



Rep. Arthur Turner

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1 AMENDMENT TO HOUSE BILL 2470

2 AMENDMENT NO. _____. Amend House Bill 2470 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by
5 changing Sections 5.2 and 14 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) offenses defined as "crimes of violence"
25 in Section 2 of the Crime Victims Compensation Act
26 or a similar provision of a local ordinance;

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

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

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

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

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

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

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

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

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

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

16 (b) Expungement.

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

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

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

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

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

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

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

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

1 passed following the satisfactory termination of
2 the supervision.

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

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

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

25 (3) Those records maintained by the Department for
26 persons arrested prior to their 17th birthday shall be

1 expunged as provided in Section 5-915 of the Juvenile Court
2 Act of 1987.

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

1 shall limit the Department of State Police or other
2 criminal justice agencies or prosecutors from listing
3 under an offender's name the false names he or she has
4 used.

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

21 (6) If a conviction has been set aside on direct review
22 or on collateral attack and the court determines by clear
23 and convincing evidence that the petitioner was factually
24 innocent of the charge, the court shall enter an
25 expungement order as provided in subsection (b) of Section
26 5-5-4 of the Unified Code of Corrections.

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

15 (c) Sealing.

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

21 (2) Eligible Records. The following records may be
22 sealed:

23 (A) All arrests resulting in release without
24 charging;

25 (B) Arrests or charges not initiated by arrest
26 resulting in acquittal, dismissal, or conviction when

1 the conviction was reversed or vacated, except as
2 excluded by subsection (a) (3) (B);

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

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

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

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

20 (i) Section 11-14 of the Criminal Code of 1961
21 or the Criminal Code of 2012;

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

23 (iii) Section 402 of the Illinois Controlled
24 Substances Act;

25 (iv) the Methamphetamine Precursor Control
26 Act; and

1 (v) the Steroid Control Act.

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

5 (A) Records identified as eligible under
6 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
7 time.

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

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

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

26 (4) Subsequent felony convictions. A person may not

1 have subsequent felony conviction records sealed as
2 provided in this subsection (c) if he or she is convicted
3 of any felony offense after the date of the sealing of
4 prior felony convictions as provided in this subsection
5 (c). The court may, upon conviction for a subsequent felony
6 offense, order the unsealing of prior felony conviction
7 records previously ordered sealed by the court.

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

13 (d) Procedure. The following procedures apply to
14 expungement under subsections (b) and (e), and sealing under
15 subsections (c) and (e-5):

16 (1) Filing the petition. Upon becoming eligible to
17 petition for the expungement or sealing of records under
18 this Section, the petitioner shall file a petition
19 requesting the expungement or sealing of records with the
20 clerk of the court where the arrests occurred or the
21 charges were brought, or both. If arrests occurred or
22 charges were brought in multiple jurisdictions, a petition
23 must be filed in each such jurisdiction. The petitioner
24 shall pay the applicable fee, if not waived.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

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

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

24 (4) Service of petition. The circuit court clerk shall
25 promptly serve a copy of the petition on the State's
26 Attorney or prosecutor charged with the duty of prosecuting

1 the offense, the Department of State Police, the arresting
2 agency and the chief legal officer of the unit of local
3 government effecting the arrest.

4 (5) Objections.

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

10 (B) Objections to a petition to expunge or seal
11 must be filed within 60 days of the date of service of
12 the petition.

13 (6) Entry of order.

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

21 (B) Unless the State's Attorney or prosecutor, the
22 Department of State Police, the arresting agency, or
23 the chief legal officer files an objection to the
24 petition to expunge or seal within 60 days from the
25 date of service of the petition, the court shall enter
26 an order granting or denying the petition.

1 (7) Hearings. If an objection is filed, the court shall
2 set a date for a hearing and notify the petitioner and all
3 parties entitled to notice of the petition of the hearing
4 date at least 30 days prior to the hearing. Prior to the
5 hearing, the State's Attorney shall consult with the
6 Department as to the appropriateness of the relief sought
7 in the petition to expunge or seal. At the hearing, the
8 court, ~~and~~ shall hear evidence on whether the petition
9 should or should not be granted, and shall grant or deny
10 the petition to expunge or seal the records based on the
11 evidence presented at the 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) Implementation ~~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 both:

24 (i) the records shall be expunged (as defined
25 in subsection (a) (1) (E)) by the arresting agency,
26 the Department, and any other agency as ordered by

1 the court, within 60 days of the date of service of
2 the order, unless a motion to vacate, modify, or
3 reconsider the order is filed pursuant to
4 paragraph (12) of subsection (d) of this Section;

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

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

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

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

1 subsection (d) of this Section;

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

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

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

24 (v) in response to an inquiry for such records
25 from anyone not authorized by law to access such
26 records the court, the Department, or the agency

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever
3 existed.

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

13 (D) The Department shall send written notice to the
14 petitioner of its compliance with each order to expunge
15 or seal records within 60 days of the date of service
16 of that order or, if a motion to vacate, modify, or
17 reconsider is filed, within 60 days of service of the
18 order resolving the motion, if that order requires the
19 Department to expunge or seal records. In the event of
20 an appeal from the circuit court order, the Department
21 shall send written notice to the petitioner of its
22 compliance with an Appellate Court or Supreme Court
23 judgment to expunge or seal records within 60 days of
24 the issuance of the court's mandate. The notice is not
25 required while any motion to vacate, modify, or
26 reconsider, or any appeal or petition for

1 discretionary appellate review, is pending.

