

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 5-6-3.3 of the
21 Unified Code of Corrections, Section 12-4.3(b)(1) and
22 (2) of the Criminal Code of 1961 (as those provisions
23 existed before their deletion by Public Act 89-313),
24 Section 10-102 of the Illinois Alcoholism and Other
25 Drug Dependency Act, Section 40-10 of the Alcoholism
26 and Other Drug Abuse and Dependency Act, or Section 10

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

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

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

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

1 Section.

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

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

9 (A) the sealing or expungement of the records of
10 arrests or charges not initiated by arrest that result
11 in an order of supervision for or conviction of: (i)
12 any sexual offense committed against a minor; (ii)
13 Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance; or (iii)
15 Section 11-503 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, unless the
17 arrest or charge is for a misdemeanor violation of
18 subsection (a) of Section 11-503 or a similar provision
19 of a local ordinance, that occurred prior to the
20 offender reaching the age of 25 years and the offender
21 has no other conviction for violating Section 11-501 or
22 11-503 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance.

24 (B) the sealing or expungement of records of minor
25 traffic offenses (as defined in subsection (a) (1) (G)),
26 unless the petitioner was arrested and released

1 without charging.

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

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

12 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
13 26-5, or 48-1 of the Criminal Code of 1961 or a
14 similar provision of a local ordinance;

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

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

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

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

1 (i) the charge is amended to a misdemeanor and
2 is otherwise eligible to be sealed pursuant to
3 subsection (c);

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

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

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

1 (c) (3);

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

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

7 (b) Expungement.

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

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

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

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

26 (A) When the arrest or charge not initiated by

1 arrest sought to be expunged resulted in an acquittal,
2 dismissal, the petitioner's release without charging,
3 or the reversal or vacation of a conviction, there is
4 no waiting period to petition for the expungement of
5 such records.

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

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

19 (i-5) Those arrests or charges that resulted
20 in orders of supervision for a misdemeanor
21 violation of subsection (a) of Section 11-503 of
22 the Illinois Vehicle Code or a similar provision of
23 a local ordinance, that occurred prior to the
24 offender reaching the age of 25 years and the
25 offender has no other conviction for violating
26 Section 11-501 or 11-503 of the Illinois Vehicle

1 Code or a similar provision of a local ordinance
2 shall not be eligible for expungement until the
3 petitioner has reached the age of 25 years.

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

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

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

19 (4) Whenever a person has been arrested for or
20 convicted of any offense, in the name of a person whose
21 identity he or she has stolen or otherwise come into
22 possession of, the aggrieved person from whom the identity
23 was stolen or otherwise obtained without authorization,
24 upon learning of the person having been arrested using his
25 or her identity, may, upon verified petition to the chief
26 judge of the circuit wherein the arrest was made, have a

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

21 (5) Whenever a person has been convicted of criminal
22 sexual assault, aggravated criminal sexual assault,
23 predatory criminal sexual assault of a child, criminal
24 sexual abuse, or aggravated criminal sexual abuse, the
25 victim of that offense may request that the State's
26 Attorney of the county in which the conviction occurred

1 file a verified petition with the presiding trial judge at
2 the petitioner's trial to have a court order entered to
3 seal the records of the circuit court clerk in connection
4 with the proceedings of the trial court concerning that
5 offense. However, the records of the arresting authority
6 and the Department of State Police concerning the offense
7 shall not be sealed. The court, upon good cause shown,
8 shall make the records of the circuit court clerk in
9 connection with the proceedings of the trial court
10 concerning the offense available for public inspection.

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

17 (7) Nothing in this Section shall prevent the
18 Department of State Police from maintaining all records of
19 any person who is admitted to probation upon terms and
20 conditions and who fulfills those terms and conditions
21 pursuant to Section 10 of the Cannabis Control Act, Section
22 410 of the Illinois Controlled Substances Act, Section 70
23 of the Methamphetamine Control and Community Protection
24 Act, Section 5-6-3.3 of the Unified Code of Corrections,
25 Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of
26 the Criminal Code of 1961, Section 10-102 of the Illinois

1 Alcoholism and Other Drug Dependency Act, Section 40-10 of
2 the Alcoholism and Other Drug Abuse and Dependency Act, or
3 Section 10 of the Steroid Control Act.

4 (c) Sealing.

