



Rep. Michael J. Zalewski

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1 AMENDMENT TO SENATE BILL 3824

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3824 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by  
5 changing Section 5.2 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),

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

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

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

1           successfully completed by the petitioner is not a  
2 conviction. An order of supervision or an order of  
3 qualified probation that is terminated  
4 unsatisfactorily is a conviction, unless the  
5 unsatisfactory termination is reversed, vacated, or  
6 modified and the judgment of conviction, if any, is  
7 reversed or vacated.

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

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

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

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

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

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

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

23 (J) "Qualified probation" means an order of  
24 probation under Section 10 of the Cannabis Control Act,  
25 Section 410 of the Illinois Controlled Substances Act,  
26 Section 70 of the Methamphetamine Control and

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

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

25 (L) "Sexual offense committed against a minor"  
26 includes but is not limited to the offenses of indecent

1           solicitation of a child or criminal sexual abuse when  
2           the victim of such offense is under 18 years of age.

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

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

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

15               (A) the sealing or expungement of the records of  
16               arrests or charges not initiated by arrest that result  
17               in an order of supervision for or conviction of: (i)  
18               any sexual offense committed against a minor; (ii)  
19               Section 11-501 of the Illinois Vehicle Code or a  
20               similar provision of a local ordinance; or (iii)  
21               Section 11-503 of the Illinois Vehicle Code or a  
22               similar provision of a local ordinance.

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

1 (C) the sealing of the records of arrests or  
2 charges not initiated by arrest which result in an  
3 order of supervision, an order of qualified probation  
4 (as defined in subsection (a)(1)(J)), or a conviction  
5 for the following offenses:

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

11 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30, or  
12 26-5 of the Criminal Code of 1961 or a similar  
13 provision of a local ordinance;

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

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

19 (v) any offense or attempted offense that  
20 would subject a person to registration under the  
21 Sex Offender Registration Act.

22 (D) the sealing of the records of an arrest which  
23 results in the petitioner being charged with a felony  
24 offense or records of a charge not initiated by arrest  
25 for a felony offense unless:

26 (i) the charge is amended to a misdemeanor and

1 is otherwise eligible to be sealed pursuant to  
2 subsection (c);

3 (ii) the charge is brought along with another  
4 charge as a part of one case and the charge results  
5 in acquittal, dismissal, or conviction when the  
6 conviction was reversed or vacated, and another  
7 charge brought in the same case results in a  
8 disposition for a misdemeanor offense that is  
9 eligible to be sealed pursuant to subsection (c) or  
10 a disposition listed in paragraph (i), (iii), or  
11 (iv) of this subsection;

12 (iii) the charge results in first offender  
13 probation as set forth in subsection (c) (2) (E);

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



1           (v) the charge results in acquittal,  
2           dismissal, or the petitioner's release without  
3           conviction; or

4           (vi) the charge results in a conviction, but  
5           the conviction was reversed or vacated.

6       (b) Expungement.

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

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

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

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

25           (A) When the arrest or charge not initiated by  
26           arrest sought to be expunged resulted in an acquittal,

1 dismissal, the petitioner's release without charging,  
2 or the reversal or vacation of a conviction, there is  
3 no waiting period to petition for the expungement of  
4 such records.

5 (B) When the arrest or charge not initiated by  
6 arrest sought to be expunged resulted in an order of  
7 supervision, successfully completed by the petitioner,  
8 the following time frames will apply:

9 (i) Those arrests or charges that resulted in  
10 orders of supervision under Section 3-707, 3-708,  
11 3-710, or 5-401.3 of the Illinois Vehicle Code or a  
12 similar provision of a local ordinance, or under  
13 Section 11-1.50, 12-3.2, or 12-15 of the Criminal  
14 Code of 1961 or a similar provision of a local  
15 ordinance, shall not be eligible for expungement  
16 until 5 years have passed following the  
17 satisfactory termination of the supervision.

18 (ii) Those arrests or charges that resulted in  
19 orders of supervision for any other offenses shall  
20 not be eligible for expungement until 2 years have  
21 passed following the satisfactory termination of  
22 the supervision.

