

# HB4207



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4207

by Rep. La Shawn K. Ford

### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of conviction for any non-violent offense or any criminal offense that did not result in bodily harm or death to another person may be sealed 10 years after the termination of the petitioner's last sentence. Defines "non-violent offense".

LRB099 12090 RLC 34756 b

A BILL FOR

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 (G-1) "Non-violent offense" means a criminal  
9 offense that is not a violent crime as defined in  
10 subsection (c) of Section 3 of the Rights of Crime  
11 Victims and Witnesses Act.

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

17 (I) "Petitioner" means an adult or a minor  
18 prosecuted as an adult who has applied for relief under  
19 this Section.

20 (J) "Qualified probation" means an order of  
21 probation under Section 10 of the Cannabis Control Act,  
22 Section 410 of the Illinois Controlled Substances Act,  
23 Section 70 of the Methamphetamine Control and  
24 Community Protection Act, Section 5-6-3.3 or 5-6-3.4  
25 of the Unified Code of Corrections, Section  
26 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as

1 those provisions existed before their deletion by  
2 Public Act 89-313), Section 10-102 of the Illinois  
3 Alcoholism and Other Drug Dependency Act, Section  
4 40-10 of the Alcoholism and Other Drug Abuse and  
5 Dependency Act, or Section 10 of the Steroid Control  
6 Act. For the purpose of this Section, "successful  
7 completion" of an order of qualified probation under  
8 Section 10-102 of the Illinois Alcoholism and Other  
9 Drug Dependency Act and Section 40-10 of the Alcoholism  
10 and Other Drug Abuse and Dependency Act means that the  
11 probation was terminated satisfactorily and the  
12 judgment of conviction was vacated.

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

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

1 (M) "Terminate" as it relates to a sentence or  
2 order of supervision or qualified probation includes  
3 either satisfactory or unsatisfactory termination of  
4 the sentence, unless otherwise specified in this  
5 Section.

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

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

13 (A) the sealing or expungement of the records of  
14 arrests or charges not initiated by arrest that result  
15 in an order of supervision for or conviction of: (i)  
16 any sexual offense committed against a minor; (ii)  
17 Section 11-501 of the Illinois Vehicle Code or a  
18 similar provision of a local ordinance; or (iii)  
19 Section 11-503 of the Illinois Vehicle Code or a  
20 similar provision of a local ordinance, unless the  
21 arrest or charge is for a misdemeanor violation of  
22 subsection (a) of Section 11-503 or a similar provision  
23 of a local ordinance, that occurred prior to the  
24 offender reaching the age of 25 years and the offender  
25 has no other conviction for violating Section 11-501 or  
26 11-503 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance.

2 (B) the sealing or expungement of records of minor  
3 traffic offenses (as defined in subsection (a)(1)(G)),  
4 unless the petitioner was arrested and released  
5 without charging.

6 (C) the sealing of the records of arrests or  
7 charges not initiated by arrest which result in an  
8 order of supervision or a conviction for the following  
9 offenses:

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

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

20 (iii) Sections 12-3.1 or 12-3.2 of the  
21 Criminal Code of 1961 or the Criminal Code of 2012,  
22 or Section 125 of the Stalking No Contact Order  
23 Act, or Section 219 of the Civil No Contact Order  
24 Act, or a similar provision of a local ordinance;

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



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

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

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

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

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

22                   (iv) the charge is for a felony offense listed  
23                   in subsection (c) (2) (F) or the charge is amended to  
24                   a felony offense listed in subsection (c) (2) (F);

25                   (v) the charge results in acquittal,  
26                   dismissal, or the petitioner's release without

1 conviction; or

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

4 (b) Expungement.

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

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

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

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

23 (A) When the arrest or charge not initiated by  
24 arrest sought to be expunged resulted in an acquittal,  
25 dismissal, the petitioner's release without charging,  
26 or the reversal or vacation of a conviction, there is

1 no waiting period to petition for the expungement of  
2 such records.