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

10 (2) Eligible Records. The following records may be
11 sealed:

12 (A) All arrests resulting in release without
13 charging;

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

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

22 (D) Arrests or charges not initiated by arrest
23 resulting in convictions unless excluded by subsection
24 (a) (3);

25 (E) Arrests or charges not initiated by arrest
26 resulting in orders of first offender probation under

1 Section 10 of the Cannabis Control Act, Section 410 of
2 the Illinois Controlled Substances Act, Section 70 of
3 the Methamphetamine Control and Community Protection
4 Act, or Section 5-6-3.3 of the Unified Code of
5 Corrections; and

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

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

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

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

13 (iv) the Methamphetamine Precursor Control
14 Act; and

15 (v) the Steroid Control Act.

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

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

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

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

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

11 (D) Records identified in subsection
12 (a)(3)(A)(iii) may be sealed after the petitioner has
13 reached the age of 25 years.

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

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

1 (d) Procedure. The following procedures apply to
2 expungement under subsections (b), ~~and~~ (e), and (e-6) and
3 sealing under subsections (c) and (e-5):

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

13 (2) Contents of petition. The petition shall be
14 verified and shall contain the petitioner's name, date of
15 birth, current address and, for each arrest or charge not
16 initiated by arrest sought to be sealed or expunged, the
17 case number, the date of arrest (if any), the identity of
18 the arresting authority, and such other information as the
19 court may require. During the pendency of the proceeding,
20 the petitioner shall promptly notify the circuit court
21 clerk of any change of his or her address. If the
22 petitioner has received a certificate of eligibility for
23 sealing from the Prisoner Review Board under paragraph (10)
24 of subsection (a) of Section 3-3-2 of the Unified Code of
25 Corrections, the certificate shall be attached to the
26 petition.

1 (3) Drug test. The petitioner must attach to the
2 petition proof that the petitioner has passed a test taken
3 within 30 days before the filing of the petition showing
4 the absence within his or her body of all illegal
5 substances as defined by the Illinois Controlled
6 Substances Act, the Methamphetamine Control and Community
7 Protection Act, and the Cannabis Control Act if he or she
8 is petitioning to seal felony records pursuant to clause
9 (c) (2) (E), (c) (2) (F) (ii)-(v), or (e-5) or if he or she is
10 petitioning to expunge felony records of a qualified
11 probation pursuant to clause (b) (1) (B) (iv).

12 (4) Service of petition. The circuit court clerk shall
13 promptly serve a copy of the petition and documentation to
14 support the petition under subsection (e), (e-5), or (e-6)
15 on the State's Attorney or prosecutor charged with the duty
16 of prosecuting the offense, the Department of State Police,
17 the arresting agency and the chief legal officer of the
18 unit of local government effecting the arrest.

19 (5) Objections.

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

25 (B) Objections to a petition to expunge or seal
26 must be filed within 60 days of the date of service of

1 the petition.

2 (6) Entry of order.

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

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

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

24 (8) Service of order. After entering an order to
25 expunge or seal records, the court must provide copies of
26 the order to the Department, in a form and manner

1 prescribed by the Department, to the petitioner, to the
2 State's Attorney or prosecutor charged with the duty of
3 prosecuting the offense, to the arresting agency, to the
4 chief legal officer of the unit of local government
5 effecting the arrest, and to such other criminal justice
6 agencies as may be ordered by the court.

7 (9) Effect of order.

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

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

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

26 (iii) in response to an inquiry for expunged

1 records, the court, the Department, or the agency
2 receiving such inquiry, shall reply as it does in
3 response to inquiries when no records ever
4 existed.

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

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

1 this Section;

2 (iv) records impounded by the Department may
3 be disseminated by the Department only as required
4 by law or to the arresting authority, the State's
5 Attorney, and the court upon a later arrest for the
6 same or a similar offense or for the purpose of
7 sentencing for any subsequent felony, and to the
8 Department of Corrections upon conviction for any
9 offense; and

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

16 (B-5) Upon entry of an order to expunge records
17 under subsection (e-6):

18 (i) the records shall be expunged (as defined
19 in subsection (a)(1)(E)) by the arresting agency
20 and any other agency as ordered by the court,
21 within 60 days of the date of service of the order,
22 unless a motion to vacate, modify, or reconsider
23 the order is filed under paragraph (12) of
24 subsection (d) of this Section;

