by the judge.~~

25 ~~(e) Nothing herein shall prevent the Department of State~~
26 ~~Police from maintaining all records of any person who is~~

1 ~~admitted to probation upon terms and conditions and who~~
2 ~~fulfills those terms and conditions pursuant to Section 10 of~~
3 ~~the Cannabis Control Act, Section 410 of the Illinois~~
4 ~~Controlled Substances Act, Section 70 of the Methamphetamine~~
5 ~~Control and Community Protection Act, Section 12 4.3 of the~~
6 ~~Criminal Code of 1961, Section 10 102 of the Illinois~~
7 ~~Alcoholism and Other Drug Dependency Act, Section 40 10 of the~~
8 ~~Alcoholism and Other Drug Abuse and Dependency Act, or Section~~
9 ~~10 of the Steroid Control Act.~~

10 ~~(f) No court order issued under the expungement provisions~~
11 ~~of this Section shall become final for purposes of appeal until~~
12 ~~30 days after notice is received by the Department. Any court~~
13 ~~order contrary to the provisions of this Section is void.~~

14 ~~(g) Except as otherwise provided in subsection (c 5) of~~
15 ~~this Section, the court shall not order the sealing or~~
16 ~~expungement of the arrest records and records of the circuit~~
17 ~~court clerk of any person granted supervision for or convicted~~
18 ~~of any sexual offense committed against a minor under 18 years~~
19 ~~of age. For the purposes of this Section, "sexual offense~~
20 ~~committed against a minor" includes but is not limited to the~~
21 ~~offenses of indecent solicitation of a child or criminal sexual~~
22 ~~abuse when the victim of such offense is under 18 years of age.~~

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

1 ~~prosecuted as adults.~~

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

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

6 ~~(i) violations of Section 11-501 of the Illinois~~
7 ~~Vehicle Code or a similar provision of a local~~
8 ~~ordinance;~~

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

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

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

19 ~~(v) Class A misdemeanor violations of the Humane~~
20 ~~Care for Animals Act; and~~

21 ~~(vi) any offense or attempted offense that would~~
22 ~~subject a person to registration under the Sex Offender~~
23 ~~Registration Act.~~

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

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

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

1 ~~(iii) Section 402 of the Illinois Controlled~~
2 ~~Substances Act; and~~

3 ~~(iv) Section 60 of the Methamphetamine Control and~~
4 ~~Community Protection Act.~~

5 ~~However, for purposes of this subsection (h), a~~
6 ~~sentence of first offender probation under Section 10 of~~
7 ~~the Cannabis Control Act, Section 410 of the Illinois~~
8 ~~Controlled Substances Act, or Section 70 of the~~
9 ~~Methamphetamine Control and Community Protection Act shall~~
10 ~~be treated as a Class 4 felony conviction.~~

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

14 ~~(A) Acquitted of the offense or offenses or released~~
15 ~~without being convicted.~~

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

18 ~~(C) Placed on misdemeanor supervision for an offense or~~
19 ~~offenses; and~~

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

24 ~~(ii) the individual has not been convicted of a~~
25 ~~felony or misdemeanor or placed on supervision for a~~
26 ~~misdemeanor or felony during the period specified in~~

1 ~~clause (i).~~

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

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

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

11 ~~(4) Requirements for sealing of records when more than one~~
12 ~~charge and disposition have been filed. When multiple offenses~~
13 ~~are petitioned to be sealed under this subsection (h), the~~
14 ~~requirements of the relevant provisions of clauses (h) (3) (A)~~
15 ~~through (D) each apply. In instances in which more than one~~
16 ~~waiting period is applicable under clauses (h) (C) (i) and (ii)~~
17 ~~and (h) (D) (i) and (ii), the longer applicable period applies,~~
18 ~~and the requirements of clause (h) (3) shall be considered met~~
19 ~~when the petition is filed after the passage of the longer~~
20 ~~applicable waiting period. That period commences on the date of~~
21 ~~the completion of the last sentence or the end of supervision,~~
22 ~~probation, or parole, whichever is last in time.~~

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

1 ~~provided in this subsection (h).~~

2 ~~(6) Notice of eligibility for sealing. Upon acquittal,~~
3 ~~release without conviction, or being placed on supervision for~~
4 ~~a scalable offense, or upon conviction of a scalable offense,~~
5 ~~the person shall be informed by the court of the right to have~~
6 ~~the records sealed and the procedures for the sealing of the~~
7 ~~records.~~

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

20 ~~(A) Contents of petition. The petition shall contain~~
21 ~~the petitioner's name, date of birth, current address, each~~
22 ~~charge, each case number, the date of each charge, the~~
23 ~~identity of the arresting authority, and such other~~
24 ~~information as the court may require. During the pendency~~
25 ~~of the proceeding, the petitioner shall promptly notify the~~
26 ~~clerk of the court of any change of address.~~

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

11 ~~(C) Service of petition. The clerk shall promptly serve~~
12 ~~a copy of the petition on the State's Attorney or~~
13 ~~prosecutor charged with the duty of prosecuting the~~
14 ~~offense, the Department of State Police, the arresting~~
15 ~~agency and the chief legal officer of the unit of local~~
16 ~~government effecting the arrest.~~

17 ~~(D) Entry of order. Unless the State's Attorney or~~
18 ~~prosecutor, the Department of State Police, the arresting~~
19 ~~agency or such chief legal officer objects to sealing of~~
20 ~~the records within 90 days of notice the court shall enter~~
21 ~~an order sealing the defendant's records.~~

22 ~~(E) Hearing upon objection. If an objection is filed,~~
23 ~~the court shall set a date for a hearing and notify the~~
24 ~~petitioner and the parties on whom the petition had been~~
25 ~~served, and shall hear evidence on whether the sealing of~~
26 ~~the records should or should not be granted, and shall make~~

1 ~~a determination on whether to issue an order to seal the~~
2 ~~records based on the evidence presented at the hearing.~~

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

12 ~~(8) Fees. Notwithstanding any provision of the Clerk of the~~
13 ~~Courts Act to the contrary, and subject to the approval of the~~
14 ~~county board, the clerk may charge a fee equivalent to the cost~~
15 ~~associated with the sealing of records by the clerk and the~~
16 ~~Department of State Police. The clerk shall forward the~~
17 ~~Department of State Police portion of the fee to the Department~~
18 ~~and it shall be deposited into the State Police Services Fund.~~

