



Rep. Rita Mayfield

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1 AMENDMENT TO HOUSE BILL 2378

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2378 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 5-6-3.3 of the  
2 Unified Code of Corrections, Section 12-4.3(b)(1) and  
3 (2) of the Criminal Code of 1961 (as those provisions  
4 existed before their deletion by Public Act 89-313),  
5 Section 10-102 of the Illinois Alcoholism and Other  
6 Drug Dependency Act, Section 40-10 of the Alcoholism  
7 and Other Drug Abuse and Dependency Act, or Section 10  
8 of the Steroid Control Act. For the purpose of this  
9 Section, "successful completion" of an order of  
10 qualified probation under Section 10-102 of the  
11 Illinois Alcoholism and Other Drug Dependency Act and  
12 Section 40-10 of the Alcoholism and Other Drug Abuse  
13 and Dependency Act means that the probation was  
14 terminated satisfactorily and the judgment of  
15 conviction was vacated.

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

26 (L) "Sexual offense committed against a minor"

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

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

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

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

16 (A) the sealing or expungement of the records of  
17 arrests or charges not initiated by arrest that result  
18 in an order of supervision for or conviction of: (i)  
19 any sexual offense committed against a minor; (ii)  
20 Section 11-501 of the Illinois Vehicle Code or a  
21 similar provision of a local ordinance; or (iii)  
22 Section 11-503 of the Illinois Vehicle Code or a  
23 similar provision of a local ordinance, unless the  
24 arrest or charge is for a misdemeanor violation of  
25 subsection (a) of Section 11-503 or a similar provision  
26 of a local ordinance, that occurred prior to the

1 offender reaching the age of 25 years and the offender  
2 has no other conviction for violating Section 11-501 or  
3 11-503 of the Illinois Vehicle Code or a similar  
4 provision of a local ordinance.

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

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

14 (i) offenses included in Article 11 of the  
15 Criminal Code of 1961 or the Criminal Code of 2012  
16 or a similar provision of a local ordinance, except  
17 Section 11-14 of the Criminal Code of 1961 or the  
18 Criminal Code of 2012, or a similar provision of a  
19 local ordinance;

20 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
21 26-5, or 48-1 of the Criminal Code of 1961 or the  
22 Criminal Code of 2012, or a similar provision of a  
23 local ordinance;

24 (iii) (blank); ~~offenses defined as "crimes of~~  
25 ~~violence" in Section 2 of the Crime Victims~~  
26 ~~Compensation Act or a similar provision of a local~~

1           ~~ordinance;~~

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

4           (v) any offense or attempted offense that  
5           would subject a person to registration under the  
6           Sex Offender Registration Act.

7           (D) the sealing of the records of an arrest which  
8           results in the petitioner being charged with a felony  
9           offense or records of a charge not initiated by arrest  
10          for a felony offense unless:

11          (i) the charge is amended to a misdemeanor and  
12          is otherwise eligible to be sealed pursuant to  
13          subsection (c);

14          (ii) the charge is brought along with another  
15          charge as a part of one case and the charge results  
16          in acquittal, dismissal, or conviction when the  
17          conviction was reversed or vacated, and another  
18          charge brought in the same case results in a  
19          disposition for a misdemeanor offense that is  
20          eligible to be sealed pursuant to subsection (c) or  
21          a disposition listed in paragraph (i), (iii), or  
22          (iv) of this subsection;

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

25          (iv) the charge is for a Class 4 felony offense  
26          listed in subsection (c) (2) (F) or the charge is



1 amended to a Class 4 felony offense listed in  
2 subsection (c)(2)(F). Records of arrests which  
3 result in the petitioner being charged with a Class  
4 4 felony offense listed in subsection (c)(2)(F),  
5 records of charges not initiated by arrest for  
6 Class 4 felony offenses listed in subsection  
7 (c)(2)(F), and records of charges amended to a  
8 Class 4 felony offense listed in (c)(2)(F) may be  
9 sealed, regardless of the disposition, subject to  
10 any waiting periods set forth in subsection  
11 (c)(3);

12 (v) the charge results in acquittal,  
13 dismissal, or the petitioner's release without  
14 conviction; or

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

17 (b) Expungement.