25 (ii) the records of the circuit court clerk
26 shall be impounded until further order of the court

1 upon good cause shown and the name of the
2 petitioner obliterated on the official index
3 required to be kept by the circuit court clerk
4 under Section 16 of the Clerks of Courts Act, but
5 the order shall not affect any index issued by the
6 circuit court clerk before the entry of the order;

7 (iii) the records shall be impounded by the
8 Department within 60 days of the date of service of
9 the order as ordered by the court, unless a motion
10 to vacate, modify, or reconsider the order is filed
11 under paragraph (12) of subsection (d) of this
12 Section;

13 (iv) records impounded by the Department may
14 be disseminated by the Department only as required
15 by law or to the arresting authority, the State's
16 Attorney, and the court upon a later arrest for the
17 same or a similar offense or for the purpose of
18 sentencing for any subsequent felony, and to the
19 Department of Corrections upon conviction for any
20 offense; and

21 (v) in response to an inquiry for these records
22 from anyone not authorized by law to access the
23 records the court, the Department, or the agency
24 receiving the inquiry shall reply as it does in
25 response to inquiries when no records ever
26 existed.

1 (C) Upon entry of an order to seal records under
2 subsection (c), the arresting agency, any other agency
3 as ordered by the court, the Department, and the court
4 shall seal the records (as defined in subsection
5 (a) (1) (K)). In response to an inquiry for such records
6 from anyone not authorized by law to access such
7 records the court, the Department, or the agency
8 receiving such inquiry shall reply as it does in
9 response to inquiries when no records ever existed.

10 (10) Fees. The Department may charge the petitioner a
11 fee equivalent to the cost of processing any order to
12 expunge or seal records. Notwithstanding any provision of
13 the Clerks of Courts Act to the contrary, the circuit court
14 clerk may charge a fee equivalent to the cost associated
15 with the sealing or expungement of records by the circuit
16 court clerk. From the total filing fee collected for the
17 petition to seal or expunge, the circuit court clerk shall
18 deposit \$10 into the Circuit Court Clerk Operation and
19 Administrative Fund, to be used to offset the costs
20 incurred by the circuit court clerk in performing the
21 additional duties required to serve the petition to seal or
22 expunge on all parties. The circuit court clerk shall
23 collect and forward the Department of State Police portion
24 of the fee to the Department and it shall be deposited in
25 the State Police Services Fund.

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall
2 become final for purposes of appeal until 30 days after
3 service of the order on the petitioner and all parties
4 entitled to notice of the petition.

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

10 (e) Whenever a person who has been convicted of an offense
11 is granted a pardon by the Governor which specifically
12 authorizes expungement, he or she may, upon verified petition
13 to the Chief Judge of the circuit where the person had been
14 convicted, any judge of the circuit designated by the Chief
15 Judge, or in counties of less than 3,000,000 inhabitants, the
16 presiding trial judge at the defendant's trial, have a court
17 order entered expunging the record of arrest from the official
18 records of the arresting authority and order that the records
19 of the circuit court clerk and the Department be sealed until
20 further order of the court upon good cause shown or as
21 otherwise provided herein, and the name of the defendant
22 obliterated from the official index requested to be kept by the
23 circuit court clerk under Section 16 of the Clerks of Courts
24 Act in connection with the arrest and conviction for the
25 offense for which he or she had been pardoned but the order
26 shall not affect any index issued by the circuit court clerk

1 before the entry of the order. All records sealed by the
2 Department may be disseminated by the Department only to the
3 arresting authority, the State's Attorney, and the court upon a
4 later arrest for the same or similar offense or for the purpose
5 of sentencing for any subsequent felony. Upon conviction for
6 any subsequent offense, the Department of Corrections shall
7 have access to all sealed records of the Department pertaining
8 to that individual. Upon entry of the order of expungement, the
9 circuit court clerk shall promptly mail a copy of the order to
10 the person who was pardoned.