19 ~~(i) Subject to available funding, the Illinois Department~~
20 ~~of Corrections shall conduct a study of the impact of sealing,~~
21 ~~especially on employment and recidivism rates, utilizing a~~
22 ~~random sample of those who apply for the sealing of their~~
23 ~~criminal records under Public Act 93-211, in accordance to~~
24 ~~rules adopted by the Department. At the request of the Illinois~~
25 ~~Department of Corrections, records of the Illinois Department~~
26 ~~of Employment Security shall be utilized as appropriate to~~

1 ~~assist in the study. The study shall not disclose any data in a~~
2 ~~manner that would allow the identification of any particular~~
3 ~~individual or employing unit. The study shall be made available~~
4 ~~to the General Assembly no later than September 1, 2006.~~

5 ~~(j) Notwithstanding any provision of the Clerks of Courts~~
6 ~~Act to the contrary, the clerk may charge a fee equivalent to~~
7 ~~the cost associated with the sealing or expungement of records~~
8 ~~by the clerk. From the total filing fee collected for the~~
9 ~~Petition to seal or expunge, the clerk shall deposit \$10 into~~
10 ~~the Circuit Court Clerk Operation and Administrative Fund, to~~
11 ~~be used to offset the costs incurred by the Circuit Court Clerk~~
12 ~~in performing the additional duties required to serve the~~
13 ~~Petition to Seal or Expunge on all parties. The clerk shall~~
14 ~~also charge a filing fee equivalent to the cost of sealing or~~
15 ~~expunging the record by the Department of State Police. The~~
16 ~~clerk shall collect and forward the Department of State Police~~
17 ~~portion of the fee to the Department and it shall be deposited~~
18 ~~in the State Police Services Fund.~~

19 (Source: P.A. 94-556, eff. 9-11-05; 95-955, eff. 1-1-09;
20 revised 10-28-08.)

21 (20 ILCS 2630/5.2 new)

22 Sec. 5.2. Expungement and sealing.

23 (a) General Provisions.

24 (1) Definitions. In this Act, words and phrases have
25 the meanings set forth in this subsection, except when a

1 particular context clearly requires a different meaning.

2 (A) The following terms shall have the meanings
3 ascribed to them in the Unified Code of Corrections,
4 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

8 (iv) Defendant (730 ILCS 5/5-1-7),

9 (v) Felony (730 ILCS 5/5-1-9),

10 (vi) Imprisonment (730 ILCS 5/5-1-10),

11 (vii) Judgment (730 ILCS 5/5-1-12),

12 (viii) Misdemeanor (730 ILCS 5/5-1-14),

13 (ix) Offense (730 ILCS 5/5-1-15),

14 (x) Parole (730 ILCS 5/5-1-16),

15 (xi) Petty Offense (730 ILCS 5/5-1-17),

16 (xii) Probation (730 ILCS 5/5-1-18),

17 (xiii) Sentence (730 ILCS 5/5-1-19),

18 (xiv) Supervision (730 ILCS 5/5-1-21), and

19 (xv) Victim (730 ILCS 5/5-1-22).

20 (B) As used in this Section, "charge not initiated
21 by arrest" means a charge (as defined by 730 ILCS
22 5/5-1-3) brought against a defendant where the
23 defendant is not arrested prior to or as a direct
24 result of the charge.

25 (C) "Conviction" means a judgment of conviction or
26 sentence entered upon a plea of guilty or upon a

1 verdict or finding of guilty of an offense, rendered by
2 a legally constituted jury or by a court of competent
3 jurisdiction authorized to try the case without a jury.
4 An order of supervision successfully completed by the
5 petitioner is not a conviction. An order of qualified
6 probation (as defined in subsection (a)(1)(J))
7 successfully completed by the petitioner is not a
8 conviction. An order of supervision or an order of
9 qualified probation that is terminated
10 unsatisfactorily is a conviction, unless the
11 unsatisfactory termination is reversed, vacated, or
12 modified and the judgment of conviction, if any, is
13 reversed or vacated.

14 (D) "Criminal offense" means a petty offense,
15 business offense, misdemeanor, felony, or municipal
16 ordinance violation (as defined in subsection
17 (a)(1)(H)). As used in this Section, a minor traffic
18 offense (as defined in subsection (a)(1)(G)) shall not
19 be considered a criminal offense.

20 (E) "Expunge" means to physically destroy the
21 records or return them to the petitioner and to
22 obliterate the petitioner's name from any official
23 index or public record, or both. Nothing in this Act
24 shall require the physical destruction of the circuit
25 court file, but such records relating to arrests or
26 charges, or both, ordered expunged shall be impounded

1 as required by subsections (d)(9)(A)(ii) and
2 (d)(9)(B)(ii).

3 (F) As used in this Section, "last sentence" means
4 the sentence, order of supervision, or order of
5 qualified probation (as defined by subsection
6 (a)(1)(J)), for a criminal offense (as defined by
7 subsection (a)(1)(D)) that terminates last in time in
8 any jurisdiction, regardless of whether the petitioner
9 has included the criminal offense for which the
10 sentence or order of supervision or qualified
11 probation was imposed in his or her petition. If
12 multiple sentences, orders of supervision, or orders
13 of qualified probation terminate on the same day and
14 are last in time, they shall be collectively considered
15 the "last sentence" regardless of whether they were
16 ordered to run concurrently.

17 (G) "Minor traffic offense" means a petty offense,
18 business offense, or Class C misdemeanor under the
19 Illinois Vehicle Code or a similar provision of a
20 municipal or local ordinance.

21 (H) "Municipal ordinance violation" means an
22 offense defined by a municipal or local ordinance that
23 is criminal in nature and with which the petitioner was
24 charged or for which the petitioner was arrested and
25 released without charging.

26 (I) "Petitioner" means an adult or a minor

1 prosecuted as an adult who has applied for relief under
2 this Section.

