



Rep. Rita Mayfield

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1 AMENDMENT TO HOUSE BILL 2378

2 AMENDMENT NO. _____. Amend House Bill 2378, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Criminal Identification Act is amended by
6 changing Section 5.2 as follows:

7 (20 ILCS 2630/5.2)

8 Sec. 5.2. Expungement and sealing.

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

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

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

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

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

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

1 Section 70 of the Methamphetamine Control and
2 Community Protection Act, Section 5-6-3.3 of the
3 Unified Code of Corrections, Section 12-4.3(b)(1) and
4 (2) of the Criminal Code of 1961 (as those provisions
5 existed before their deletion by Public Act 89-313),
6 Section 10-102 of the Illinois Alcoholism and Other
7 Drug Dependency Act, Section 40-10 of the Alcoholism
8 and Other Drug Abuse and Dependency Act, or Section 10
9 of the Steroid Control Act. For the purpose of this
10 Section, "successful completion" of an order of
11 qualified probation under Section 10-102 of the
12 Illinois Alcoholism and Other Drug Dependency Act and
13 Section 40-10 of the Alcoholism and Other Drug Abuse
14 and Dependency Act means that the probation was
15 terminated satisfactorily and the judgment of
16 conviction was vacated.

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

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

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

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

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

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

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

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

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

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

21 (ii) Section 11-1.50, 12-3.2, 12-3.4, 12-15,
22 12-30, 26-5, or 48-1 of the Criminal Code of 1961
23 or the Criminal Code of 2012, or a similar
24 provision of a local ordinance;

25 (iii) (blank); ~~offenses defined as "crimes of~~
26 ~~violence" in Section 2 of the Crime Victims~~

1 ~~Compensation Act or a similar provision of a local~~
2 ~~ordinance;~~

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

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

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

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

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

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

26 (iv) the charge is for a Class 4 felony offense

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

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

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

18 (b) Expungement.

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

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

24 (B) Each arrest or charge not initiated by arrest
25 sought to be expunged resulted in: (i) acquittal,
26 dismissal, or the petitioner's release without

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

10 (1.5) A petitioner may petition the circuit court to
11 expunge the records of his or her arrests and charges not
12 initiated by arrest when he or she has been convicted of a
13 criminal offense for anything other than:

14 (A) a felony; or

15 (B) offenses otherwise excluded by subsections
16 (a) (3) (A) or (a) (3) (C).

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

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

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

1 the following time frames will apply:

2 (i) Those arrests or charges that resulted in
3 orders of supervision under Section 3-707, 3-708,
4 3-710, or 5-401.3 of the Illinois Vehicle Code or a
5 similar provision of a local ordinance, or under
6 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
7 Code of 1961 or the Criminal Code of 2012, or a
8 similar provision of a local ordinance, shall not
9 be eligible for expungement until 5 years have
10 passed following the satisfactory termination of
11 the supervision.

12 (i-5) Those arrests or charges that resulted
13 in orders of supervision for a misdemeanor
14 violation of subsection (a) of Section 11-503 of
15 the Illinois Vehicle Code or a similar provision of
16 a local ordinance, that occurred prior to the
17 offender reaching the age of 25 years and the
18 offender has no other conviction for violating
19 Section 11-501 or 11-503 of the Illinois Vehicle
20 Code or a similar provision of a local ordinance
21 shall not be eligible for expungement until the
22 petitioner has reached the age of 25 years.

23 (ii) Those arrests or charges that resulted in
24 orders of supervision for any other offenses shall
25 not be eligible for expungement until 2 years have
26 passed following the satisfactory termination of

1 the supervision.

2 (C) When the arrest or charge not initiated by
3 arrest sought to be expunged resulted in an order of
4 qualified probation, successfully completed by the
5 petitioner, such records shall not be eligible for
6 expungement until 5 years have passed following the
7 satisfactory termination of the probation.

8 (D) When the arrest or charge not initiated by
9 arrest sought to be expunged resulted in a conviction
10 is eligible under subsection (b) (1.5), the records are
11 not eligible for expungement until 7 years after the
12 termination of the petitioner's last sentence as
13 defined in subsection (a) (1) (F).

