



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2531

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Permits the sealing of records for Class 4 felony offenses under the Methamphetamine Precursor Control Act, Class 4 felony offenses under the Steroid Control Act, Class 3 and 4 felony offenses of possession of cannabis under the Cannabis Control Act, Class 3 felony offenses of possession of methamphetamine under the Methamphetamine Control and Community Protection Act, and Class 2, 3, and 4 felony offenses of manufacturing or delivering controlled substances under the Illinois Controlled Substances Act; felony prostitution; Class 3 and 4 felony offenses of theft, (retail theft), deceptive practices, forgery, and possession of burglary tools; Class 2 felony offenses of burglary; and certain theft and VIN alteration offenses related to motor vehicles and other vehicles under the Illinois Vehicle Code.

LRB098 09501 RLC 39644 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

17 (iii) Court (730 ILCS 5/5-1-6),

18 (iv) Defendant (730 ILCS 5/5-1-7),

19 (v) Felony (730 ILCS 5/5-1-9),

20 (vi) Imprisonment (730 ILCS 5/5-1-10),

21 (vii) Judgment (730 ILCS 5/5-1-12),

22 (viii) Misdemeanor (730 ILCS 5/5-1-14),

23 (ix) Offense (730 ILCS 5/5-1-15),

- 1 (x) Parole (730 ILCS 5/5-1-16),
2 (xi) Petty Offense (730 ILCS 5/5-1-17),
3 (xii) Probation (730 ILCS 5/5-1-18),
4 (xiii) Sentence (730 ILCS 5/5-1-19),
5 (xiv) Supervision (730 ILCS 5/5-1-21), and
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated
8 by arrest" means a charge (as defined by 730 ILCS
9 5/5-1-3) brought against a defendant where the
10 defendant is not arrested prior to or as a direct
11 result of the charge.

12 (C) "Conviction" means a judgment of conviction or
13 sentence entered upon a plea of guilty or upon a
14 verdict or finding of guilty of an offense, rendered by
15 a legally constituted jury or by a court of competent
16 jurisdiction authorized to try the case without a jury.
17 An order of supervision successfully completed by the
18 petitioner is not a conviction. An order of qualified
19 probation (as defined in subsection (a)(1)(J))
20 successfully completed by the petitioner is not a
21 conviction. An order of supervision or an order of
22 qualified probation that is terminated
23 unsatisfactorily is a conviction, unless the
24 unsatisfactory termination is reversed, vacated, or
25 modified and the judgment of conviction, if any, is
26 reversed or vacated.

1 (D) "Criminal offense" means a petty offense,
2 business offense, misdemeanor, felony, or municipal
3 ordinance violation (as defined in subsection
4 (a)(1)(H)). As used in this Section, a minor traffic
5 offense (as defined in subsection (a)(1)(G)) shall not
6 be considered a criminal offense.

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

16 (F) As used in this Section, "last sentence" means
17 the sentence, order of supervision, or order of
18 qualified probation (as defined by subsection
19 (a)(1)(J)), for a criminal offense (as defined by
20 subsection (a)(1)(D)) that terminates last in time in
21 any jurisdiction, regardless of whether the petitioner
22 has included the criminal offense for which the
23 sentence or order of supervision or qualified
24 probation was imposed in his or her petition. If
25 multiple sentences, orders of supervision, or orders
26 of qualified probation terminate on the same day and

1 are last in time, they shall be collectively considered
2 the "last sentence" regardless of whether they were
3 ordered to run concurrently.

4 (G) "Minor traffic offense" means a petty offense,
5 business offense, or Class C misdemeanor under the
6 Illinois Vehicle Code or a similar provision of a
7 municipal or local ordinance.

8 (H) "Municipal ordinance violation" means an
9 offense defined by a municipal or local ordinance that
10 is criminal in nature and with which the petitioner was
11 charged or for which the petitioner was arrested and
12 released without charging.

13 (I) "Petitioner" means an adult or a minor
14 prosecuted as an adult who has applied for relief under
15 this Section.

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 of the
21 Unified Code of Corrections, Section 12-4.3(b)(1) and
22 (2) of the Criminal Code of 1961 (as those provisions
23 existed before their deletion by Public Act 89-313),
24 Section 10-102 of the Illinois Alcoholism and Other
25 Drug Dependency Act, Section 40-10 of the Alcoholism
26 and Other Drug Abuse and Dependency Act, or Section 10

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

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

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

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

1 Section.

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

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

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

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

1 without charging.