3 (J) "Qualified probation" means an order of
4 probation under Section 10 of the Cannabis Control Act,
5 Section 410 of the Illinois Controlled Substances Act,
6 Section 70 of the Methamphetamine Control and
7 Community Protection Act, Section 12-4.3(b) (1) and (2)
8 of the Criminal Code of 1961 (as those provisions
9 existed before their deletion by Public Act 89-313),
10 Section 10-102 of the Illinois Alcoholism and Other
11 Drug Dependency Act, Section 40-10 of the Alcoholism
12 and Other Drug Abuse and Dependency Act, or Section 10
13 of the Steroid Control Act. For the purpose of this
14 Section, "successful completion" of an order of
15 qualified probation under Section 10-102 of the
16 Illinois Alcoholism and Other Drug Dependency Act and
17 Section 40-10 of the Alcoholism and Other Drug Abuse
18 and Dependency Act means that the probation was
19 terminated satisfactorily and the judgment of
20 conviction was vacated.

21 (K) "Seal" means to physically and electronically
22 maintain the records, unless the records would
23 otherwise be destroyed due to age, but to make the
24 records unavailable without a court order, subject to
25 the exceptions in Sections 12 and 13 of this Act. The
26 petitioner's name shall also be obliterated from the

1 official index required to be kept by the circuit court
2 clerk under Section 16 of the Clerks of Courts Act, but
3 any index issued by the circuit court clerk before the
4 entry of the order to seal shall not be affected.

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

9 (M) "Terminate" as it relates to a sentence or
10 order of supervision or qualified probation includes
11 either satisfactory or unsatisfactory termination of
12 the sentence, unless otherwise specified in this
13 Section.

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

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

21 (A) the sealing or expungement of the records of
22 arrests or charges not initiated by arrest that result
23 in an order of supervision for or conviction of: (i)
24 any sexual offense committed against a minor; (ii)
25 Section 11-501 of the Illinois Vehicle Code or a
26 similar provision of a local ordinance; or (iii)

1 Section 11-503 of the Illinois Vehicle Code or a
2 similar provision of a local ordinance.

3 (B) the sealing or expungement of records of minor
4 traffic offenses (as defined in subsection (a)(1)(G)),
5 unless the petitioner was arrested and released
6 without charging.

7 (C) the sealing of the records of arrests or
8 charges not initiated by arrest which result in an
9 order of supervision, an order of qualified probation
10 (as defined in subsection (a)(1)(J)), or a conviction
11 for the following offenses:

12 (i) offenses included in Article 11 of the
13 Criminal Code of 1961 or a similar provision of a
14 local ordinance, except Section 11-14 of the
15 Criminal Code of 1961 or a similar provision of a
16 local ordinance;

17 (ii) Section 12-15, 12-30, or 26-5 of the
18 Criminal Code of 1961 or a similar provision of a
19 local ordinance;

20 (iii) offenses defined as "crimes of violence"
21 in Section 2 of the Crime Victims Compensation Act
22 or a similar provision of a local ordinance;

23 (iv) offenses which are Class A misdemeanors
24 under the Humane Care for Animals Act; or

25 (v) any offense or attempted offense that
26 would subject a person to registration under the

1 Sex Offender Registration Act.

2 (D) the sealing of the records of an arrest which
3 results in the petitioner being charged with a felony
4 offense or records of a charge not initiated by arrest
5 for a felony offense, regardless of the disposition,
6 unless:

7 (i) the charge is amended to a misdemeanor and
8 is otherwise eligible to be sealed pursuant to
9 subsection (c);

10 (ii) the charge results in first offender
11 probation as set forth in subsection (c) (2) (E); or

12 (iii) the charge is for a Class 4 felony
13 offense listed in subsection (c) (2) (F) or the
14 charge is amended to a Class 4 felony offense
15 listed in subsection (c) (2) (F). Records of arrests
16 which result in the petitioner being charged with a
17 Class 4 felony offense listed in subsection
18 (c) (2) (F), records of charges not initiated by
19 arrest for Class 4 felony offenses listed in
20 subsection (c) (2) (F), and records of charges
21 amended to a Class 4 felony offense listed in
22 (c) (2) (F) may be sealed, regardless of the
23 disposition, subject to any waiting periods set
24 forth in subsection (c) (3).

25 (b) Expungement.

26 (1) A petitioner may petition the circuit court to

1 expunge the records of his or her arrests and charges not
2 initiated by arrest when:

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

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

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

18 (A) When the arrest or charge not initiated by
19 arrest sought to be expunged resulted in an acquittal,
20 dismissal, the petitioner's release without charging,
21 or the reversal or vacation of a conviction, there is
22 no waiting period to petition for the expungement of
23 such records.

24 (B) When the arrest or charge not initiated by
25 arrest sought to be expunged resulted in an order of
26 supervision, successfully completed by the petitioner,

1 the following time frames will apply:

2 (i) Those arrests or charges that resulted in
3 orders of supervision under Section 3-707, 3-708,
4 3-710, or 5-401.3 of the Illinois Vehicle Code or a
5 similar provision of a local ordinance, or under
6 Section 12-3.2, 12-15 or 16A-3 of the Criminal Code
7 of 1961, shall not be eligible for expungement
8 until 5 years have passed following the
9 satisfactory termination of the supervision.

10 (ii) Those arrests or charges that resulted in
11 orders of supervision for any other offenses shall
12 not be eligible for expungement until 2 years have
13 passed following the satisfactory termination of
14 the supervision.

15 (C) When the arrest or charge not initiated by
16 arrest sought to be expunged resulted in an order of
17 qualified probation, successfully completed by the
18 petitioner, such records shall not be eligible for
19 expungement until 5 years have passed following the
20 satisfactory termination of the probation.

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

25 (4) Whenever a person has been arrested for or
26 convicted of any offense, in the name of a person whose

1 identity he or she has stolen or otherwise come into
2 possession of, the aggrieved person from whom the identity
3 was stolen or otherwise obtained without authorization,
4 upon learning of the person having been arrested using his
5 or her identity, may, upon verified petition to the chief
6 judge of the circuit wherein the arrest was made, have a
7 court order entered nunc pro tunc by the Chief Judge to
8 correct the arrest record, conviction record, if any, and
9 all official records of the arresting authority, the
10 Department, other criminal justice agencies, the
11 prosecutor, and the trial court concerning such arrest, if
12 any, by removing his or her name from all such records in
13 connection with the arrest and conviction, if any, and by
14 inserting in the records the name of the offender, if known
15 or ascertainable, in lieu of the aggrieved's name. The
16 records of the circuit court clerk shall be sealed until
17 further order of the court upon good cause shown and the
18 name of the aggrieved person obliterated on the official
19 index required to be kept by the circuit court clerk under
20 Section 16 of the Clerks of Courts Act, but the order shall
21 not affect any index issued by the circuit court clerk
22 before the entry of the order. Nothing in this Section
23 shall limit the Department of State Police or other
24 criminal justice agencies or prosecutors from listing
25 under an offender's name the false names he or she has
26 used.