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

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

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

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

9 (1.5) If the petitioner has not been convicted of  
10 another criminal offense within a 7-year period for  
11 anything other than a minor traffic offense as defined in  
12 subsection (a) (1) (G), then the petitioner may petition the  
13 circuit court to expunge the records of his or her arrest  
14 for a criminal offense that results in a conviction for  
15 anything other than:

16 (A) a felony;

17 (B) a misdemeanor violation of any offense listed  
18 in Article 11 of the Criminal Code of 1961 or the  
19 Criminal Code of 2012 or a misdemeanor violation of  
20 Section 12-15 of the Criminal Code of 1961 or any  
21 similar provision of a local ordinance;

22 (C) domestic battery or any similar provision of a  
23 local ordinance;

24 (D) a misdemeanor violation of any offense listed  
25 in Article 24 of the Criminal Code of 1961 or the  
26 Criminal Code of 2012, if the offense involves the

1           possession or use of a firearm or any similar provision  
2           of a local ordinance; or

3           (E) any offense excluded by subsections (a) (3) (A)  
4           or (a) (3) (C).

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

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

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

16               (i) Those arrests or charges that resulted in  
17               orders of supervision under Section 3-707, 3-708,  
18               3-710, or 5-401.3 of the Illinois Vehicle Code or a  
19               similar provision of a local ordinance, or under  
20               Section 11-1.50, 12-3.2, or 12-15 of the Criminal  
21               Code of 1961 or the Criminal Code of 2012, or a  
22               similar provision of a local ordinance, shall not  
23               be eligible for expungement until 5 years have  
24               passed following the satisfactory termination of  
25               the supervision.

26               (i-5) Those arrests or charges that resulted

1 in orders of supervision for a misdemeanor  
2 violation of subsection (a) of Section 11-503 of  
3 the Illinois Vehicle Code or a similar provision of  
4 a local ordinance, that occurred prior to the  
5 offender reaching the age of 25 years and the  
6 offender has no other conviction for violating  
7 Section 11-501 or 11-503 of the Illinois Vehicle  
8 Code or a similar provision of a local ordinance  
9 shall not be eligible for expungement until the  
10 petitioner has reached the age of 25 years.

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

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

22 (D) When the arrest or charge not initiated by  
23 arrest sought to be expunged under subsection  
24 (b) (1.5), the records are not eligible for expungement  
25 until 7 years have passed following the termination of  
26 the sentence with no further convictions during that

1           time frame.

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

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

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

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

24 (6) If a conviction has been set aside on direct review  
25 or on collateral attack and the court determines by clear  
26 and convincing evidence that the petitioner was factually

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

4 (7) Nothing in this Section shall prevent the  
5 Department of State Police from maintaining all records of  
6 any person who is admitted to probation upon terms and  
7 conditions and who fulfills those terms and conditions  
8 pursuant to Section 10 of the Cannabis Control Act, Section  
9 410 of the Illinois Controlled Substances Act, Section 70  
10 of the Methamphetamine Control and Community Protection  
11 Act, Section 5-6-3.3 of the Unified Code of Corrections,  
12 Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of  
13 the Criminal Code of 1961 or the Criminal Code of 2012,  
14 Section 10-102 of the Illinois Alcoholism and Other Drug  
15 Dependency Act, Section 40-10 of the Alcoholism and Other  
16 Drug Abuse and Dependency Act, or Section 10 of the Steroid  
17 Control Act.

18 (c) Sealing.

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

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

26 (A) All arrests resulting in release without

1 charging;

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

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

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

13 (E) Arrests or charges not initiated by arrest  
14 resulting in orders of first offender probation under  
15 Section 10 of the Cannabis Control Act, Section 410 of  
16 the Illinois Controlled Substances Act, Section 70 of  
17 the Methamphetamine Control and Community Protection  
18 Act, or Section 5-6-3.3 of the Unified Code of  
19 Corrections; and

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

23 (i) Section 11-14 of the Criminal Code of 1961  
24 or the Criminal Code of 2012;

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

26 (iii) Section 402 of the Illinois Controlled



1 Substances Act;

2 (iv) the Methamphetamine Precursor Control  
3 Act; and

4 (v) the Steroid Control Act.

