



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4021

by Rep. Esther Golar

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that arrests or charges not initiated by arrest resulting in orders of supervision, including orders of supervision for municipal ordinance violations, successfully completed by the petitioner, except certain excluded offenses, may be sealed 2 years (rather than 3 years if the petitioner has never been convicted of a criminal offense or 4 years if the petitioner had been convicted of a criminal offense) after the termination of petitioner's last sentence. Provides that convictions for non-excluded non-felony offenses and certain Class 4 felony and first offender probation dispositions may be sealed 3 (rather than 4) years after the termination of the petitioner's last sentence.

LRB099 08371 RLC 28523 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 or 5-6-3.4  
21 of the Unified Code of Corrections, Section  
22 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as  
23 those provisions existed before their deletion by  
24 Public Act 89-313), Section 10-102 of the Illinois  
25 Alcoholism and Other Drug Dependency Act, Section  
26 40-10 of the Alcoholism and Other Drug Abuse and

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

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

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

16 (iii) Sections 12-3.1 or 12-3.2 of the  
17 Criminal Code of 1961 or the Criminal Code of 2012,  
18 or Section 125 of the Stalking No Contact Order  
19 Act, or Section 219 of the Civil No Contact Order  
20 Act, 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 an arrest which



1 results in the petitioner being charged with a felony  
2 offense or records of a charge not initiated by arrest  
3 for a felony offense unless:

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

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

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

18 (iv) the charge is for a felony offense listed  
19 in subsection (c) (2) (F) or the charge is amended to  
20 a felony offense listed in subsection (c) (2) (F);

21 (v) the charge results in acquittal,  
22 dismissal, or the petitioner's release without  
23 conviction; or

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

26 (b) Expungement.

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

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

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

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

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

25           (B) When the arrest or charge not initiated by  
26 arrest sought to be expunged resulted in an order of

1 supervision, successfully completed by the petitioner,  
2 the following time frames will apply:

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

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

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

1           passed following the satisfactory termination of  
2           the supervision.

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

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

13          (4) Whenever a person has been arrested for or  
14          convicted of any offense, in the name of a person whose  
15          identity he or she has stolen or otherwise come into  
16          possession of, the aggrieved person from whom the identity  
17          was stolen or otherwise obtained without authorization,  
18          upon learning of the person having been arrested using his  
19          or her identity, may, upon verified petition to the chief  
20          judge of the circuit wherein the arrest was made, have a  
21          court order entered nunc pro tunc by the Chief Judge to  
22          correct the arrest record, conviction record, if any, and  
23          all official records of the arresting authority, the  
24          Department, other criminal justice agencies, the  
25          prosecutor, and the trial court concerning such arrest, if  
26          any, by removing his or her name from all such records in

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

15 (5) Whenever a person has been convicted of criminal  
16 sexual assault, aggravated criminal sexual assault,  
17 predatory criminal sexual assault of a child, criminal  
18 sexual abuse, or aggravated criminal sexual abuse, the  
19 victim of that offense may request that the State's  
20 Attorney of the county in which the conviction occurred  
21 file a verified petition with the presiding trial judge at  
22 the petitioner's trial to have a court order entered to  
23 seal the records of the circuit court clerk in connection  
24 with the proceedings of the trial court concerning that  
25 offense. However, the records of the arresting authority  
26 and the Department of State Police concerning the offense

1 shall not be sealed. The court, upon good cause shown,  
2 shall make the records of the circuit court clerk in  
3 connection with the proceedings of the trial court  
4 concerning the offense available for public inspection.