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

17 (6) If a conviction has been set aside on direct review
18 or on collateral attack and the court determines by clear
19 and convincing evidence that the petitioner was factually
20 innocent of the charge, the court shall enter an
21 expungement order as provided in subsection (b) of Section
22 5-5-4 of the Unified Code of Corrections.

23 (7) Nothing in this Section shall prevent the
24 Department of State Police from maintaining all records of
25 any person who is admitted to probation upon terms and
26 conditions and who fulfills those terms and conditions

1 pursuant to Section 10 of the Cannabis Control Act, Section
2 410 of the Illinois Controlled Substances Act, Section 70
3 of the Methamphetamine Control and Community Protection
4 Act, Section 12-4.3 of the Criminal Code of 1961, Section
5 10-102 of the Illinois Alcoholism and Other Drug Dependency
6 Act, Section 40-10 of the Alcoholism and Other Drug Abuse
7 and Dependency Act, or Section 10 of the Steroid Control
8 Act.

9 (c) Sealing.

10 (1) Applicability. Notwithstanding any other provision
11 of this Act to the contrary, and cumulative with any rights
12 to expungement of criminal records, this subsection
13 authorizes the sealing of criminal records of adults and of
14 minors prosecuted as adults.

15 (2) Eligible Records. The following records may be
16 sealed:

17 (A) All arrests resulting in release without
18 charging;

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

23 (C) Arrests or charges not initiated by arrest
24 resulting in orders of supervision successfully
25 completed by the petitioner, unless excluded by
26 subsection (a) (3);

1 (D) Arrests or charges not initiated by arrest
2 resulting in convictions unless excluded by subsection
3 (a) (3);

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

10 (F) Arrests or charges not initiated by arrest
11 resulting in Class 4 felony convictions for the
12 following offenses:

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

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

15 (iii) Section 402 of the Illinois Controlled
16 Substances Act;

17 (iv) the Methamphetamine Precursor Control
18 Act; and

19 (v) the Steroid Control Act.

20 (3) When Records Are Eligible to Be Sealed. Records
21 identified as eligible under subsection (c) (2) may be
22 sealed as follows:

23 (A) Records identified as eligible under
24 subsection (c) (2) (A) and (c) (2) (B) may be sealed at any
25 time.

26 (B) Records identified as eligible under

1 subsection (c)(2)(C) may be sealed (i) 3 years after
2 the termination of petitioner's last sentence (as
3 defined in subsection (a)(1)(F)) if the petitioner has
4 never been convicted of a criminal offense (as defined
5 in subsection (a)(1)(D)); or (ii) 4 years after the
6 termination of the petitioner's last sentence (as
7 defined in subsection (a)(1)(F)) if the petitioner has
8 ever been convicted of a criminal offense (as defined
9 in subsection (a)(1)(D)).

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

15 (4) Subsequent felony convictions. A person may not
16 have subsequent felony conviction records sealed as
17 provided in this subsection (c) if he or she is convicted
18 of any felony offense after the date of the sealing of
19 prior felony convictions as provided in this subsection
20 (c). The court may, upon conviction for a subsequent felony
21 offense, order the unsealing of prior felony conviction
22 records previously ordered sealed by the court.

23 (5) Notice of eligibility for sealing. Upon entry of a
24 disposition for an eligible record under this subsection
25 (c), the petitioner shall be informed by the court of the
26 right to have the records sealed and the procedures for the

1 sealing of the records.

2 (d) Procedure. The following procedures apply to
3 expungement under subsections (b) and (e), and sealing under
4 subsection (c):

5 (1) Filing the petition. Upon becoming eligible to
6 petition for the expungement or sealing of records under
7 this Section, the petitioner shall file a petition
8 requesting the expungement or sealing of records with the
9 clerk of the court where the arrests occurred or the
10 charges were brought, or both. If arrests occurred or
11 charges were brought in multiple jurisdictions, a petition
12 must be filed in each such jurisdiction. The petitioner
13 shall pay the applicable fee, if not waived.

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

23 (3) Drug test. The petitioner must attach to the
24 petition proof that the petitioner has passed a test taken
25 within 30 days before the filing of the petition showing
26 the absence within his or her body of all illegal

1 substances as defined by the Illinois Controlled
2 Substances Act, the Methamphetamine Control and Community
3 Protection Act, and the Cannabis Control Act if he or she
4 is petitioning to seal felony records pursuant to clause
5 (c) (2) (E) or (c) (2) (F) (ii)-(v) or if he or she is
6 petitioning to expunge felony records of a qualified
7 probation pursuant to clause (b) (1) (B) (iv).

8 (4) Service of petition. The circuit court clerk shall
9 promptly serve a copy of the petition on the State's
10 Attorney or prosecutor charged with the duty of prosecuting
11 the offense, the Department of State Police, the arresting
12 agency and the chief legal officer of the unit of local
13 government effecting the arrest.

14 (5) Objections.

15 (A) Any party entitled to notice of the petition
16 may file an objection to the petition. All objections
17 shall be in writing, shall be filed with the circuit
18 court clerk, and shall state with specificity the basis
19 of the objection.

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

23 (6) Entry of order.

24 (A) The Chief Judge of the circuit wherein the
25 charge was brought, any judge of that circuit
26 designated by the Chief Judge, or in counties of less

1 than 3,000,000 inhabitants, the presiding trial judge
2 at the petitioner's trial, if any, shall rule on the
3 petition to expunge or seal as set forth in this
4 subsection (d) (6).

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

11 (7) Hearings. If an objection is filed, the court shall
12 set a date for a hearing and notify the petitioner and all
13 parties entitled to notice of the petition of the hearing
14 date at least 30 days prior to the hearing, and shall hear
15 evidence on whether the petition should or should not be
16 granted, and shall grant or deny the petition to expunge or
17 seal the records based on the evidence presented at the
18 hearing.