11 (e-5) Whenever a person who has been convicted of an
12 offense is granted a certificate of eligibility for sealing by
13 the Prisoner Review Board which specifically authorizes
14 sealing, he or she may, upon verified petition to the Chief
15 Judge of the circuit where the person had been convicted, any
16 judge of the circuit designated by the Chief Judge, or in
17 counties of less than 3,000,000 inhabitants, the presiding
18 trial judge at the petitioner's trial, have a court order
19 entered sealing the record of arrest from the official records
20 of the arresting authority and order that the records of the
21 circuit court clerk and the Department be sealed until further
22 order of the court upon good cause shown or as otherwise
23 provided herein, and the name of the petitioner obliterated
24 from the official index requested to be kept by the circuit
25 court clerk under Section 16 of the Clerks of Courts Act in
26 connection with the arrest and conviction for the offense for

1 which he or she had been granted the certificate but the order
2 shall not affect any index issued by the circuit court clerk
3 before the entry of the order. All records sealed by the
4 Department may be disseminated by the Department only as
5 required by this Act or to the arresting authority, a law
6 enforcement agency, the State's Attorney, and the court upon a
7 later arrest for the same or similar offense or for the purpose
8 of sentencing for any subsequent felony. Upon conviction for
9 any subsequent offense, the Department of Corrections shall
10 have access to all sealed records of the Department pertaining
11 to that individual. Upon entry of the order of sealing, the
12 circuit court clerk shall promptly mail a copy of the order to
13 the person who was granted the certificate of eligibility for
14 sealing.

15 (e-6) Whenever a person who has been convicted of an
16 offense is granted a certificate of eligibility for expungement
17 by the Prisoner Review Board which specifically authorizes
18 expungement, he or she may, upon verified petition to the Chief
19 Judge of the circuit where the person had been convicted, any
20 judge of the circuit designated by the Chief Judge, or in
21 counties of less than 3,000,000 inhabitants, the presiding
22 trial judge at the petitioner's trial, have a court order
23 entered expunging the record of arrest from the official
24 records of the arresting authority and order that the records
25 of the circuit court clerk and the Department be sealed until
26 further order of the court upon good cause shown or as

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

19 (f) 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. At the request of the
24 Illinois Department of Corrections, records of the Illinois
25 Department of Employment Security shall be utilized as
26 appropriate to assist in the study. The study shall not

1 disclose any data in a manner that would allow the
2 identification of any particular individual or employing unit.
3 The study shall be made available to the General Assembly no
4 later than September 1, 2010.

5 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
6 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
7 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
8 eff. 8-19-11; 97-698, eff, 1-1-13; 97-1026, eff. 1-1-13;
9 97-1108, eff. 1-1-13; 97-1109, 1-1-13; 97-1118, eff. 1-1-13;
10 97-1120, eff. 1-1-13; revised 9-20-12.)

11 (20 ILCS 2630/13)

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

13 (a) The Department of State Police shall retain records
14 sealed under subsection (c)~~77~~ or (e-5) of Section 5.2 or
15 impounded under subparagraph (B) or (B-5) of paragraph (9) of
16 subsection (d) of Section 5.2 and shall release them only as
17 authorized by this Act. Felony records sealed under subsection
18 (c)~~77~~ or (e-5) of Section 5.2 or impounded under subparagraph
19 (B) or (B-5) of paragraph (9) of subsection (d) of Section 5.2
20 shall be used and disseminated by the Department only as
21 otherwise specifically required or authorized by a federal or
22 State law, rule, or regulation that requires inquiry into and
23 release of criminal records, including, but not limited to,
24 subsection (A) of Section 3 of this Act. However, all requests
25 for records that have been expunged, sealed, and impounded and

1 the use of those records are subject to the provisions of
2 Section 2-103 of the Illinois Human Rights Act. Upon conviction
3 for any offense, the Department of Corrections shall have
4 access to all sealed records of the Department pertaining to
5 that individual.

6 (b) Notwithstanding the foregoing, all sealed or impounded
7 records are subject to inspection and use by the court and
8 inspection and use by law enforcement agencies and State's
9 Attorneys or other prosecutors in carrying out the duties of
10 their offices.

11 (c) The sealed or impounded records maintained under
12 subsection (a) are exempt from disclosure under the Freedom of
13 Information Act.

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

21 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
22 97-1026, eff. 1-1-13; 97-1120, eff. 1-1-13; revised 9-20-12.)