23 (C) When the arrest or charge not initiated by  
24 arrest sought to be expunged resulted in an order of  
25 qualified probation, successfully completed by the  
26 petitioner, such records shall not be eligible for

1 expungement until 5 years have passed following the  
2 satisfactory termination of the probation.

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

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

1 index required to be kept by the circuit court clerk under  
2 Section 16 of the Clerks of Courts Act, but the order shall  
3 not affect any index issued by the circuit court clerk  
4 before the entry of the order. Nothing in this Section  
5 shall limit the Department of State Police or other  
6 criminal justice agencies or prosecutors from listing  
7 under an offender's name the false names he or she has  
8 used.

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

25 (6) If a conviction has been set aside on direct review  
26 or on collateral attack and the court determines by clear

1 and convincing evidence that the petitioner was factually  
2 innocent of the charge, the court shall enter an  
3 expungement order as provided in subsection (b) of Section  
4 5-5-4 of the Unified Code of Corrections.

5 (7) Nothing in this Section shall prevent the  
6 Department of State Police from maintaining all records of  
7 any person who is admitted to probation upon terms and  
8 conditions and who fulfills those terms and conditions  
9 pursuant to Section 10 of the Cannabis Control Act, Section  
10 410 of the Illinois Controlled Substances Act, Section 70  
11 of the Methamphetamine Control and Community Protection  
12 Act, Section 12-4.3 or subdivision (b)(1) of Section  
13 12-3.05 of the Criminal Code of 1961, Section 10-102 of the  
14 Illinois Alcoholism and Other Drug Dependency Act, Section  
15 40-10 of the Alcoholism and Other Drug Abuse and Dependency  
16 Act, or Section 10 of the Steroid Control Act.

17 (c) Sealing.

18 (1) Applicability. Notwithstanding any other provision  
19 of this Act to the contrary, and cumulative with any rights  
20 to expungement of criminal records, this subsection  
21 authorizes the sealing of criminal records of adults and of  
22 minors prosecuted as adults.

23 (2) Eligible Records. The following records may be  
24 sealed:

25 (A) All arrests resulting in release without  
26 charging;

1 (B) Arrests or charges not initiated by arrest  
2 resulting in acquittal, dismissal, or conviction when  
3 the conviction was reversed or vacated, except as  
4 excluded by subsection (a) (3) (B);

5 (C) Arrests or charges not initiated by arrest  
6 resulting in orders of supervision successfully  
7 completed by the petitioner, unless excluded by  
8 subsection (a) (3);

9 (D) Arrests or charges not initiated by arrest  
10 resulting in convictions unless excluded by subsection  
11 (a) (3);

12 (E) Arrests or charges not initiated by arrest  
13 resulting in orders of first offender probation under  
14 Section 10 of the Cannabis Control Act, Section 410 of  
15 the Illinois Controlled Substances Act, or Section 70  
16 of the Methamphetamine Control and Community  
17 Protection Act; and

18 (F) Arrests or charges not initiated by arrest  
19 resulting in ~~Class 4~~ felony convictions for the  
20 following offenses:

21 (i) Class 4 felony convictions for:

22 Prostitution under Section 11-14 of the  
23 Criminal Code of 1961.

24 Possession of cannabis under Section 4 of  
25 the Cannabis Control Act.

26 Possession of a controlled substance under

1                   Section 402 of the Illinois Controlled  
2                   Substances Act.

3                   Offenses under the Methamphetamine  
4                   Precursor Control Act.

5                   Offenses under the Steroid Control Act.

6                   Theft under Section 16-1 of the Criminal  
7                   Code of 1961.

8                   Retail theft under Section 16A-3 or  
9                   paragraph (a) of 16-25 of the Criminal Code of  
10                   1961.

11                   Deceptive practices under Section 17-1 of  
12                   the Criminal Code of 1961.

13                   Forgery under Section 17-3 of the Criminal  
14                   Code of 1961.

15                   Possession of burglary tools under Section  
16                   19-2 of the Criminal Code of 1961.

17                   (ii) Class 3 felony convictions for:

18                   Theft under Section 16-1 of the Criminal  
19                   Code of 1961.

20                   Retail theft under Section 16A-3 or  
21                   paragraph (a) of 16-25 of the Criminal Code of  
22                   1961.