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

13 (7) Nothing in this Section shall prevent the  
14 Department of State Police from maintaining all records of  
15 any person who is admitted to probation upon terms and  
16 conditions and who fulfills those terms and conditions  
17 pursuant to Section 10 of the Cannabis Control Act, Section  
18 410 of the Illinois Controlled Substances Act, Section 70  
19 of the Methamphetamine Control and Community Protection  
20 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of  
21 Corrections, Section 12-4.3 or subdivision (b)(1) of  
22 Section 12-3.05 of the Criminal Code of 1961 or the  
23 Criminal Code of 2012, Section 10-102 of the Illinois  
24 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
25 the Alcoholism and Other Drug Abuse and Dependency Act, or  
26 Section 10 of the Steroid Control Act.

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

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, including orders  
24                of supervision for municipal ordinance violations,  
25                successfully completed by the petitioner, unless  
26                excluded by subsection (a) (3);

1 (D) Arrests or charges not initiated by arrest  
2 resulting in convictions, including convictions on  
3 municipal ordinance violations, unless excluded by  
4 subsection (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 felony convictions for the following  
14 offenses:

15 (i) Class 4 felony convictions for:

16 Prostitution under Section 11-14 of the  
17 Criminal Code of 1961 or the Criminal Code of  
18 2012.

19 Possession of cannabis under Section 4 of  
20 the Cannabis Control Act.

21 Possession of a controlled substance under  
22 Section 402 of the Illinois Controlled  
23 Substances Act.

24 Offenses under the Methamphetamine  
25 Precursor Control Act.

26 Offenses under the Steroid Control Act.



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

3 Retail theft under Section 16A-3 or  
4 paragraph (a) of 16-25 of the Criminal Code of  
5 1961 or the Criminal Code of 2012.

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

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

11 Possession of burglary tools under Section  
12 19-2 of the Criminal Code of 1961 or the  
13 Criminal Code of 2012.

14 (ii) Class 3 felony convictions for:

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

17 Retail theft under Section 16A-3 or  
18 paragraph (a) of 16-25 of the Criminal Code of  
19 1961 or the Criminal Code of 2012.

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

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

25 Possession with intent to manufacture or  
26 deliver a controlled substance under Section

1                   401 of the Illinois Controlled Substances Act.

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

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

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

18                   (C) Records identified as eligible under  
19 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be  
20 sealed 3 ~~4~~ years after the termination of the  
21 petitioner's last sentence (as defined in subsection  
22 (a)(1)(F)).

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

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

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

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

13 (d) Procedure. The following procedures apply to  
14 expungement under subsections (b), (e), and (e-6) and sealing  
15 under subsections (c) and (e-5):

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

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

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

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

21 (A) seal felony records under clause (c) (2) (E);

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

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

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

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

10 (5) Objections.

11 (A) Any party entitled to notice of the petition  
12 may file an objection to the petition. All objections  
13 shall be in writing, shall be filed with the circuit  
14 court clerk, and shall state with specificity the basis  
15 of the objection. Whenever a person who has been  
16 convicted of an offense is granted a pardon by the  
17 Governor which specifically authorizes expungement, an  
18 objection to the petition may not be filed.

19 (B) Objections to a petition to expunge or seal  
20 must be filed within 60 days of the date of service of  
21 the petition.

22 (6) Entry of order.

23 (A) The Chief Judge of the circuit wherein the  
24 charge was brought, any judge of that circuit  
25 designated by the Chief Judge, or in counties of less  
26 than 3,000,000 inhabitants, the presiding trial judge

1 at the petitioner's trial, if any, shall rule on the  
2 petition to expunge or seal as set forth in this  
3 subsection (d) (6).