5 (3) When Records Are Eligible to Be Sealed. Records  
6 identified as eligible under subsection (c)(2) may be  
7 sealed as follows:

8 (A) Records identified as eligible under  
9 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any  
10 time.

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

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

26 (D) Records identified in subsection

1 (a) (3) (A) (iii) may be sealed after the petitioner has  
2 reached the age of 25 years.

3 (4) Subsequent felony convictions. A person may not  
4 have subsequent felony conviction records sealed as  
5 provided in this subsection (c) if he or she is convicted  
6 of any felony offense after the date of the sealing of  
7 prior felony convictions as provided in this subsection  
8 (c). The court may, upon conviction for a subsequent felony  
9 offense, order the unsealing of prior felony conviction  
10 records previously ordered sealed by the court.

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

16 (d) Procedure. The following procedures apply to  
17 expungement under subsections (b) and (e), and sealing under  
18 subsections (c) and (e-5):

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

1 shall pay the applicable fee, if not waived.

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

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

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

7           (5) Objections.

8           (A) Any party entitled to notice of the petition  
9 may file an objection to the petition. All objections  
10 shall be in writing, shall be filed with the circuit  
11 court clerk, and shall state with specificity the basis  
12 of the objection.

13           (B) Objections to a petition to expunge or seal  
14 must be filed within 60 days of the date of service of  
15 the petition.

16           (6) Entry of order.

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

24           (B) Unless the State's Attorney or prosecutor, the  
25 Department of State Police, the arresting agency, or  
26 the chief legal officer files an objection to the

1 petition to expunge or seal within 60 days from the  
2 date of service of the petition, the court shall enter  
3 an order granting or denying the petition.

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

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

21 (9) Effect of order.

22 (A) Upon entry of an order to expunge records  
23 pursuant to (b) (2) (A) ~~or~~ (b) (2) (B) (ii), or (b) (2) (D)  
24 ~~both~~:

25 (i) the records shall be expunged (as defined  
26 in subsection (a) (1) (E)) by the arresting agency,

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

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

15          (iii) in response to an inquiry for expunged  
16          records, the court, the Department, or the agency  
17          receiving such inquiry, shall reply as it does in  
18          response to inquiries when no records ever  
19          existed.

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

22                 (i) the records shall be expunged (as defined  
23                 in subsection (a) (1) (E)) by the arresting agency  
24                 and any other agency as ordered by the court,  
25                 within 60 days of the date of service of the order,  
26                 unless a motion to vacate, modify, or reconsider

1           the order is filed pursuant to paragraph (12) of  
2           subsection (d) of this Section;

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

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

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

25          (v) in response to an inquiry for such records  
26          from anyone not authorized by law to access such

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

14 (10) Fees. The Department may charge the petitioner a  
15 fee equivalent to the cost of processing any order to  
16 expunge or seal records. Notwithstanding any provision of  
17 the Clerks of Courts Act to the contrary, the circuit court  
18 clerk may charge a fee equivalent to the cost associated  
19 with the sealing or expungement of records by the circuit  
20 court clerk.

21 From the total filing fee collected for the petition to  
22 seal or expunge, the circuit court clerk shall deposit \$10  
23 into the Circuit Court Clerk Operation and Administrative  
24 Fund, to be used to offset the costs incurred by the  
25 circuit court clerk in performing the additional duties  
26 required to serve the petition to seal or expunge on all



1 parties. The circuit court clerk shall collect and forward  
2 the Department of State Police portion of the fee to the  
3 Department and it shall be deposited in the State Police  
4 Services Fund.

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

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

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

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

16 (e-5) Whenever a person who has been convicted of an  
17 offense is granted a certificate of eligibility for sealing by  
18 the Prisoner Review Board which specifically authorizes  
19 sealing, he or she may, upon verified petition to the Chief  
20 Judge of the circuit where the person had been convicted, any  
21 judge of the circuit designated by the Chief Judge, or in  
22 counties of less than 3,000,000 inhabitants, the presiding  
23 trial judge at the petitioner's trial, have a court order  
24 entered sealing the record of arrest from the official records  
25 of the arresting authority and order that the records of the  
26 circuit court clerk and the Department be sealed until further

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

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; 96-1401, eff. 7-29-10;  
7 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.  
8 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,  
9 eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;  
10 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.  
11 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)".