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

8 (i) offenses included in Article 11 of the
9 Criminal Code of 1961 or the Criminal Code of 2012
10 or a similar provision of a local ordinance, except
11 Section 11-14 of the Criminal Code of 1961 or the
12 Criminal Code of 2012, or a similar provision of a
13 local ordinance;

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

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

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

23 (v) any offense or attempted offense that
24 would subject a person to registration under the
25 Sex Offender Registration Act.

26 (D) the sealing of the records of arrests or

1 ~~charges not initiated by arrest an arrest which result~~
2 ~~results in a felony conviction the petitioner being~~
3 ~~charged with a felony offense or records of a charge~~
4 ~~not initiated by arrest for a felony offense unless:~~

5 ~~(i) the charge is amended to a misdemeanor and~~
6 ~~is otherwise eligible to be sealed pursuant to~~
7 ~~subsection (c);~~

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

17 ~~(iii) the charge results in first offender~~
18 ~~probation as set forth in subsection (c)(2)(E);~~

19 ~~(iv) the charge is for a Class 4 felony offense~~
20 ~~listed in subsection (c)(2)(F) or the charge is~~
21 ~~amended to a Class 4 felony offense listed in~~
22 ~~subsection (c)(2)(F). Records of arrests which~~
23 ~~result in the petitioner being charged with a Class~~
24 ~~4 felony offense listed in subsection (c)(2)(F),~~
25 ~~records of charges not initiated by arrest for~~
26 ~~Class 4 felony offenses listed in subsection~~

1 ~~(c) (2) (F), and records of charges amended to a~~
2 ~~Class 4 felony offense listed in (c) (2) (F) may be~~
3 ~~sealed, regardless of the disposition, subject to~~
4 ~~any waiting periods set forth in subsection~~
5 ~~(c) (3);~~

6 ~~(v) the charge results in acquittal,~~
7 ~~dismissal, or the petitioner's release without~~
8 ~~conviction; or~~

9 ~~(vi) the charge results in a conviction, but~~
10 the conviction was reversed or vacated.

11 (b) Expungement.

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

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

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

1 (a) (1) (J)) and such probation was successfully
2 completed by the petitioner.

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

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

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

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

24 (i-5) Those arrests or charges that resulted
25 in orders of supervision for a misdemeanor
26 violation of subsection (a) of Section 11-503 of

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

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

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

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

24 (4) Whenever a person has been arrested for or
25 convicted of any offense, in the name of a person whose
26 identity he or she has stolen or otherwise come into

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

26 (5) Whenever a person has been convicted of criminal

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

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

22 (7) Nothing in this Section shall prevent the
23 Department of State Police from maintaining all records of
24 any person who is admitted to probation upon terms and
25 conditions and who fulfills those terms and conditions
26 pursuant to Section 10 of the Cannabis Control Act, Section

1 410 of the Illinois Controlled Substances Act, Section 70
2 of the Methamphetamine Control and Community Protection
3 Act, Section 5-6-3.3 of the Unified Code of Corrections,
4 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05 of
5 the Criminal Code of 1961 or the Criminal Code of 2012,
6 Section 10-102 of the Illinois Alcoholism and Other Drug
7 Dependency Act, Section 40-10 of the Alcoholism and Other
8 Drug Abuse and Dependency Act, or Section 10 of the Steroid
9 Control Act.

10 (c) Sealing.

11 (1) Applicability. Notwithstanding any other provision
12 of this Act to the contrary, and cumulative with any rights
13 to expungement of criminal records, this subsection
14 authorizes the sealing of criminal records of adults and of
15 minors prosecuted as adults.

