

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 5.2 and 13 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

- 1 (x) Parole (730 ILCS 5/5-1-16),  
2 (xi) Petty Offense (730 ILCS 5/5-1-17),  
3 (xii) Probation (730 ILCS 5/5-1-18),  
4 (xiii) Sentence (730 ILCS 5/5-1-19),  
5 (xiv) Supervision (730 ILCS 5/5-1-21), and  
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated  
8 by arrest" means a charge (as defined by 730 ILCS  
9 5/5-1-3) brought against a defendant where the  
10 defendant is not arrested prior to or as a direct  
11 result of the charge.

12 (C) "Conviction" means a judgment of conviction or  
13 sentence entered upon a plea of guilty or upon a  
14 verdict or finding of guilty of an offense, rendered by  
15 a legally constituted jury or by a court of competent  
16 jurisdiction authorized to try the case without a jury.  
17 An order of supervision successfully completed by the  
18 petitioner is not a conviction. An order of qualified  
19 probation (as defined in subsection (a)(1)(J))  
20 successfully completed by the petitioner is not a  
21 conviction. An order of supervision or an order of  
22 qualified probation that is terminated  
23 unsatisfactorily is a conviction, unless the  
24 unsatisfactory termination is reversed, vacated, or  
25 modified and the judgment of conviction, if any, is  
26 reversed or vacated.

1 (D) "Criminal offense" means a petty offense,  
2 business offense, misdemeanor, felony, or municipal  
3 ordinance violation (as defined in subsection  
4 (a)(1)(H)). As used in this Section, a minor traffic  
5 offense (as defined in subsection (a)(1)(G)) shall not  
6 be considered a criminal offense.

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

16 (F) As used in this Section, "last sentence" means  
17 the sentence, order of supervision, or order of  
18 qualified probation (as defined by subsection  
19 (a)(1)(J)), for a criminal offense (as defined by  
20 subsection (a)(1)(D)) that terminates last in time in  
21 any jurisdiction, regardless of whether the petitioner  
22 has included the criminal offense for which the  
23 sentence or order of supervision or qualified  
24 probation was imposed in his or her petition. If  
25 multiple sentences, orders of supervision, or orders  
26 of qualified probation terminate on the same day and

1           are last in time, they shall be collectively considered  
2           the "last sentence" regardless of whether they were  
3           ordered to run concurrently.

4           (G) "Minor traffic offense" means a petty offense,  
5           business offense, or Class C misdemeanor under the  
6           Illinois Vehicle Code or a similar provision of a  
7           municipal or local ordinance.

8           (H) "Municipal ordinance violation" means an  
9           offense defined by a municipal or local ordinance that  
10          is criminal in nature and with which the petitioner was  
11          charged or for which the petitioner was arrested and  
12          released without charging.

13          (I) "Petitioner" means an adult or a minor  
14          prosecuted as an adult who has applied for relief under  
15          this Section.

16          (J) "Qualified probation" means an order of  
17          probation under Section 10 of the Cannabis Control Act,  
18          Section 410 of the Illinois Controlled Substances Act,  
19          Section 70 of the Methamphetamine Control and  
20          Community Protection Act, Section 12-4.3(b)(1) and (2)  
21          of the Criminal Code of 1961 (as those provisions  
22          existed before their deletion by Public Act 89-313),  
23          Section 10-102 of the Illinois Alcoholism and Other  
24          Drug Dependency Act, Section 40-10 of the Alcoholism  
25          and Other Drug Abuse and Dependency Act, or Section 10  
26          of the Steroid Control Act. For the purpose of this

1           Section, "successful completion" of an order of  
2           qualified probation under Section 10-102 of the  
3           Illinois Alcoholism and Other Drug Dependency Act and  
4           Section 40-10 of the Alcoholism and Other Drug Abuse  
5           and Dependency Act means that the probation was  
6           terminated satisfactorily and the judgment of  
7           conviction was vacated.

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

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

22          (M) "Terminate" as it relates to a sentence or  
23          order of supervision or qualified probation includes  
24          either satisfactory or unsatisfactory termination of  
25          the sentence, unless otherwise specified in this  
26          Section.

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

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

8                   (A) the sealing or expungement of the records of  
9                   arrests or charges not initiated by arrest that result  
10                  in an order of supervision for or conviction of: (i)  
11                  any sexual offense committed against a minor; (ii)  
12                  Section 11-501 of the Illinois Vehicle Code or a  
13                  similar provision of a local ordinance; or (iii)  
14                  Section 11-503 of the Illinois Vehicle Code or a  
15                  similar provision of a local ordinance.

16                  (B) the sealing or expungement of records of minor  
17                  traffic offenses (as defined in subsection (a)(1)(G)),  
18                  unless the petitioner was arrested and released  
19                  without charging.