23                   Deceptive practices under Section 17-1 of  
24                   the Criminal Code of 1961.

25                   Forgery under Section 17-3 of the Criminal  
26                   Code of 1961.

1           (iii) Class 2 felony convictions for:

2                   Burglary under Section 19-1 of the  
3                   Criminal Code of 1961.

4                   Offenses under Section 401 of the Illinois  
5                   Controlled Substances Act.

6                   Possession of a stolen motor vehicle under  
7                   Section 4-103 of the Illinois Vehicle Code.

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

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

10           ~~(iii) Section 402 of the Illinois Controlled~~  
11           ~~Substances Act;~~

12           ~~(iv) the Methamphetamine Precursor Control~~  
13           ~~Act; and~~

14           ~~(v) the Steroid Control Act.~~

15           (3) When Records Are Eligible to Be Sealed. Records  
16 identified as eligible under subsection (c)(2) may be  
17 sealed as follows:

18           (A) Records identified as eligible under  
19 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any  
20 time.

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



1            termination of the petitioner's last sentence (as  
2            defined in subsection (a) (1) (F)) if the petitioner has  
3            ever been convicted of a criminal offense (as defined  
4            in subsection (a) (1) (D)).

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

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

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

23           (d) Procedure. The following procedures apply to  
24           expungement under subsections (b) and (e), and sealing under  
25           subsection (c):

26           (1) Filing the petition. Upon becoming eligible to

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

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

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

26 (A) seal felony records pursuant to clause

1 (c) (2) (E) ~~i~~ ~~or~~

2 (B) seal felony records for a violation of the  
3 Illinois Controlled Substances Act, the  
4 Methamphetamine Control and Community Protection Act,  
5 and the Cannabis Control Act under clause  
6 (c) (2) (F) ~~i~~ ~~(ii)~~ ~~(v)~~ or

7 (C) if he or she is petitioning to expunge felony  
8 records of a qualified probation pursuant to clause  
9 (b) (1) (B) (iv).

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

16 (5) Objections.

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

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

25 (6) Entry of order.

26 (A) The Chief Judge of the circuit wherein the

1 charge was brought, any judge of that circuit  
2 designated by the Chief Judge, or in counties of less  
3 than 3,000,000 inhabitants, the presiding trial judge  
4 at the petitioner's trial, if any, shall rule on the  
5 petition to expunge or seal as set forth in this  
6 subsection (d) (6).

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

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

21 (8) Service of order. After entering an order to  
22 expunge or seal records, the court must provide copies of  
23 the order to the Department, in a form and manner  
24 prescribed by the Department, to the petitioner, to the  
25 State's Attorney or prosecutor charged with the duty of  
26 prosecuting the offense, to the arresting agency, to the

1 chief legal officer of the unit of local government  
2 effecting the arrest, and to such other criminal justice  
3 agencies as may be ordered by the court.

4 (9) Effect of order.

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

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

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

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

1           existed.

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

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

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

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

25           (iv) records impounded by the Department may  
26 be disseminated by the Department only as required

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

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

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

22 (10) Fees. The Department may charge the petitioner a  
23 fee equivalent to the cost of processing any order to  
24 expunge or seal records. Notwithstanding any provision of  
25 the Clerks of Courts Act to the contrary, the circuit court  
26 clerk may charge a fee equivalent to the cost associated

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

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

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

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



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

24 (f) Subject to available funding, the Illinois Department  
25 of Corrections shall conduct a study of the impact of sealing,  
26 especially on employment and recidivism rates, utilizing a

1 random sample of those who apply for the sealing of their  
2 criminal records under Public Act 93-211. At the request of the  
3 Illinois Department of Corrections, records of the Illinois  
4 Department of Employment Security shall be utilized as  
5 appropriate to assist in the study. The study shall not  
6 disclose any data in a manner that would allow the  
7 identification of any particular individual or employing unit.  
8 The study shall be made available to the General Assembly no  
9 later than September 1, 2010.

10 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;  
11 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.  
12 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,  
13 eff. 8-19-11; revised 9-6-11.)".