



Sen. Michael Connelly

Filed: 5/8/2014

09800HB5815sam001

LRB098 18941 MRW 58739 a

1 AMENDMENT TO HOUSE BILL 5815

2 AMENDMENT NO. _____. Amend House Bill 5815 by replacing
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

16 (ii) Charge (730 ILCS 5/5-1-3),

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

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

19 (C) "Conviction" means a judgment of conviction or
20 sentence entered upon a plea of guilty or upon a
21 verdict or finding of guilty of an offense, rendered by
22 a legally constituted jury or by a court of competent
23 jurisdiction authorized to try the case without a jury.
24 An order of supervision successfully completed by the
25 petitioner is not a conviction. An order of qualified
26 probation (as defined in subsection (a)(1)(J))

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

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

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

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

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

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

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

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

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
2 of the Unified Code of Corrections, Section
3 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
4 those provisions existed before their deletion by
5 Public Act 89-313), Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section
7 40-10 of the Alcoholism and Other Drug Abuse and
8 Dependency Act, or Section 10 of the Steroid Control
9 Act. For the purpose of this Section, "successful
10 completion" of an order of qualified probation under
11 Section 10-102 of the Illinois Alcoholism and Other
12 Drug Dependency Act and Section 40-10 of the Alcoholism
13 and Other Drug Abuse and Dependency Act means that the
14 probation was terminated satisfactorily and the
15 judgment of 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), (b) (8), (e), (e-5), and (e-6)
15 of this Section, 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 felony offense listed
25 in subsection (c) (2) (F) or the charge is amended to
26 a felony offense listed in subsection (c) (2) (F);

1 (v) the charge results in acquittal,
2 dismissal, or the petitioner's release without
3 conviction; or

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

6 (b) Expungement.

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

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

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

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

25 (A) When the arrest or charge not initiated by
26 arrest sought to be expunged resulted in an acquittal,

1 dismissal, the petitioner's release without charging,
2 or the reversal or vacation of a conviction, there is
3 no waiting period to petition for the expungement of
4 such records.

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

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

19 (i-5) Those arrests or charges that resulted
20 in orders of supervision for a misdemeanor
21 violation of subsection (a) of Section 11-503 of
22 the Illinois Vehicle Code or a similar provision of
23 a local ordinance, that occurred prior to the
24 offender reaching the age of 25 years and the
25 offender has no other conviction for violating
26 Section 11-501 or 11-503 of the Illinois Vehicle

1 Code or a similar provision of a local ordinance
2 shall not be eligible for expungement until the
3 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

19 (7) Nothing in this Section shall prevent the
20 Department of State Police from maintaining all records of
21 any person who is admitted to probation upon terms and
22 conditions and who fulfills those terms and conditions
23 pursuant to Section 10 of the Cannabis Control Act, Section
24 410 of the Illinois Controlled Substances Act, Section 70
25 of the Methamphetamine Control and Community Protection
26 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of

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

7 (8) If the petitioner has been granted a certificate of
8 innocence under Section 2-702 of the Code of Civil
9 Procedure, the court that grants the certificate of
10 innocence shall also enter an order expunging the
11 conviction for which the petitioner has been determined to
12 be innocent as provided in subsection (h) of Section 2-702
13 of the Code of Civil Procedure.

14 (c) Sealing.

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

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

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

24 (B) Arrests or charges not initiated by arrest
25 resulting in acquittal, dismissal, or conviction when
26 the conviction was reversed or vacated, except as

1 excluded by subsection (a) (3) (B);

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

7 (D) Arrests or charges not initiated by arrest
8 resulting in convictions, including convictions on
9 municipal ordinance violations, unless excluded by
10 subsection (a) (3);

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

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

21 (i) Class 4 felony convictions for:

22 Prostitution under Section 11-14 of the
23 Criminal Code of 1961 or the Criminal Code of
24 2012.

25 Possession of cannabis under Section 4 of
26 the Cannabis Control Act.

1 Possession of a controlled substance under
2 Section 402 of the Illinois Controlled
3 Substances Act.

4 Offenses under the Methamphetamine
5 Precursor Control Act.

6 Offenses under the Steroid Control Act.

7 Theft under Section 16-1 of the Criminal
8 Code of 1961 or the Criminal Code of 2012.

9 Retail theft under Section 16A-3 or
10 paragraph (a) of 16-25 of the Criminal Code of
11 1961 or the Criminal Code of 2012.

12 Deceptive practices under Section 17-1 of
13 the Criminal Code of 1961 or the Criminal Code
14 of 2012.

15 Forgery under Section 17-3 of the Criminal
16 Code of 1961 or the Criminal Code of 2012.

17 Possession of burglary tools under Section
18 19-2 of the Criminal Code of 1961 or the
19 Criminal Code of 2012.

20 (ii) Class 3 felony convictions for:

21 Theft under Section 16-1 of the Criminal
22 Code of 1961 or the Criminal Code of 2012.

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

26 Deceptive practices under Section 17-1 of

1 the Criminal Code of 1961 or the Criminal Code
2 of 2012.

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

5 Possession with intent to manufacture or
6 deliver a controlled substance under Section
7 401 of the Illinois Controlled Substances 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), (e), and (e-6) and sealing
21 under 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 clause (c) (2) (E);

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

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

7 (D) expunge felony records of a qualified
8 probation under clause (b) (1) (B) (iv).

9 (4) Service of petition. The circuit court clerk shall
10 promptly serve a copy of the petition and documentation to
11 support the petition under subsection (e), (e-5), or (e-6)
12 on the State's Attorney or prosecutor charged with the duty
13 of prosecuting the offense, the Department of State Police,
14 the arresting agency and the chief legal officer of the
15 unit of local government effecting the arrest.