23 Section 10. The Unified Code of Corrections is amended by
24 changing Section 3-3-2 as follows:

1 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

2 Sec. 3-3-2. Powers and Duties.

3 (a) The Parole and Pardon Board is abolished and the term
4 "Parole and Pardon Board" as used in any law of Illinois, shall
5 read "Prisoner Review Board." After the effective date of this
6 amendatory Act of 1977, the Prisoner Review Board shall provide
7 by rule for the orderly transition of all files, records, and
8 documents of the Parole and Pardon Board and for such other
9 steps as may be necessary to effect an orderly transition and
10 shall:

11 (1) hear by at least one member and through a panel of
12 at least 3 members decide, cases of prisoners who were
13 sentenced under the law in effect prior to the effective
14 date of this amendatory Act of 1977, and who are eligible
15 for parole;

16 (2) hear by at least one member and through a panel of
17 at least 3 members decide, the conditions of parole and the
18 time of discharge from parole, impose sanctions for
19 violations of parole, and revoke parole for those sentenced
20 under the law in effect prior to this amendatory Act of
21 1977; provided that the decision to parole and the
22 conditions of parole for all prisoners who were sentenced
23 for first degree murder or who received a minimum sentence
24 of 20 years or more under the law in effect prior to
25 February 1, 1978 shall be determined by a majority vote of
26 the Prisoner Review Board. One representative supporting

1 parole and one representative opposing parole will be
2 allowed to speak. Their comments shall be limited to making
3 corrections and filling in omissions to the Board's
4 presentation and discussion;

5 (3) hear by at least one member and through a panel of
6 at least 3 members decide, the conditions of mandatory
7 supervised release and the time of discharge from mandatory
8 supervised release, impose sanctions for violations of
9 mandatory supervised release, and revoke mandatory
10 supervised release for those sentenced under the law in
11 effect after the effective date of this amendatory Act of
12 1977;

13 (3.5) hear by at least one member and through a panel
14 of at least 3 members decide, the conditions of mandatory
15 supervised release and the time of discharge from mandatory
16 supervised release, to impose sanctions for violations of
17 mandatory supervised release and revoke mandatory
18 supervised release for those serving extended supervised
19 release terms pursuant to paragraph (4) of subsection (d)
20 of Section 5-8-1;

21 (4) hear by at least 1 member and through a panel of at
22 least 3 members, decide cases brought by the Department of
23 Corrections against a prisoner in the custody of the
24 Department for alleged violation of Department rules with
25 respect to sentence credits under Section 3-6-3 of this
26 Code in which the Department seeks to revoke sentence

1 credits, if the amount of time at issue exceeds 30 days or
2 when, during any 12 month period, the cumulative amount of
3 credit revoked exceeds 30 days except where the infraction
4 is committed or discovered within 60 days of scheduled
5 release. In such cases, the Department of Corrections may
6 revoke up to 30 days of sentence credit. The Board may
7 subsequently approve the revocation of additional sentence
8 credit, if the Department seeks to revoke sentence credit
9 in excess of thirty days. However, the Board shall not be
10 empowered to review the Department's decision with respect
11 to the loss of 30 days of sentence credit for any prisoner
12 or to increase any penalty beyond the length requested by
13 the Department;

14 (5) hear by at least one member and through a panel of
15 at least 3 members decide, the release dates for certain
16 prisoners sentenced under the law in existence prior to the
17 effective date of this amendatory Act of 1977, in
18 accordance with Section 3-3-2.1 of this Code;

19 (6) hear by at least one member and through a panel of
20 at least 3 members decide, all requests for pardon,
21 reprieve or commutation, and make confidential
22 recommendations to the Governor;

23 (7) comply with the requirements of the Open Parole
24 Hearings Act;

25 (8) hear by at least one member and, through a panel of
26 at least 3 members, decide cases brought by the Department

1 of Corrections against a prisoner in the custody of the
2 Department for court dismissal of a frivolous lawsuit
3 pursuant to Section 3-6-3(d) of this Code in which the
4 Department seeks to revoke up to 180 days of sentence
5 credit, and if the prisoner has not accumulated 180 days of
6 sentence credit at the time of the dismissal, then all
7 sentence credit accumulated by the prisoner shall be
8 revoked;

9 (9) hear by at least 3 members, and, through a panel of
10 at least 3 members, decide whether to grant certificates of
11 relief from disabilities or certificates of good conduct as
12 provided in Article 5.5 of Chapter V; ~~and~~

