

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Identification Act is amended by  
5 changing 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 an  
4 order of supervision, an order of qualified probation  
5 (as defined in subsection (a)(1)(J)), or a conviction  
6 for the following offenses:

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

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

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

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

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

25 (D) the sealing of the records of an arrest which  
26 results in the petitioner being charged with a felony

1 offense or records of a charge not initiated by arrest  
2 for a felony offense unless:

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

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

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

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



1           ~~sealed, regardless of the disposition, subject to~~  
2           ~~any waiting periods set forth in subsection~~  
3           ~~(c) (3);~~

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

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

9           (b) Expungement.

10           (1) 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:

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

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

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

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

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

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

22 (i-5) Those arrests or charges that resulted  
23 in orders of supervision for a misdemeanor  
24 violation of subsection (a) of Section 11-503 of  
25 the Illinois Vehicle Code or a similar provision of  
26 a local ordinance, that occurred prior to the

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

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

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

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

22          (4) Whenever a person has been arrested for or  
23          convicted of any offense, in the name of a person whose  
24          identity he or she has stolen or otherwise come into  
25          possession of, the aggrieved person from whom the identity  
26          was stolen or otherwise obtained without authorization,

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

24 (5) Whenever a person has been convicted of criminal  
25 sexual assault, aggravated criminal sexual assault,  
26 predatory criminal sexual assault of a child, criminal

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

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

20 (7) Nothing in this Section shall prevent the  
21 Department of State Police from maintaining all records of  
22 any person who is admitted to probation upon terms and  
23 conditions and who fulfills those terms and conditions  
24 pursuant to Section 10 of the Cannabis Control Act, Section  
25 410 of the Illinois Controlled Substances Act, Section 70  
26 of the Methamphetamine Control and Community Protection

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

8 (c) Sealing.

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

14 (2) Eligible Records. The following records may be  
15 sealed:

16 (A) All arrests resulting in release without  
17 charging;

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

22 (C) Arrests or charges not initiated by arrest  
23 resulting in orders of supervision successfully  
24 completed by the petitioner, unless excluded by  
25 subsection (a) (3);

26 (D) Arrests or charges not initiated by arrest

1 resulting in convictions unless excluded by subsection  
2 (a) (3);

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

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

13 (i) Class 4 felony convictions for:

14 Prostitution under Section 11-14 of the  
15 Criminal Code of 1961 or the Criminal Code of  
16 2012.

17 Possession of cannabis under Section 4 of  
18 the Cannabis Control Act.

19 Possession of a controlled substance under  
20 Section 402 of the Illinois Controlled  
21 Substances Act.

22 Offenses under the Methamphetamine  
23 Precursor Control Act.

24 Offenses under the Steroid Control Act.

25 Theft under Section 16-1 of the Criminal  
26 Code of 1961 or the Criminal Code of 2012.

1           Retail theft under Section 16A-3 or  
2           paragraph (a) of 16-25 of the Criminal Code of  
3           1961 or the Criminal Code of 2012.

4           Deceptive practices under Section 17-1 of  
5           the Criminal Code of 1961 or the Criminal Code  
6           of 2012.

7           Forgery under Section 17-3 of the Criminal  
8           Code of 1961 or the Criminal Code of 2012.

9           Possession of burglary tools under Section  
10          19-2 of the Criminal Code of 1961 or the  
11          Criminal Code of 2012.

12          (ii) Class 3 felony convictions for:

13           Theft under Section 16-1 of the Criminal  
14           Code of 1961 or the Criminal Code of 2012.

15           Retail theft under Section 16A-3 or  
16           paragraph (a) of 16-25 of the Criminal Code of  
17           1961 or the Criminal Code of 2012.

18           Deceptive practices under Section 17-1 of  
19           the Criminal Code of 1961 or the Criminal Code  
20           of 2012.

21           Forgery under Section 17-3 of the Criminal  
22           Code of 1961 or the Criminal Code of 2012.

23           Possession with intent to manufacture or  
24           deliver a controlled substance under Section  
25           401 of the Illinois Controlled Substances Act.

26          ~~(i) Section 11 14 of the Criminal Code of 1961~~



1 ~~or the Criminal Code of 2012;~~

2 ~~(ii) Section 4 of the Cannabis Control Act;~~

3 ~~(iii) Section 402 of the Illinois Controlled~~  
4 ~~Substances Act;~~

5 ~~(iv) the Methamphetamine Precursor Control~~  
6 ~~Act; and~~

7 ~~(v) the Steroid Control Act.~~

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

11 (A) Records identified as eligible under  
12 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any  
13 time.

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

24 (C) Records identified as eligible under  
25 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be  
26 sealed 4 years after the termination of the

1 petitioner's last sentence (as defined in subsection  
2 (a) (1) (F)).

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

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

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

19 (d) Procedure. The following procedures apply to  
20 expungement under subsections (b) and (e), and sealing under  
21 subsections (c) and (e-5):

22 (1) Filing the petition. Upon becoming eligible to  
23 petition for the expungement or sealing of records under  
24 this Section, the petitioner shall file a petition  
25 requesting the expungement or sealing of records with the  
26 clerk of the court where the arrests occurred or the

1 charges were brought, or both. If arrests occurred or  
2 charges were brought in multiple jurisdictions, a petition  
3 must be filed in each such jurisdiction. The petitioner  
4 shall pay the applicable fee, if not waived.

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

19 (3) Drug test. The petitioner must attach to the  
20 petition proof that the petitioner has passed a test taken  
21 within 30 days before the filing of the petition showing  
22 the absence within his or her body of all illegal  
23 substances as defined by the Illinois Controlled  
24 Substances Act, the Methamphetamine Control and Community  
25 Protection Act, and the Cannabis Control Act if he or she  
26 is petitioning to:

1           (A) seal felony records under ~~pursuant to~~ clause  
2           (c) (2) (E) ;

3           (B) seal felony records for a violation of the  
4           Illinois Controlled Substances Act, the  
5           Methamphetamine Control and Community Protection Act,  
6           or the Cannabis Control Act under clause (c) (2) (F) ;  
7           ~~(c) (2) (F) (ii) (v), or~~

8           (C) seal felony records under subsection (e-5) ; or

9           (D) if he or she is petitioning to expunge felony  
10          records of a qualified probation under ~~pursuant to~~  
11          clause (b) (1) (B) (iv) .

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

18          (5) Objections.

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

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

1 (6) Entry of order.

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

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

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

23 (A) the strength of the evidence supporting the  
24 defendant's conviction;

25 (B) the reasons for retention of the conviction  
26 records by the State;

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

3           (D) the period of time between the petitioner's  
4           arrest on the charge resulting in the conviction and  
5           the filing of the petition under this Section; and

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

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

17          (9) Effect of order.

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

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

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

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

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

24           (ii) the records of the circuit court clerk  
25 shall be impounded until further order of the court  
26 upon good cause shown and the name of the

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

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

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

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

26          (C) Upon entry of an order to seal records under



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

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

25 (11) Final Order. No court order issued under the  
26 expungement or sealing provisions of this Section shall

1           become final for purposes of appeal until 30 days after  
2           service of the order on the petitioner and all parties  
3           entitled to notice of the petition.

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

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

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

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

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

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

26 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;

1 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.  
2 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,  
3 eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;  
4 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.  
5 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)