19 (8) Service of order. After entering an order to
20 expunge or seal records, the court must provide copies of
21 the order to the Department, in a form and manner
22 prescribed by the Department, to the petitioner, to the
23 State's Attorney or prosecutor charged with the duty of
24 prosecuting the offense, to the arresting agency, to the
25 chief legal officer of the unit of local government
26 effecting the arrest, and to such other criminal justice

1 agencies as may be ordered by the court.

2 (9) Effect of order.

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

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

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

21 (iii) in response to an inquiry for expunged
22 records, the court, the Department, or the agency
23 receiving such inquiry, shall reply as it does in
24 response to inquiries when no records ever
25 existed.

26 (B) Upon entry of an order to expunge records

1 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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

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

17 (iii) the records shall be impounded by the
18 Department within 60 days of the date of service of
19 the order as ordered by the court, unless a motion
20 to vacate, modify, or reconsider the order is filed
21 pursuant to paragraph (12) of subsection (d) of
22 this Section;

23 (iv) records impounded by the Department may
24 be disseminated by the Department only to the
25 arresting authority, the State's Attorney, and the
26 court upon a later arrest for the same or a similar

1 offense or for the purpose of sentencing for any
2 subsequent felony, and to the Department of
3 Corrections upon conviction for any offense; and

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

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

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

1 deposit \$10 into the Circuit Court Clerk Operation and
2 Administrative Fund, to be used to offset the costs
3 incurred by the circuit court clerk in performing the
4 additional duties required to serve the petition to seal or
5 expunge on all parties. The circuit court clerk shall
6 collect and forward the Department of State Police portion
7 of the fee to the Department and it shall be deposited in
8 the State Police Services Fund.

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

14 (12) Motion to Vacate, Modify, or Reconsider. The
15 petitioner or any party entitled to notice may file a
16 motion to vacate, modify, or reconsider the order granting
17 or denying the petition to expunge or seal within 60 days
18 of service of the order.

19 (e) Whenever a person who has been convicted of an offense
20 is granted a pardon by the Governor which specifically
21 authorizes expungement, he or she may, upon verified petition
22 to the Chief Judge of the circuit where the person had been
23 convicted, any judge of the circuit designated by the Chief
24 Judge, or in counties of less than 3,000,000 inhabitants, the
25 presiding trial judge at the defendant's trial, have a court
26 order entered expunging the record of arrest from the official

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

21 (f) Subject to available funding, the Illinois Department
22 of Corrections shall conduct a study of the impact of sealing,
23 especially on employment and recidivism rates, utilizing a
24 random sample of those who apply for the sealing of their
25 criminal records under Public Act 93-211. At the request of the
26 Illinois Department of Corrections, records of the Illinois

1 Department of Employment Security shall be utilized as
2 appropriate to assist in the study. The study shall not
3 disclose any data in a manner that would allow the
4 identification of any particular individual or employing unit.
5 The study shall be made available to the General Assembly no
6 later than September 1, 2010.

7 (20 ILCS 2630/13)

8 Sec. 13. Retention and release of sealed records.

9 (a) The Department of State Police shall retain records
10 sealed under subsection (c) ~~(h)~~ of Section 5.2 ~~5~~ and shall
11 release them only as authorized by this Act. Felony records
12 sealed under subsection (c) ~~(h)~~ of Section 5.2 ~~5~~ shall be used
13 and disseminated by the Department only as otherwise
14 specifically required or authorized by a federal or State law,
15 rule, or regulation that requires inquiry into and release of
16 criminal records, including, but not limited to, subsection (A)
17 of Section 3 of this Act. However, all requests for records
18 that have been expunged, sealed, and impounded and the use of
19 those records are subject to the provisions of Section 2-103 of
20 the Illinois Human Rights Act. Upon conviction for any offense,
21 the Department of Corrections shall have access to all sealed
22 records of the Department pertaining to that individual.

23 (b) Notwithstanding the foregoing, all sealed records are
24 subject to inspection and use by the court and inspection and
25 use by law enforcement agencies and State's Attorneys or other

1 prosecutors in carrying out the duties of their offices.

2 (c) The sealed records maintained under subsection (a) are
3 exempt from disclosure under the Freedom of Information Act.

4 (d) The Department of State Police shall commence the
5 sealing of records of felony arrests and felony convictions
6 pursuant to the provisions of subsection (c) ~~(h)~~ of Section 5.2
7 ~~5~~ of this Act no later than one year from the date that funds
8 have been made available for purposes of establishing the
9 technologies necessary to implement the changes made by this
10 amendatory Act of the 93rd General Assembly.

11 (Source: P.A. 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)

12 (20 ILCS 2630/14 new)

13 Sec. 14. Expungement Backlog Accountability Law.

14 (a) On or before August 1 of each year, the Department of
15 State Police shall report to the Governor, the Attorney
16 General, the Office of the State Appellate Defender, and both
17 houses of the General Assembly the following information for
18 the previous fiscal year:

19 (1) the number of petitions to expunge received by the
20 Department;

21 (2) the number of petitions to expunge to which the
22 Department objected pursuant to subdivision (d)(5)(B) of
23 Section 5.2 of this Act;

24 (3) the number of petitions to seal records received by
25 the Department;

1 (4) the number of petitions to seal records to which
2 the Department objected pursuant to subdivision (d)(5)(B)
3 of Section 5.2 of this Act;

4 (5) the number of orders to expunge received by the
5 Department;

6 (6) the number of orders to expunge to which the
7 Department successfully filed a motion to vacate, modify or
8 reconsider under paragraph (12) of subsection (d) of
9 Section 5.2 of this Act;

10 (7) the number of orders to expunge records entered by
11 the Department;

12 (8) the number of orders to seal records received by
13 the Department;

14 (9) the number of orders to seal records to which the
15 Department successfully filed a motion to vacate, modify or
16 reconsider under paragraph (12) of subsection (d) of
17 Section 5.2 of this Act;

18 (10) the number of orders to seal records entered by
19 the Department;

20 (11) the amount of fees received by the Department
21 pursuant to subdivision (d)(10) of Section 5.2 of this Act
22 and deposited into the State Police Services Fund;

23 (12) the number of orders to expunge or to seal records
24 received by the Department that have not been entered as of
25 June 30 of the previous fiscal year.