13 (10) upon a petition by a person who has been convicted
14 of a Class 3 or Class 4 felony and who meets the
15 requirements of this paragraph, hear by at least 3 members
16 and, with the unanimous vote of a panel of 3 members, issue
17 a certificate of eligibility for sealing recommending that
18 the court order the sealing of all official records of the
19 arresting authority, the circuit court clerk, and the
20 Department of State Police concerning the arrest and
21 conviction for the Class 3 or 4 felony. A person may not
22 apply to the Board for a certificate of eligibility for
23 sealing:

24 (A) until 5 years have elapsed since the expiration
25 of his or her sentence;

26 (B) until 5 years have elapsed since any arrests or

1 detentions by a law enforcement officer for an alleged
2 violation of law, other than a petty offense, traffic
3 offense, conservation offense, or local ordinance
4 offense;

5 (C) if convicted of a violation of the Cannabis
6 Control Act, Illinois Controlled Substances Act, the
7 Methamphetamine Control and Community Protection Act,
8 the Methamphetamine Precursor Control Act, or the
9 Methamphetamine Precursor Tracking Act unless the
10 petitioner has completed a drug abuse program for the
11 offense on which sealing is sought and provides proof
12 that he or she has completed the program successfully;

13 (D) if convicted of:

14 (i) a sex offense described in Article 11 or
15 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
16 the Criminal Code of 1961;

17 (ii) aggravated assault;

18 (iii) aggravated battery;

19 (iv) domestic battery;

20 (v) aggravated domestic battery;

21 (vi) violation of an order of protection;

22 (vii) an offense under the Criminal Code of
23 1961 involving a firearm;

24 (viii) driving while under the influence of
25 alcohol, other drug or drugs, intoxicating
26 compound or compounds or any combination thereof;

1 (ix) aggravated driving while under the
2 influence of alcohol, other drug or drugs,
3 intoxicating compound or compounds or any
4 combination thereof; or

5 (x) any crime defined as a crime of violence
6 under Section 2 of the Crime Victims Compensation
7 Act.

8 If a person has applied to the Board for a certificate of
9 eligibility for sealing and the Board denies the certificate,
10 the person must wait at least 4 years before filing again or
11 filing for pardon from the Governor unless the Chairman of the
12 Prisoner Review Board grants a waiver.

13 The decision to issue or refrain from issuing a certificate
14 of eligibility for sealing shall be at the Board's sole
15 discretion, and shall not give rise to any cause of action
16 against either the Board or its members.

17 The Board may only authorize the sealing of Class 3 and 4
18 felony convictions of the petitioner from one information or
19 indictment under this paragraph (10). A petitioner may only
20 receive one certificate of eligibility for sealing under this
21 provision for life; and -

22 (11) upon a petition by a person who after having been
23 convicted of a Class 3 or Class 4 felony thereafter served
24 in the United States Armed Forces or National Guard of this
25 or any other state and had received an honorable discharge
26 from the United States Armed Forces or National Guard or

1 who at the time of filing the petition is enlisted in the
2 United States Armed Forces or National Guard of this or any
3 other state and served one tour of duty and who meets the
4 requirements of this paragraph, hear by at least 3 members
5 and, with the unanimous vote of a panel of 3 members, issue
6 a certificate of eligibility for expungement recommending
7 that the court order the expungement of all official
8 records of the arresting authority, the circuit court
9 clerk, and the Department of State Police concerning the
10 arrest and conviction for the Class 3 or 4 felony. A person
11 may not apply to the Board for a certificate of eligibility
12 for expungement:

13 (A) if convicted of:

14 (i) a sex offense described in Article 11 or
15 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
16 the Criminal Code of 1961 or Criminal Code of 2012;

17 (ii) an offense under the Criminal Code of 1961
18 or Criminal Code of 2012 involving a firearm; or

19 (iii) a crime of violence as defined in Section
20 2 of the Crime Victims Compensation Act; or

21 (B) if the person has not served in the United
22 States Armed Forces or National Guard of this or any
23 other state or has not received an honorable discharge
24 from the United States Armed Forces or National Guard
25 of this or any other state or who at the time of the
26 filing of the petition is serving in the United States

1 Armed Forces or National Guard of this or any other
2 state and has not completed one tour of duty.

3 If a person has applied to the Board for a certificate
4 of eligibility for expungement and the Board denies the
5 certificate, the person must wait at least 4 years before
6 filing again or filing for a pardon with authorization for
7 expungement from the Governor unless the Governor or
8 Chairman of the Prisoner Review Board grants a waiver.