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

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

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

1           petitioner has reached the age of 25 years.

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

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

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

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

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

19 (5) Whenever a person has been convicted of criminal  
20 sexual assault, aggravated criminal sexual assault,  
21 predatory criminal sexual assault of a child, criminal  
22 sexual abuse, or aggravated criminal sexual abuse, the  
23 victim of that offense may request that the State's  
24 Attorney of the county in which the conviction occurred  
25 file a verified petition with the presiding trial judge at  
26 the petitioner's trial to have a court order entered to

1 seal the records of the circuit court clerk in connection  
2 with the proceedings of the trial court concerning that  
3 offense. However, the records of the arresting authority  
4 and the Department of State Police concerning the offense  
5 shall not be sealed. The court, upon good cause shown,  
6 shall make the records of the circuit court clerk in  
7 connection with the proceedings of the trial court  
8 concerning the offense available for public inspection.

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

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

1 Criminal Code of 2012, Section 10-102 of the Illinois  
2 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
3 the Alcoholism and Other Drug Abuse and Dependency Act, or  
4 Section 10 of the Steroid Control Act.

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

12 (c) Sealing.

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

18 (2) Eligible Records. The following records may be  
19 sealed:

20 (A) All arrests resulting in release without  
21 charging;

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

26 (C) Arrests or charges not initiated by arrest

1 resulting in orders of supervision, including orders  
2 of supervision for municipal ordinance violations,  
3 successfully completed by the petitioner, unless  
4 excluded by subsection (a) (3);

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

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

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

19 (i) Class 4 felony convictions for:

20 Prostitution under Section 11-14 of the  
21 Criminal Code of 1961 or the Criminal Code of  
22 2012.

23 Possession of cannabis under Section 4 of  
24 the Cannabis Control Act.

25 Possession of a controlled substance under  
26 Section 402 of the Illinois Controlled



1 Substances Act.

2 Offenses under the Methamphetamine  
3 Precursor Control Act.

4 Offenses under the Steroid Control Act.

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

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

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

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

15 Possession of burglary tools under Section  
16 19-2 of the Criminal Code of 1961 or the  
17 Criminal Code of 2012.

18 (ii) Class 3 felony convictions for:

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

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

24 Deceptive practices under Section 17-1 of  
25 the Criminal Code of 1961 or the Criminal Code  
26 of 2012.

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

3                   Possession with intent to manufacture or  
4                   deliver a controlled substance under Section  
5                   401 of the Illinois Controlled Substances Act.

6                   (iii) Convictions for any non-violent criminal  
7                   offense.

8                   (iv) Convictions for any criminal offense that  
9                   did not result in bodily harm or death to another  
10                   person.

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

14                   (A) Records identified as eligible under  
15                   subsection (c)(2)(A) and (c)(2)(B) may be sealed at any  
16                   time.

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

1 (C) Records identified as eligible under  
2 subsections (c) (2) (D), (c) (2) (E), and (c) (2) (F), other  
3 than subsection (c) (2) (F) (iii) or c) (2) (F) (iv), may be  
4 sealed 4 years after the termination of the  
5 petitioner's last sentence (as defined in subsection  
6 (a) (1) (F)).

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

10 (E) Records identified as eligible under  
11 subsection (c) (2) (F) (iii) or (c) (2) (F) (iv) may be  
12 sealed 10 years after the termination of the  
13 petitioner's last sentence (as defined in subsection  
14 (a) (1) (F)).

15 (4) Subsequent felony convictions. A person may not  
16 have subsequent felony conviction records sealed as  
17 provided in this subsection (c) if he or she is convicted  
18 of any felony offense after the date of the sealing of  
19 prior felony convictions as provided in this subsection  
20 (c). The court may, upon conviction for a subsequent felony  
21 offense, order the unsealing of prior felony conviction  
22 records previously ordered sealed by the court.