16 (5) Objections.

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

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

25 (6) Entry of order.

26 (A) The Chief Judge of the circuit wherein the

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

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

13 (7) Hearings. If an objection is filed, the court shall
14 set a date for a hearing and notify the petitioner and all
15 parties entitled to notice of the petition of the hearing
16 date at least 30 days prior to the hearing. Prior to the
17 hearing, the State's Attorney shall consult with the
18 Department as to the appropriateness of the relief sought
19 in the petition to expunge or seal. At the hearing, the
20 court shall hear evidence on whether the petition should or
21 should not be granted, and shall grant or deny the petition
22 to expunge or seal the records based on the evidence
23 presented at the hearing. The court may consider the
24 following:

25 (A) the strength of the evidence supporting the
26 defendant's conviction;

1 (B) the reasons for retention of the conviction
2 records by the State;

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

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

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

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

19 (9) Implementation of order.

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

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

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

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

12 (iii) in response to an inquiry for expunged
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 (B) Upon entry of an order to expunge records
18 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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

26 (ii) the records of the circuit court clerk

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

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

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

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

1 existed.

2 (B-5) Upon entry of an order to expunge records
3 under subsection (e-6):

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

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

19 (iii) the records shall be impounded by the
20 Department within 60 days of the date of service of
21 the order as ordered by the court, unless a motion
22 to vacate, modify, or reconsider the order is filed
23 under paragraph (12) of subsection (d) of this
24 Section;

25 (iv) records impounded by the Department may
26 be disseminated by the Department only as required

1 by law or to the arresting authority, the State's
2 Attorney, and the court upon a later arrest for the
3 same or a similar offense or for the purpose of
4 sentencing for any subsequent felony, and to the
5 Department of Corrections upon conviction for any
6 offense; and

7 (v) in response to an inquiry for these records
8 from anyone not authorized by law to access the
9 records, the court, the Department, or the agency
10 receiving the inquiry shall reply as it does in
11 response to inquiries when no records ever
12 existed.

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

22 (D) The Department shall send written notice to the
23 petitioner of its compliance with each order to expunge
24 or seal records within 60 days of the date of service
25 of that order or, if a motion to vacate, modify, or
26 reconsider is filed, within 60 days of service of the

1 order resolving the motion, if that order requires the
2 Department to expunge or seal records. In the event of
3 an appeal from the circuit court order, the Department
4 shall send written notice to the petitioner of its
5 compliance with an Appellate Court or Supreme Court
6 judgment to expunge or seal records within 60 days of
7 the issuance of the court's mandate. The notice is not
8 required while any motion to vacate, modify, or
9 reconsider, or any appeal or petition for
10 discretionary appellate review, is pending.

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

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

6 (12) Motion to Vacate, Modify, or Reconsider. Under
7 Section 2-1203 of the Code of Civil Procedure, the
8 petitioner or any party entitled to notice may file a
9 motion to vacate, modify, or reconsider the order granting
10 or denying the petition to expunge or seal within 60 days
11 of service of the order. If filed more than 60 days after
12 service of the order, a petition to vacate, modify, or
13 reconsider shall comply with subsection (c) of Section
14 2-1401 of the Code of Civil Procedure. Upon filing of a
15 motion to vacate, modify, or reconsider, notice of the
16 motion shall be served upon the petitioner and all parties
17 entitled to notice of the petition.

18 (13) Effect of Order. An order granting a petition
19 under the expungement or sealing provisions of this Section
20 shall not be considered void because it fails to comply
21 with the provisions of this Section or because of any error
22 asserted in a motion to vacate, modify, or reconsider. The
23 circuit court retains jurisdiction to determine whether
24 the order is voidable and to vacate, modify, or reconsider
25 its terms based on a motion filed under paragraph (12) of
26 this subsection (d).

1 (14) Compliance with Order Granting Petition to Seal
2 Records. Unless a court has entered a stay of an order
3 granting a petition to seal, all parties entitled to notice
4 of the petition must fully comply with the terms of the
5 order within 60 days of service of the order even if a
6 party is seeking relief from the order through a motion
7 filed under paragraph (12) of this subsection (d) or is
8 appealing the order.

9 (15) Compliance with Order Granting Petition to
10 Expunge Records. While a party is seeking relief from the
11 order granting the petition to expunge through a motion
12 filed under paragraph (12) of this subsection (d) or is
13 appealing the order, and unless a court has entered a stay
14 of that order, the parties entitled to notice of the
15 petition must seal, but need not expunge, the records until
16 there is a final order on the motion for relief or, in the
17 case of an appeal, the issuance of that court's mandate.

18 (16) The changes to this subsection (d) made by Public
19 Act 98-163 ~~this amendatory Act of the 98th General Assembly~~
20 apply to all petitions pending on August 5, 2013 (the
21 effective date of Public Act 98-163) ~~this amendatory Act of~~
22 ~~the 98th General Assembly~~ and to all orders ruling on a
23 petition to expunge or seal on or after August 5, 2013 (the
24 effective date of Public Act 98-163) ~~this amendatory Act of~~
25 ~~the 98th General Assembly~~.

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

1 later arrest for the same or similar offense or for the purpose
2 of sentencing for any subsequent felony. Upon conviction for
3 any subsequent offense, the Department of Corrections shall
4 have access to all expunged records of the Department
5 pertaining to that individual. Upon entry of the order of
6 expungement, the circuit court clerk shall promptly mail a copy
7 of the order to the person who was granted the certificate of
8 eligibility for expungement.

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

21 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
22 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.
23 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
24 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
25 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; revised
26 9-4-13.)".