26 (b) The information reported under this Section shall be

1 made available to the public, at the time it is reported, on
2 the official web site of the Department of State Police.

3 Section 10. The Unified Code of Corrections is amended by
4 changing Section 5-6-3.1 as follows:

5 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

6 (Text of Section after amendment by P.A. 95-983)

7 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

8 (a) When a defendant is placed on supervision, the court
9 shall enter an order for supervision specifying the period of
10 such supervision, and shall defer further proceedings in the
11 case until the conclusion of the period.

12 (b) The period of supervision shall be reasonable under all
13 of the circumstances of the case, but may not be longer than 2
14 years, unless the defendant has failed to pay the assessment
15 required by Section 10.3 of the Cannabis Control Act, Section
16 411.2 of the Illinois Controlled Substances Act, or Section 80
17 of the Methamphetamine Control and Community Protection Act, in
18 which case the court may extend supervision beyond 2 years.
19 Additionally, the court shall order the defendant to perform no
20 less than 30 hours of community service and not more than 120
21 hours of community service, if community service is available
22 in the jurisdiction and is funded and approved by the county
23 board where the offense was committed, when the offense (1) was
24 related to or in furtherance of the criminal activities of an

1 organized gang or was motivated by the defendant's membership
2 in or allegiance to an organized gang; or (2) is a violation of
3 any Section of Article 24 of the Criminal Code of 1961 where a
4 disposition of supervision is not prohibited by Section 5-6-1
5 of this Code. The community service shall include, but not be
6 limited to, the cleanup and repair of any damage caused by
7 violation of Section 21-1.3 of the Criminal Code of 1961 and
8 similar damages to property located within the municipality or
9 county in which the violation occurred. Where possible and
10 reasonable, the community service should be performed in the
11 offender's neighborhood.

12 For the purposes of this Section, "organized gang" has the
13 meaning ascribed to it in Section 10 of the Illinois Streetgang
14 Terrorism Omnibus Prevention Act.

15 (c) The court may in addition to other reasonable
16 conditions relating to the nature of the offense or the
17 rehabilitation of the defendant as determined for each
18 defendant in the proper discretion of the court require that
19 the person:

20 (1) make a report to and appear in person before or
21 participate with the court or such courts, person, or
22 social service agency as directed by the court in the order
23 of supervision;

24 (2) pay a fine and costs;

25 (3) work or pursue a course of study or vocational
26 training;

1 (4) undergo medical, psychological or psychiatric
2 treatment; or treatment for drug addiction or alcoholism;

3 (5) attend or reside in a facility established for the
4 instruction or residence of defendants on probation;

5 (6) support his dependents;

6 (7) refrain from possessing a firearm or other
7 dangerous weapon;

8 (8) and in addition, if a minor:

9 (i) reside with his parents or in a foster home;

10 (ii) attend school;

11 (iii) attend a non-residential program for youth;

12 (iv) contribute to his own support at home or in a
13 foster home; or

14 (v) with the consent of the superintendent of the
15 facility, attend an educational program at a facility
16 other than the school in which the offense was
17 committed if he or she is placed on supervision for a
18 crime of violence as defined in Section 2 of the Crime
19 Victims Compensation Act committed in a school, on the
20 real property comprising a school, or within 1,000 feet
21 of the real property comprising a school;

22 (9) make restitution or reparation in an amount not to
23 exceed actual loss or damage to property and pecuniary loss
24 or make restitution under Section 5-5-6 to a domestic
25 violence shelter. The court shall determine the amount and
26 conditions of payment;

1 (10) perform some reasonable public or community
2 service;

3 (11) comply with the terms and conditions of an order
4 of protection issued by the court pursuant to the Illinois
5 Domestic Violence Act of 1986 or an order of protection
6 issued by the court of another state, tribe, or United
7 States territory. If the court has ordered the defendant to
8 make a report and appear in person under paragraph (1) of
9 this subsection, a copy of the order of protection shall be
10 transmitted to the person or agency so designated by the
11 court;

12 (12) reimburse any "local anti-crime program" as
13 defined in Section 7 of the Anti-Crime Advisory Council Act
14 for any reasonable expenses incurred by the program on the
15 offender's case, not to exceed the maximum amount of the
16 fine authorized for the offense for which the defendant was
17 sentenced;

18 (13) contribute a reasonable sum of money, not to
19 exceed the maximum amount of the fine authorized for the
20 offense for which the defendant was sentenced, (i) to a
21 "local anti-crime program", as defined in Section 7 of the
22 Anti-Crime Advisory Council Act, or (ii) for offenses under
23 the jurisdiction of the Department of Natural Resources, to
24 the fund established by the Department of Natural Resources
25 for the purchase of evidence for investigation purposes and
26 to conduct investigations as outlined in Section 805-105 of

1 the Department of Natural Resources (Conservation) Law;

2 (14) refrain from entering into a designated
3 geographic area except upon such terms as the court finds
4 appropriate. Such terms may include consideration of the
5 purpose of the entry, the time of day, other persons
6 accompanying the defendant, and advance approval by a
7 probation officer;

8 (15) refrain from having any contact, directly or
9 indirectly, with certain specified persons or particular
10 types of person, including but not limited to members of
11 street gangs and drug users or dealers;

12 (16) refrain from having in his or her body the
13 presence of any illicit drug prohibited by the Cannabis
14 Control Act, the Illinois Controlled Substances Act, or the
15 Methamphetamine Control and Community Protection Act,
16 unless prescribed by a physician, and submit samples of his
17 or her blood or urine or both for tests to determine the
18 presence of any illicit drug;

19 (17) refrain from operating any motor vehicle not
20 equipped with an ignition interlock device as defined in
21 Section 1-129.1 of the Illinois Vehicle Code; under this
22 condition the court may allow a defendant who is not
23 self-employed to operate a vehicle owned by the defendant's
24 employer that is not equipped with an ignition interlock
25 device in the course and scope of the defendant's
26 employment; and

1 (18) if placed on supervision for a sex offense as
2 defined in subsection (a-5) of Section 3-1-2 of this Code,
3 unless the offender is a parent or guardian of the person
4 under 18 years of age present in the home and no
5 non-familial minors are present, not participate in a
6 holiday event involving children under 18 years of age,
7 such as distributing candy or other items to children on
8 Halloween, wearing a Santa Claus costume on or preceding
9 Christmas, being employed as a department store Santa
10 Claus, or wearing an Easter Bunny costume on or preceding
11 Easter.