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

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

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

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

26 (C) the petitioner's age, criminal record history,

1 and employment history;

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

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

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

16 (9) Implementation of order.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

22 (iv) records impounded by the Department may  
23 be disseminated by the Department only as required  
24 by law or to the arresting authority, the State's  
25 Attorney, and the court upon a later arrest for the  
26 same or a similar offense or for the purpose of

1 sentencing for any subsequent felony, and to the  
2 Department of Corrections upon conviction for any  
3 offense; and

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

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

19 (D) The Department shall send written notice to the  
20 petitioner of its compliance with each order to expunge  
21 or seal records within 60 days of the date of service  
22 of that order or, if a motion to vacate, modify, or  
23 reconsider is filed, within 60 days of service of the  
24 order resolving the motion, if that order requires the  
25 Department to expunge or seal records. In the event of  
26 an appeal from the circuit court order, the Department

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

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

24 (11) Final Order. No court order issued under the  
25 expungement or sealing provisions of this Section shall  
26 become final for purposes of appeal until 30 days after

1 service of the order on the petitioner and all parties  
2 entitled to notice of the petition.

3 (12) Motion to Vacate, Modify, or Reconsider. Under  
4 Section 2-1203 of the Code of Civil Procedure, 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. If filed more than 60 days after  
9 service of the order, a petition to vacate, modify, or  
10 reconsider shall comply with subsection (c) of Section  
11 2-1401 of the Code of Civil Procedure. Upon filing of a  
12 motion to vacate, modify, or reconsider, notice of the  
13 motion shall be served upon the petitioner and all parties  
14 entitled to notice of the petition.

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

24 (14) Compliance with Order Granting Petition to Seal  
25 Records. Unless a court has entered a stay of an order  
26 granting a petition to seal, all parties entitled to notice

1 of the petition must fully comply with the terms of the  
2 order within 60 days of service of the order even if a  
3 party is seeking relief from the order through a motion  
4 filed under paragraph (12) of this subsection (d) or is  
5 appealing the order.

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

15 (16) The changes to this subsection (d) made by Public  
16 Act 98-163 apply to all petitions pending on August 5, 2013  
17 (the effective date of Public Act 98-163) and to all orders  
18 ruling on a petition to expunge or seal on or after August  
19 5, 2013 (the effective date of Public Act 98-163).

20 (e) Whenever a person who has been convicted of an offense  
21 is granted a pardon by the Governor which specifically  
22 authorizes expungement, he or she may, upon verified petition  
23 to the Chief Judge of the circuit where the person had been  
24 convicted, any judge of the circuit designated by the Chief  
25 Judge, or in counties of less than 3,000,000 inhabitants, the  
26 presiding trial judge at the defendant's trial, have a court

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

21 (e-5) Whenever a person who has been convicted of an  
22 offense is granted a certificate of eligibility for sealing by  
23 the Prisoner Review Board which specifically authorizes  
24 sealing, he or she may, upon verified petition to the Chief  
25 Judge of the circuit where the person had been convicted, any  
26 judge of the circuit designated by the Chief Judge, or in

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

25 (e-6) Whenever a person who has been convicted of an  
26 offense is granted a certificate of eligibility for expungement



1 by the Prisoner Review Board which specifically authorizes  
2 expungement, he or she may, upon verified petition to the Chief  
3 Judge of the circuit where the person had been convicted, any  
4 judge of the circuit designated by the Chief Judge, or in  
5 counties of less than 3,000,000 inhabitants, the presiding  
6 trial judge at the petitioner's trial, have a court order  
7 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 petitioner  
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 granted the certificate  
16 but the order shall not affect any index issued by the circuit  
17 court clerk before the entry of the order. All records sealed  
18 by the Department may be disseminated by the Department only as  
19 required by this Act or to the arresting authority, a law  
20 enforcement agency, the State's Attorney, and the court upon a  
21 later arrest for the same or similar offense or for the purpose  
22 of sentencing for any subsequent felony. Upon conviction for  
23 any subsequent offense, the Department of Corrections shall  
24 have access to all expunged records of the Department  
25 pertaining to that individual. Upon entry of the order of  
26 expungement, the circuit court clerk shall promptly mail a copy

1 of the order to the person who was granted the certificate of  
2 eligibility for expungement.

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

15 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;  
16 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.  
17 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,  
18 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,  
19 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,  
20 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;  
21 98-1009, eff. 1-1-15; revised 9-30-14.)