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

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

23 (12) Motion to Vacate, Modify, or Reconsider. Under
24 Section 2-1203 of the Code of Civil Procedure, the ~~The~~
25 petitioner or any party entitled to notice may file a
26 motion to vacate, modify, or reconsider the order granting

1 or denying the petition to expunge or seal within 60 days
2 of service of the order. If filed more than 60 days after
3 service of the order, a petition to vacate, modify, or
4 reconsider shall comply with subsection (c) of Section
5 2-1401 of the Code of Civil Procedure. Upon filing of a
6 motion to vacate, modify, or reconsider, notice of the
7 motion shall be served upon the petitioner and all parties
8 entitled to notice of the petition.

9 (13) Effect of Order. An order granting a petition
10 under the expungement or sealing provisions of this Section
11 shall not be considered void because it fails to comply
12 with the provisions of this Section or because of any error
13 asserted in a motion to vacate, modify, or reconsider. The
14 circuit court retains jurisdiction to determine whether
15 the order is voidable and to vacate, modify, or reconsider
16 its terms based on a motion filed under Section 2-1203 or
17 subsection (c) of Section 2-1401 of the Code of Civil
18 Procedure.

19 (14) Compliance with Order Granting Petition to Seal
20 Records. Unless a court has entered a stay of an order
21 granting a petition to seal, all parties entitled to notice
22 of the petition must fully comply with the terms of the
23 order within 60 days of service of the order even if a
24 party is seeking relief from the order under Section 2-1203
25 or subsection (c) of Section 2-1401 of the Code of Civil
26 Procedure or is appealing the order.

1 (15) Compliance with Order Granting Petition to
2 Expunge Records. While a party is seeking relief from the
3 order granting the petition to expunge under Section 2-1203
4 or subsection (c) of Section 2-1401 of the Code of Civil
5 Procedure or is appealing the order, and unless a court has
6 entered a stay of that order, the parties entitled to
7 notice of the petition must seal, but need not expunge, the
8 records until there is a final order on the motion for
9 relief or, in the case of an appeal, the issuance of that
10 court's mandate.

11 (16) The changes to this subsection (d) made by this
12 amendatory Act of the 98th General Assembly apply to all
13 petitions pending on the effective date of this amendatory
14 Act of the 98th General Assembly and to all orders ruling
15 on a petition to expunge or seal on or after the effective
16 date of this amendatory Act of the 98th General Assembly.

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

1 further order of the court upon good cause shown or as
2 otherwise provided herein, and the name of the defendant
3 obliterated from the official index requested to be kept by the
4 circuit court clerk under Section 16 of the Clerks of Courts
5 Act in connection with the arrest and conviction for the
6 offense for which he or she had been pardoned 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 to the
10 arresting authority, 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 sealed records of the Department pertaining
15 to that individual. Upon entry of the order of expungement, the
16 circuit court clerk shall promptly mail a copy of the order to
17 the person who was pardoned.

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

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

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

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

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

14 (20 ILCS 2630/14)

15 Sec. 14. Expungement Backlog Accountability Law.

16 (a) On or before August 1 of each year, the Department of
17 State Police shall report to the Governor, the Attorney
18 General, the Office of the State Appellate Defender, and both
19 houses of the General Assembly the following information for
20 the previous fiscal year:

21 (1) the number of petitions to expunge received by the
22 Department;

23 (2) the number of petitions to expunge to which the
24 Department objected pursuant to subdivision (d)(5)(B) of
25 Section 5.2 of this Act;

1 (3) the number of petitions to seal records received by
2 the Department;

3 (4) the number of petitions to seal records to which
4 the Department objected pursuant to subdivision (d)(5)(B)
5 of Section 5.2 of this Act;

6 (5) the number of orders to expunge received by the
7 Department;

8 (6) the number of orders to expunge to which the
9 Department successfully filed a motion to vacate, modify or
10 reconsider under paragraph (12) of subsection (d) of
11 Section 5.2 of this Act;

12 (7) the number of orders to expunge records entered by
13 the Department;

14 (8) the number of orders to seal records received by
15 the Department;

16 (9) the number of orders to seal records to which the
17 Department successfully filed a motion to vacate, modify or
18 reconsider under paragraph (12) of subsection (d) of
19 Section 5.2 of this Act;

20 (10) the number of orders to seal records entered by
21 the Department;

22 (11) the amount of fees received by the Department
23 pursuant to subdivision (d)(10) of Section 5.2 of this Act
24 and deposited into the State Police Services Fund;

25 (12) the number of orders to expunge or to seal records
26 received by the Department that have not been entered as of

1 June 30 of the previous fiscal year.

2 (b) The information reported under this Section shall be
3 made available to the public, at the time it is reported, on
4 the official web site of the Department of State Police.

5 (c) Upon request of a State's Attorney or the Attorney
6 General, the Department shall provide within 30 days a list of
7 all orders to expunge or seal with which the Department has not
8 yet complied. This list shall include the date of the order,
9 the name of the petitioner, the case number, and a detailed
10 statement of the basis for non-compliance.

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

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