12 (d) The court shall defer entering any judgment on the
13 charges until the conclusion of the supervision.

14 (e) At the conclusion of the period of supervision, if the
15 court determines that the defendant has successfully complied
16 with all of the conditions of supervision, the court shall
17 discharge the defendant and enter a judgment dismissing the
18 charges.

19 (f) Discharge and dismissal upon a successful conclusion of
20 a disposition of supervision shall be deemed without
21 adjudication of guilt and shall not be termed a conviction for
22 purposes of disqualification or disabilities imposed by law
23 upon conviction of a crime. Two years after the discharge and
24 dismissal under this Section, unless the disposition of
25 supervision was for a violation of Sections 3-707, 3-708,
26 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a

1 similar provision of a local ordinance, or for a violation of
2 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
3 case it shall be 5 years after discharge and dismissal, a
4 person may have his record of arrest sealed or expunged as may
5 be provided by law. However, any defendant placed on
6 supervision before January 1, 1980, may move for sealing or
7 expungement of his arrest record, as provided by law, at any
8 time after discharge and dismissal under this Section. A person
9 placed on supervision for a sexual offense committed against a
10 minor as defined in clause (a) (1) (L) ~~subsection (g)~~ of Section
11 5.2 ~~5~~ of the Criminal Identification Act or for a violation of
12 Section 11-501 of the Illinois Vehicle Code or a similar
13 provision of a local ordinance shall not have his or her record
14 of arrest sealed or expunged.

15 (g) A defendant placed on supervision and who during the
16 period of supervision undergoes mandatory drug or alcohol
17 testing, or both, or is assigned to be placed on an approved
18 electronic monitoring device, shall be ordered to pay the costs
19 incidental to such mandatory drug or alcohol testing, or both,
20 and costs incidental to such approved electronic monitoring in
21 accordance with the defendant's ability to pay those costs. The
22 county board with the concurrence of the Chief Judge of the
23 judicial circuit in which the county is located shall establish
24 reasonable fees for the cost of maintenance, testing, and
25 incidental expenses related to the mandatory drug or alcohol
26 testing, or both, and all costs incidental to approved

1 electronic monitoring, of all defendants placed on
2 supervision. The concurrence of the Chief Judge shall be in the
3 form of an administrative order. The fees shall be collected by
4 the clerk of the circuit court. The clerk of the circuit court
5 shall pay all moneys collected from these fees to the county
6 treasurer who shall use the moneys collected to defray the
7 costs of drug testing, alcohol testing, and electronic
8 monitoring. The county treasurer shall deposit the fees
9 collected in the county working cash fund under Section 6-27001
10 or Section 6-29002 of the Counties Code, as the case may be.

11 (h) A disposition of supervision is a final order for the
12 purposes of appeal.

13 (i) The court shall impose upon a defendant placed on
14 supervision after January 1, 1992 or to community service under
15 the supervision of a probation or court services department
16 after January 1, 2004, as a condition of supervision or
17 supervised community service, a fee of \$50 for each month of
18 supervision or supervised community service ordered by the
19 court, unless after determining the inability of the person
20 placed on supervision or supervised community service to pay
21 the fee, the court assesses a lesser fee. The court may not
22 impose the fee on a minor who is made a ward of the State under
23 the Juvenile Court Act of 1987 while the minor is in placement.
24 The fee shall be imposed only upon a defendant who is actively
25 supervised by the probation and court services department. The
26 fee shall be collected by the clerk of the circuit court. The

1 clerk of the circuit court shall pay all monies collected from
2 this fee to the county treasurer for deposit in the probation
3 and court services fund pursuant to Section 15.1 of the
4 Probation and Probation Officers Act.

5 A circuit court may not impose a probation fee in excess of
6 \$25 per month unless: (1) the circuit court has adopted, by
7 administrative order issued by the chief judge, a standard
8 probation fee guide determining an offender's ability to pay,
9 under guidelines developed by the Administrative Office of the
10 Illinois Courts; and (2) the circuit court has authorized, by
11 administrative order issued by the chief judge, the creation of
12 a Crime Victim's Services Fund, to be administered by the Chief
13 Judge or his or her designee, for services to crime victims and
14 their families. Of the amount collected as a probation fee, not
15 to exceed \$5 of that fee collected per month may be used to
16 provide services to crime victims and their families.

17 (j) All fines and costs imposed under this Section for any
18 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
19 Code, or a similar provision of a local ordinance, and any
20 violation of the Child Passenger Protection Act, or a similar
21 provision of a local ordinance, shall be collected and
22 disbursed by the circuit clerk as provided under Section 27.5
23 of the Clerks of Courts Act.

24 (k) A defendant at least 17 years of age who is placed on
25 supervision for a misdemeanor in a county of 3,000,000 or more
26 inhabitants and who has not been previously convicted of a

1 misdemeanor or felony may as a condition of his or her
2 supervision be required by the court to attend educational
3 courses designed to prepare the defendant for a high school
4 diploma and to work toward a high school diploma or to work
5 toward passing the high school level Test of General
6 Educational Development (GED) or to work toward completing a
7 vocational training program approved by the court. The
8 defendant placed on supervision must attend a public
9 institution of education to obtain the educational or
10 vocational training required by this subsection (k). The
11 defendant placed on supervision shall be required to pay for
12 the cost of the educational courses or GED test, if a fee is
13 charged for those courses or test. The court shall revoke the
14 supervision of a person who wilfully fails to comply with this
15 subsection (k). The court shall resentence the defendant upon
16 revocation of supervision as provided in Section 5-6-4. This
17 subsection (k) does not apply to a defendant who has a high
18 school diploma or has successfully passed the GED test. This
19 subsection (k) does not apply to a defendant who is determined
20 by the court to be developmentally disabled or otherwise
21 mentally incapable of completing the educational or vocational
22 program.