23 (5) Notice of eligibility for sealing. Upon entry of a  
24 disposition for an eligible record under this subsection  
25 (c), the petitioner shall be informed by the court of the  
26 right to have the records sealed and the procedures for the

1 sealing of the records.

2 (d) Procedure. The following procedures apply to  
3 expungement under subsections (b), (e), and (e-6) and sealing  
4 under subsections (c) and (e-5):

5 (1) Filing the petition. Upon becoming eligible to  
6 petition for the expungement or sealing of records under  
7 this Section, the petitioner shall file a petition  
8 requesting the expungement or sealing of records with the  
9 clerk of the court where the arrests occurred or the  
10 charges were brought, or both. If arrests occurred or  
11 charges were brought in multiple jurisdictions, a petition  
12 must be filed in each such jurisdiction. The petitioner  
13 shall pay the applicable fee, if not waived.

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

1 petition.

2 (3) Drug test. The petitioner must attach to the  
3 petition proof that the petitioner has passed a test taken  
4 within 30 days before the filing of the petition showing  
5 the absence within his or her body of all illegal  
6 substances as defined by the Illinois Controlled  
7 Substances Act, the Methamphetamine Control and Community  
8 Protection Act, and the Cannabis Control Act if he or she  
9 is petitioning to:

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

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

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

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

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

25 (5) Objections.

26 (A) Any party entitled to notice of the petition

1           may file an objection to the petition. All objections  
2           shall be in writing, shall be filed with the circuit  
3           court clerk, and shall state with specificity the basis  
4           of the objection. Whenever a person who has been  
5           convicted of an offense is granted a pardon by the  
6           Governor which specifically authorizes expungement, an  
7           objection to the petition may not be filed.

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

11          (6) Entry of order.

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

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

25          (7) Hearings. If an objection is filed, the court shall  
26          set a date for a hearing and notify the petitioner and all

1 parties entitled to notice of the petition of the hearing  
2 date at least 30 days prior to the hearing. Prior to the  
3 hearing, the State's Attorney shall consult with the  
4 Department as to the appropriateness of the relief sought  
5 in the petition to expunge or seal. At the hearing, the  
6 court shall hear evidence on whether the petition should or  
7 should not be granted, and shall grant or deny the petition  
8 to expunge or seal the records based on the evidence  
9 presented at the hearing. The court may consider the  
10 following:

11 (A) the strength of the evidence supporting the  
12 defendant's conviction;

13 (B) the reasons for retention of the conviction  
14 records by the State;

15 (C) the petitioner's age, criminal record history,  
16 and employment history;

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

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

22 (8) Service of order. After entering an order to  
23 expunge or seal records, the court must provide copies of  
24 the order to the Department, in a form and manner  
25 prescribed by the Department, to the petitioner, to the  
26 State's Attorney or prosecutor charged with the duty of

1 prosecuting the offense, to the arresting agency, to the  
2 chief legal officer of the unit of local government  
3 effecting the arrest, and to such other criminal justice  
4 agencies as may be ordered by the court.

5 (9) Implementation of order.

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

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

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

24 (iii) in response to an inquiry for expunged  
25 records, the court, the Department, or the agency  
26 receiving such inquiry, shall reply as it does in



1 response to inquiries when no records ever  
2 existed.

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

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

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

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

26 (iv) records impounded by the Department may

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

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

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

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 under 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 under paragraph (12) of subsection (d) of this  
10 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 these records  
20 from anyone not authorized by law to access the  
21 records, the court, the Department, or the agency  
22 receiving the inquiry shall reply as it does in  
23 response to inquiries when no records ever  
24 existed.