16 (2) Eligible Records. The following records may be
17 sealed:

18 (A) All arrests resulting in release without
19 charging;

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

24 (C) Arrests or charges not initiated by arrest
25 resulting in orders of supervision successfully
26 completed by the petitioner, unless excluded by

1 subsection (a) (3);

2 (D) Arrests or charges not initiated by arrest
3 resulting in convictions unless excluded by subsection
4 (a) (3);

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

12 (F) Arrests or charges not initiated by arrest
13 resulting in ~~Class 4~~ felony convictions for ~~the~~
14 ~~following offenses:~~

15 (i) Class 4 felony offenses under the
16 Methamphetamine Precursor Control Act, Class 4
17 offenses under the Steroid Control Act, Class 3 and
18 4 offenses under Section 4 of the Cannabis Control
19 Act, Class 3 offenses under Section 60 of the
20 Methamphetamine Control and Community Protection
21 Act, and Class 2, 3, and 4 offenses under Section
22 401 of the Illinois Controlled Substances Act;

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

25 (iii) Class 3 and 4 offenses under Sections
26 16-1 (theft), 16-25 (retail theft), 17-1

1 (deceptive practices), 17-3 (forgery), and 19-2
2 (possession of burglary tools) of the Criminal
3 Code of 1961 or the Criminal Code of 2012;

4 (iv) Class 2 offenses under Section 19-1
5 (burglary) of the Criminal Code of 1961 or the
6 Criminal Code of 2012 and Section 4-103 (offenses
7 related to motor vehicles and other vehicles) of
8 the Illinois Vehicle Code.

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 under subsection
10 ~~pursuant to clause (c) (2) (E) or (c) (2) (F) (i) or~~
11 ~~(c) (2) (F) (ii) - (v), or (c-5) or if he or she is petitioning~~
12 ~~to expunge felony records of a qualified probation~~ under
13 subsection pursuant to clause (b) (1) (B) (iv).

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

20 (5) Objections.

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

26 (B) Objections to a petition to expunge or seal

1 must be filed within 60 days of the date of service of
2 the petition.

3 (6) Entry of order.

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

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

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

25 (8) Service of order. After entering an order to
26 expunge or seal records, the court must provide copies of

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

8 (9) Effect of order.

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

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

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

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

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

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

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

23 (iii) the records shall be impounded by the
24 Department within 60 days of the date of service of
25 the order as ordered by the court, unless a motion
26 to vacate, modify, or reconsider the order is filed

1 pursuant to paragraph (12) of subsection (d) of
2 this Section;

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

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

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

26 (10) Fees. The Department may charge the petitioner a

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

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

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

26 (e) Whenever a person who has been convicted of an offense

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

1 (e-5) Whenever a person who has been convicted of an
2 offense is granted a certificate of eligibility for sealing by
3 the Prisoner Review Board which specifically authorizes
4 sealing, he or she may, upon verified petition to the Chief
5 Judge of the circuit where the person had been convicted, any
6 judge of the circuit designated by the Chief Judge, or in
7 counties of less than 3,000,000 inhabitants, the presiding
8 trial judge at the petitioner's trial, have a court order
9 entered sealing the record of arrest from the official records
10 of the arresting authority and order that the records of the
11 circuit court clerk and the Department be sealed until further
12 order of the court upon good cause shown or as otherwise
13 provided herein, and the name of the petitioner obliterated
14 from the official index requested to be kept by the circuit
15 court clerk under Section 16 of the Clerks of Courts Act in
16 connection with the arrest and conviction for the offense for
17 which he or she had been granted the certificate but the order
18 shall not affect any index issued by the circuit court clerk
19 before the entry of the order. All records sealed by the
20 Department may be disseminated by the Department only as
21 required by this Act or to the arresting authority, a law
22 enforcement agency, the State's Attorney, and the court upon a
23 later arrest for the same or similar offense or for the purpose
24 of sentencing for any subsequent felony. Upon conviction for
25 any subsequent offense, the Department of Corrections shall
26 have access to all sealed records of the Department pertaining

1 to that individual. Upon entry of the order of sealing, the
2 circuit court clerk shall promptly mail a copy of the order to
3 the person who was granted the certificate of eligibility for
4 sealing.

5 (f) Subject to available funding, the Illinois Department
6 of Corrections shall conduct a study of the impact of sealing,
7 especially on employment and recidivism rates, utilizing a
8 random sample of those who apply for the sealing of their
9 criminal records under Public Act 93-211. At the request of the
10 Illinois Department of Corrections, records of the Illinois
11 Department of Employment Security shall be utilized as
12 appropriate to assist in the study. The study shall not
13 disclose any data in a manner that would allow the
14 identification of any particular individual or employing unit.
15 The study shall be made available to the General Assembly no
16 later than September 1, 2010.

17 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
18 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
19 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
20 eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;
21 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.
22 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)