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

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

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

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

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

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

16 (7) Nothing in this Section shall prevent the
17 Department of State Police from maintaining all records of
18 any person who is admitted to probation upon terms and
19 conditions and who fulfills those terms and conditions
20 pursuant to Section 10 of the Cannabis Control Act, Section
21 410 of the Illinois Controlled Substances Act, Section 70
22 of the Methamphetamine Control and Community Protection
23 Act, Section 5-6-3.3 of the Unified Code of Corrections,
24 Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of
25 the Criminal Code of 1961 or the Criminal Code of 2012,
26 Section 10-102 of the Illinois Alcoholism and Other Drug

1 Dependency Act, Section 40-10 of the Alcoholism and Other
2 Drug Abuse and Dependency Act, or Section 10 of the Steroid
3 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 or the Criminal Code of 2012;

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

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

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

16 (v) the Steroid Control Act.

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

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

23 (B) Records identified as eligible under
24 subsection (c)(2)(C) may be sealed (i) 3 years after
25 the termination of petitioner's last sentence (as
26 defined in subsection (a)(1)(F)) if the petitioner has

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

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

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

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

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

1 sealing of the records.

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

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

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

1 petition.

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

13 (4) Service of petition. The circuit court clerk shall
14 promptly serve a copy of the petition on the State's
15 Attorney or prosecutor charged with the duty of prosecuting
16 the offense, the Department of State Police, the arresting
17 agency and the chief legal officer of the unit of local
18 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. The court may consider the following:

24 (A) the strength of the State's case against the
25 petitioner;

26 (B) the State's reasons for wishing to retain the

1 records;

2 (C) the petitioner's age, criminal record, and
3 employment history;

4 (D) the length of time that has lapsed between the
5 petitioner's arrest on the charge resulting in the
6 conviction and the filing of the petition under this
7 Section; and

8 (E) the specific adverse consequences the
9 petitioner may be subject to if the petition is denied.

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

19 (9) Effect of order.

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

23 (i) the records shall be expunged (as defined
24 in subsection (a) (1) (E)) by the arresting agency,
25 the Department, and any other agency as ordered by
26 the court, within 60 days of the date of service of

1 the order, unless a motion to vacate, modify, or
2 reconsider the order is filed pursuant to
3 paragraph (12) of subsection (d) of this Section;

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

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

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

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

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

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

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

23 (v) in response to an inquiry for such records
24 from anyone not authorized by law to access such
25 records the court, the Department, or the agency
26 receiving such inquiry shall reply as it does in

1 response to inquiries when no records ever
2 existed.

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

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

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

1 Department and it shall be deposited in the State Police
2 Services Fund.

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

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

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

1 Act in connection with the arrest and conviction for the
2 offense for which he or she had been pardoned but the order
3 shall not affect any index issued by the circuit court clerk
4 before the entry of the order. All records sealed by the
5 Department may be disseminated by the Department only to the
6 arresting authority, 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 expungement, the
12 circuit court clerk shall promptly mail a copy of the order to
13 the person who was pardoned.

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

1 from the official index requested to be kept by the circuit
2 court clerk under Section 16 of the Clerks of Courts Act in
3 connection with the arrest and conviction for the offense for
4 which he or she had been granted the certificate 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 as
8 required by this Act or to the arresting authority, a law
9 enforcement agency, the State's Attorney, and the court upon a
10 later arrest for the same or similar offense or for the purpose
11 of sentencing for any subsequent felony. Upon conviction for
12 any subsequent offense, the Department of Corrections shall
13 have access to all sealed records of the Department pertaining
14 to that individual. Upon entry of the order of sealing, the
15 circuit court clerk shall promptly mail a copy of the order to
16 the person who was granted the certificate of eligibility for
17 sealing.

18 (f) Subject to available funding, the Illinois Department
19 of Corrections shall conduct a study of the impact of sealing,
20 especially on employment and recidivism rates, utilizing a
21 random sample of those who apply for the sealing of their
22 criminal records under Public Act 93-211. At the request of the
23 Illinois Department of Corrections, records of the Illinois
24 Department of Employment Security shall be utilized as
25 appropriate to assist in the study. The study shall not
26 disclose any data in a manner that would allow the

1 identification of any particular individual or employing unit.
2 The study shall be made available to the General Assembly no
3 later than September 1, 2010.

4 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
5 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
6 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
7 eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;
8 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.
9 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)".