20                  (C) the sealing of the records of arrests or  
21                  charges not initiated by arrest which result in an  
22                  order of supervision, an order of qualified probation  
23                  (as defined in subsection (a)(1)(J)), or a conviction  
24                  for the following offenses:

25                          (i) offenses included in Article 11 of the  
26                          Criminal Code of 1961 or a similar provision of a

1 local ordinance, except Section 11-14 of the  
2 Criminal Code of 1961 or a similar provision of a  
3 local ordinance;

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

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

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

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

15 (D) the sealing of the records of an arrest which  
16 results in the petitioner being charged with a felony  
17 offense or records of a charge not initiated by arrest  
18 for a felony offense, regardless of the disposition,  
19 unless:

20 (i) the charge is amended to a misdemeanor and  
21 is otherwise eligible to be sealed pursuant to  
22 subsection (c);

23 (ii) the charge is brought along with another  
24 charge as a part of one case and the charge results  
25 in acquittal, dismissal, or conviction when the  
26 conviction was reversed or vacated, and another

1 charge brought in the same case results in a  
2 disposition for a misdemeanor offense that is  
3 eligible to be sealed pursuant to subsection (c) or  
4 a disposition listed in paragraph (i), (iii) or  
5 (iv) of this subsection;

6 (iii) ~~(ii)~~ the charge results in first  
7 offender probation as set forth in subsection  
8 (c) (2) (E); or

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

22 (b) Expungement.

23 (1) A petitioner may petition the circuit court to  
24 expunge the records of his or her arrests and charges not  
25 initiated by arrest when:

26 (A) He or she has never been convicted of a



1 criminal offense; and

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

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

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

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

25 (i) Those arrests or charges that resulted in  
26 orders of supervision under Section 3-707, 3-708,

1           3-710, or 5-401.3 of the Illinois Vehicle Code or a  
2           similar provision of a local ordinance, or under  
3           Section 12-3.2, 12-15 or 16A-3 of the Criminal Code  
4           of 1961 or a similar provision of a local  
5           ordinance, shall not be eligible for expungement  
6           until 5 years have passed following the  
7           satisfactory termination of the supervision.

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

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

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

23          (4) Whenever a person has been arrested for or  
24          convicted of any offense, in the name of a person whose  
25          identity he or she has stolen or otherwise come into  
26          possession of, the aggrieved person from whom the identity

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

25 (5) Whenever a person has been convicted of criminal  
26 sexual assault, aggravated criminal sexual assault,

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

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

21 (7) Nothing in this Section shall prevent the  
22 Department of State Police from maintaining all records of  
23 any person who is admitted to probation upon terms and  
24 conditions and who fulfills those terms and conditions  
25 pursuant to Section 10 of the Cannabis Control Act, Section  
26 410 of the Illinois Controlled Substances Act, Section 70

1 of the Methamphetamine Control and Community Protection  
2 Act, Section 12-4.3 of the Criminal Code of 1961, Section  
3 10-102 of the Illinois Alcoholism and Other Drug Dependency  
4 Act, Section 40-10 of the Alcoholism and Other Drug Abuse  
5 and Dependency Act, or Section 10 of the Steroid Control  
6 Act.

7 (c) Sealing.

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

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

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

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

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

25 (D) Arrests or charges not initiated by arrest  
26 resulting in convictions unless excluded by subsection

1 (a) (3);

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

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

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

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

13 (iii) Section 402 of the Illinois Controlled  
14 Substances Act;

15 (iv) the Methamphetamine Precursor Control  
16 Act; and

17 (v) the Steroid Control Act.

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

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

24 (B) Records identified as eligible under  
25 subsection (c) (2) (C) may be sealed (i) 3 years after  
26 the termination of petitioner's last sentence (as

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

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

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

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

26 (d) Procedure. The following procedures apply to

1 expungement under subsections (b) and (e), and sealing under  
2 subsection (c):

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

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

21 (3) Drug test. The petitioner must attach to the  
22 petition proof that the petitioner has passed a test taken  
23 within 30 days before the filing of the petition showing  
24 the absence within his or her body of all illegal  
25 substances as defined by the Illinois Controlled  
26 Substances Act, the Methamphetamine Control and Community



1 Protection Act, and the Cannabis Control Act if he or she  
2 is petitioning to seal felony records pursuant to clause  
3 (c) (2) (E) or (c) (2) (F) (ii)-(v) or if he or she is  
4 petitioning to expunge felony records of a qualified  
5 probation pursuant to clause (b) (1) (B) (iv).

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

12 (5) Objections.

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

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

21 (6) Entry of order.

22 (A) The Chief Judge of the circuit wherein the  
23 charge was brought, any judge of that circuit  
24 designated by the Chief Judge, or in counties of less  
25 than 3,000,000 inhabitants, the presiding trial judge  
26 at the petitioner's trial, if any, shall rule on the

1 petition to expunge or seal as set forth in this  
2 subsection (d) (6).

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

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

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

26 (9) Effect of order.

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

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

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

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

24 (B) Upon entry of an order to expunge records  
25 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

26 (i) the records shall be expunged (as defined

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

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

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

21 (iv) records impounded by the Department may  
22 be disseminated by the Department only as required  
23 by law or to the arresting authority, the State's  
24 Attorney, and the court upon a later arrest for the  
25 same or a similar offense or for the purpose of  
26 sentencing for any subsequent felony, and to the

1 Department of Corrections upon conviction for any  
2 offense; and

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

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

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

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

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

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

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

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

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

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

6 (Source: P.A. 96-409, eff. 1-1-10.)

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



1           (b) Notwithstanding the foregoing, all sealed or impounded  
2 records are subject to inspection and use by the court and  
3 inspection and use by law enforcement agencies and State's  
4 Attorneys or other prosecutors in carrying out the duties of  
5 their offices.

6           (c) The sealed or impounded records maintained under  
7 subsection (a) are exempt from disclosure under the Freedom of  
8 Information Act.

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

16           (Source: P.A. 96-409, eff. 1-1-10.)

17           Section 99. Effective date. This Act takes effect upon  
18 becoming law.