23 (1) The court shall require a defendant placed on
24 supervision for possession of a substance prohibited by the
25 Cannabis Control Act, the Illinois Controlled Substances Act,
26 or the Methamphetamine Control and Community Protection Act

1 after a previous conviction or disposition of supervision for
2 possession of a substance prohibited by the Cannabis Control
3 Act, the Illinois Controlled Substances Act, or the
4 Methamphetamine Control and Community Protection Act or a
5 sentence of probation under Section 10 of the Cannabis Control
6 Act or Section 410 of the Illinois Controlled Substances Act
7 and after a finding by the court that the person is addicted,
8 to undergo treatment at a substance abuse program approved by
9 the court.

10 (m) The Secretary of State shall require anyone placed on
11 court supervision for a violation of Section 3-707 of the
12 Illinois Vehicle Code or a similar provision of a local
13 ordinance to give proof of his or her financial responsibility
14 as defined in Section 7-315 of the Illinois Vehicle Code. The
15 proof shall be maintained by the individual in a manner
16 satisfactory to the Secretary of State for a minimum period of
17 3 years after the date the proof is first filed. The proof
18 shall be limited to a single action per arrest and may not be
19 affected by any post-sentence disposition. The Secretary of
20 State shall suspend the driver's license of any person
21 determined by the Secretary to be in violation of this
22 subsection.

23 (n) Any offender placed on supervision for any offense that
24 the court or probation department has determined to be sexually
25 motivated as defined in the Sex Offender Management Board Act
26 shall be required to refrain from any contact, directly or

1 indirectly, with any persons specified by the court and shall
2 be available for all evaluations and treatment programs
3 required by the court or the probation department.

4 (o) An offender placed on supervision for a sex offense as
5 defined in the Sex Offender Management Board Act shall refrain
6 from residing at the same address or in the same condominium
7 unit or apartment unit or in the same condominium complex or
8 apartment complex with another person he or she knows or
9 reasonably should know is a convicted sex offender or has been
10 placed on supervision for a sex offense. The provisions of this
11 subsection (o) do not apply to a person convicted of a sex
12 offense who is placed in a Department of Corrections licensed
13 transitional housing facility for sex offenders.

14 (p) An offender placed on supervision for an offense
15 committed on or after June 1, 2008 (the effective date of
16 Public Act 95-464) that would qualify the accused as a child
17 sex offender as defined in Section 11-9.3 or 11-9.4 of the
18 Criminal Code of 1961 shall refrain from communicating with or
19 contacting, by means of the Internet, a person who is not
20 related to the accused and whom the accused reasonably believes
21 to be under 18 years of age. For purposes of this subsection
22 (p), "Internet" has the meaning ascribed to it in Section 16J-5
23 of the Criminal Code of 1961; and a person is not related to
24 the accused if the person is not: (i) the spouse, brother, or
25 sister of the accused; (ii) a descendant of the accused; (iii)
26 a first or second cousin of the accused; or (iv) a step-child

1 or adopted child of the accused.

2 (q) An offender placed on supervision for an offense
3 committed on or after June 1, 2008 (the effective date of
4 Public Act 95-464) that would qualify the accused as a child
5 sex offender as defined in Section 11-9.3 or 11-9.4 of the
6 Criminal Code of 1961 shall, if so ordered by the court,
7 refrain from communicating with or contacting, by means of the
8 Internet, a person who is related to the accused and whom the
9 accused reasonably believes to be under 18 years of age. For
10 purposes of this subsection (q), "Internet" has the meaning
11 ascribed to it in Section 16J-5 of the Criminal Code of 1961;
12 and a person is related to the accused if the person is: (i)
13 the spouse, brother, or sister of the accused; (ii) a
14 descendant of the accused; (iii) a first or second cousin of
15 the accused; or (iv) a step-child or adopted child of the
16 accused.

17 (r) An offender placed on supervision for an offense under
18 Section 11-6, 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of
19 the Criminal Code of 1961, or any attempt to commit any of
20 these offenses, committed on or after the effective date of
21 this amendatory Act of the 95th General Assembly shall:

22 (i) not access or use a computer or any other device
23 with Internet capability without the prior written
24 approval of the court, except in connection with the
25 offender's employment or search for employment with the
26 prior approval of the court;

1 (ii) submit to periodic unannounced examinations of
2 the offender's computer or any other device with Internet
3 capability by the offender's probation officer, a law
4 enforcement officer, or assigned computer or information
5 technology specialist, including the retrieval and copying
6 of all data from the computer or device and any internal or
7 external peripherals and removal of such information,
8 equipment, or device to conduct a more thorough inspection;

9 (iii) submit to the installation on the offender's
10 computer or device with Internet capability, at the
11 offender's expense, of one or more hardware or software
12 systems to monitor the Internet use; and

13 (iv) submit to any other appropriate restrictions
14 concerning the offender's use of or access to a computer or
15 any other device with Internet capability imposed by the
16 court.

17 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
18 94-556, eff. 9-11-05; 95-211, eff. 1-1-08; 95-331, eff.
19 8-21-07; 95-464, eff. 6-1-08; 95-696, eff. 6-1-08; 95-876, eff.
20 8-21-08; 95-983, eff. 6-1-09.)

21 Section 15. The Illinois Human Rights Act is amended by
22 changing Section 2-103 as follows:

23 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

24 Sec. 2-103. Arrest Record.

1 (A) Unless otherwise authorized by law, it is a civil
2 rights violation for any employer, employment agency or labor
3 organization to inquire into or to use the fact of an arrest or
4 criminal history record information ordered expunged, sealed
5 or impounded under Section 5.2 ~~5~~ of the Criminal Identification
6 Act as a basis to refuse to hire, to segregate, or to act with
7 respect to recruitment, hiring, promotion, renewal of
8 employment, selection for training or apprenticeship,
9 discharge, discipline, tenure or terms, privileges or
10 conditions of employment. This Section does not prohibit a
11 State agency, unit of local government or school district, or
12 private organization from requesting or utilizing sealed
13 felony conviction information obtained from the Department of
14 State Police under the provisions of Section 3 of the Criminal
15 Identification Act or under other State or federal laws or
16 regulations that require criminal background checks in
17 evaluating the qualifications and character of an employee or a
18 prospective employee.

19 (B) The prohibition against the use of the fact of an
20 arrest contained in this Section shall not be construed to
21 prohibit an employer, employment agency, or labor organization
22 from obtaining or using other information which indicates that
23 a person actually engaged in the conduct for which he or she
24 was arrested.

25 (Source: P.A. 93-1084, eff. 6-1-05.)