25 (C) Upon entry of an order to seal records under  
26 subsection (c), the arresting agency, any other agency

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

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

23 (10) Fees. The Department may charge the petitioner a  
24 fee equivalent to the cost of processing any order to  
25 expunge or seal records. Notwithstanding any provision of  
26 the Clerks of Courts Act to the contrary, the circuit court

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

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

18 (12) Motion to Vacate, Modify, or Reconsider. Under  
19 Section 2-1203 of the Code of Civil Procedure, the  
20 petitioner or any party entitled to notice may file a  
21 motion to vacate, modify, or reconsider the order granting  
22 or denying the petition to expunge or seal within 60 days  
23 of service of the order. If filed more than 60 days after  
24 service of the order, a petition to vacate, modify, or  
25 reconsider shall comply with subsection (c) of Section  
26 2-1401 of the Code of Civil Procedure. Upon filing of a

1 motion to vacate, modify, or reconsider, notice of the  
2 motion shall be served upon the petitioner and all parties  
3 entitled to notice of the petition.

4 (13) Effect of Order. An order granting a petition  
5 under the expungement or sealing provisions of this Section  
6 shall not be considered void because it fails to comply  
7 with the provisions of this Section or because of any error  
8 asserted in a motion to vacate, modify, or reconsider. The  
9 circuit court retains jurisdiction to determine whether  
10 the order is voidable and to vacate, modify, or reconsider  
11 its terms based on a motion filed under paragraph (12) of  
12 this subsection (d).

13 (14) Compliance with Order Granting Petition to Seal  
14 Records. Unless a court has entered a stay of an order  
15 granting a petition to seal, all parties entitled to notice  
16 of the petition must fully comply with the terms of the  
17 order within 60 days of service of the order even if a  
18 party is seeking relief from the order through a motion  
19 filed under paragraph (12) of this subsection (d) or is  
20 appealing the order.

21 (15) Compliance with Order Granting Petition to  
22 Expunge Records. While a party is seeking relief from the  
23 order granting the petition to expunge through a motion  
24 filed under paragraph (12) of this subsection (d) or is  
25 appealing the order, and unless a court has entered a stay  
26 of that order, the parties entitled to notice of the

1 petition must seal, but need not expunge, the records until  
2 there is a final order on the motion for relief or, in the  
3 case of an appeal, the issuance of that court's mandate.

4 (16) The changes to this subsection (d) made by Public  
5 Act 98-163 apply to all petitions pending on August 5, 2013  
6 (the effective date of Public Act 98-163) and to all orders  
7 ruling on a petition to expunge or seal on or after August  
8 5, 2013 (the effective date of Public Act 98-163).

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 (e-6) Whenever a person who has been convicted of an  
15 offense is granted a certificate of eligibility for expungement  
16 by the Prisoner Review Board which specifically authorizes  
17 expungement, he or she may, upon verified petition to the Chief  
18 Judge of the circuit where the person had been convicted, any  
19 judge of the circuit designated by the Chief Judge, or in  
20 counties of less than 3,000,000 inhabitants, the presiding  
21 trial judge at the petitioner's trial, have a court order  
22 entered expunging the record of arrest from the official  
23 records of the arresting authority and order that the records  
24 of the circuit court clerk and the Department be sealed until  
25 further order of the court upon good cause shown or as  
26 otherwise provided herein, and the name of the petitioner

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

18 (f) Subject to available funding, the Illinois Department  
19 of Corrections shall conduct a study of the impact of sealing,  
20 especially on employment and recidivism rates, utilizing a  
21 random sample of those who apply for the sealing of their  
22 criminal records under Public Act 93-211. At the request of the  
23 Illinois Department of Corrections, records of the Illinois  
24 Department of Employment Security shall be utilized as  
25 appropriate to assist in the study. The study shall not  
26 disclose any data in a manner that would allow the

1 identification of any particular individual or employing unit.  
2 The study shall be made available to the General Assembly no  
3 later than September 1, 2010.

4 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;  
5 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.  
6 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,  
7 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,  
8 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,  
9 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;  
10 98-1009, eff. 1-1-15; revised 9-30-14.)