9 (a-5) The Prisoner Review Board, with the cooperation of
10 and in coordination with the Department of Corrections and the
11 Department of Central Management Services, shall implement a
12 pilot project in 3 correctional institutions providing for the
13 conduct of hearings under paragraphs (1) and (4) of subsection
14 (a) of this Section through interactive video conferences. The
15 project shall be implemented within 6 months after the
16 effective date of this amendatory Act of 1996. Within 6 months
17 after the implementation of the pilot project, the Prisoner
18 Review Board, with the cooperation of and in coordination with
19 the Department of Corrections and the Department of Central
20 Management Services, shall report to the Governor and the
21 General Assembly regarding the use, costs, effectiveness, and
22 future viability of interactive video conferences for Prisoner
23 Review Board hearings.

24 (b) Upon recommendation of the Department the Board may
25 restore sentence credit previously revoked.

26 (c) The Board shall cooperate with the Department in

1 promoting an effective system of parole and mandatory
2 supervised release.

3 (d) The Board shall promulgate rules for the conduct of its
4 work, and the Chairman shall file a copy of such rules and any
5 amendments thereto with the Director and with the Secretary of
6 State.

7 (e) The Board shall keep records of all of its official
8 actions and shall make them accessible in accordance with law
9 and the rules of the Board.

10 (f) The Board or one who has allegedly violated the
11 conditions of his parole or mandatory supervised release may
12 require by subpoena the attendance and testimony of witnesses
13 and the production of documentary evidence relating to any
14 matter under investigation or hearing. The Chairman of the
15 Board may sign subpoenas which shall be served by any agent or
16 public official authorized by the Chairman of the Board, or by
17 any person lawfully authorized to serve a subpoena under the
18 laws of the State of Illinois. The attendance of witnesses, and
19 the production of documentary evidence, may be required from
20 any place in the State to a hearing location in the State
21 before the Chairman of the Board or his designated agent or
22 agents or any duly constituted Committee or Subcommittee of the
23 Board. Witnesses so summoned shall be paid the same fees and
24 mileage that are paid witnesses in the circuit courts of the
25 State, and witnesses whose depositions are taken and the
26 persons taking those depositions are each entitled to the same

1 fees as are paid for like services in actions in the circuit
2 courts of the State. Fees and mileage shall be vouchered for
3 payment when the witness is discharged from further attendance.

4 In case of disobedience to a subpoena, the Board may
5 petition any circuit court of the State for an order requiring
6 the attendance and testimony of witnesses or the production of
7 documentary evidence or both. A copy of such petition shall be
8 served by personal service or by registered or certified mail
9 upon the person who has failed to obey the subpoena, and such
10 person shall be advised in writing that a hearing upon the
11 petition will be requested in a court room to be designated in
12 such notice before the judge hearing motions or extraordinary
13 remedies at a specified time, on a specified date, not less
14 than 10 nor more than 15 days after the deposit of the copy of
15 the written notice and petition in the U.S. mails addressed to
16 the person at his last known address or after the personal
17 service of the copy of the notice and petition upon such
18 person. The court upon the filing of such a petition, may order
19 the person refusing to obey the subpoena to appear at an
20 investigation or hearing, or to there produce documentary
21 evidence, if so ordered, or to give evidence relative to the
22 subject matter of that investigation or hearing. Any failure to
23 obey such order of the circuit court may be punished by that
24 court as a contempt of court.

25 Each member of the Board and any hearing officer designated
26 by the Board shall have the power to administer oaths and to

1 take the testimony of persons under oath.

2 (g) Except under subsection (a) of this Section, a majority
3 of the members then appointed to the Prisoner Review Board
4 shall constitute a quorum for the transaction of all business
5 of the Board.

6 (h) The Prisoner Review Board shall annually transmit to
7 the Director a detailed report of its work for the preceding
8 calendar year. The annual report shall also be transmitted to
9 the Governor for submission to the Legislature.

10 (Source: P.A. 96-875, eff. 1-22-10; 97-697, eff. 6-22-12;
11 97-1120, eff. 1-1-13; revised 9-20-12.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.