



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4954

Introduced 2/5/2016, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of charges that result in an acquittal or dismissal with prejudice, except for minor traffic offenses, may be immediately sealed after the final disposition of the case. Upon entry of judgment, the defendant shall be informed of this right and the proper procedures to follow to have records that are eligible be immediately sealed. A petition may be filed on behalf of the defendant by his or her attorney at the final disposition hearing, or by the defendant at any time. The State's Attorney may not object to an immediate sealing petition, and the presiding trial judge shall enter an order granting or denying the petition during the hearing in which the petition is filed. Effective immediately.

LRB099 18100 SLF 42465 b

FISCAL NOTE ACT
MAY APPLY

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 and immediate 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. Subsection (g) of this Section
14 provides for immediate sealing of certain records.

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

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

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

23 (C) Arrests or charges not initiated by arrest
24 resulting in orders of supervision, including orders
25 of supervision for municipal ordinance violations,
26 successfully completed by the petitioner, unless

1 excluded by subsection (a) (3);

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

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

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

16 (i) Class 4 felony convictions for:

17 Prostitution under Section 11-14 of the
18 Criminal Code of 1961 or the Criminal Code of
19 2012.

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

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

25 Offenses under the Methamphetamine
26 Precursor Control Act.

1 Offenses under the Steroid Control Act.

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

4 Retail theft under Section 16A-3 or
5 paragraph (a) of 16-25 of the Criminal Code of
6 1961 or the Criminal Code of 2012.

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

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

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

15 (ii) Class 3 felony convictions for:

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

18 Retail theft under Section 16A-3 or
19 paragraph (a) of 16-25 of the Criminal Code of
20 1961 or the Criminal Code of 2012.

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

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

26 Possession with intent to manufacture or

1 deliver a controlled substance under Section
2 401 of the Illinois Controlled Substances Act.

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

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

9 (B) Except as otherwise provided in subparagraph
10 (E) of this paragraph (3), records identified as
11 eligible under subsection (c)(2)(C) may be sealed 2
12 years after the termination of petitioner's last
13 sentence (as defined in subsection (a)(1)(F)).

14 (C) Except as otherwise provided in subparagraph
15 (E) of this paragraph (3), records identified as
16 eligible under subsections (c)(2)(D), (c)(2)(E), and
17 (c)(2)(F) may be sealed 3 years after the termination
18 of the petitioner's last sentence (as defined in
19 subsection (a)(1)(F)).

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

23 (E) Records identified as eligible under
24 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
25 (c)(2)(F) may be sealed upon termination of the
26 petitioner's last sentence if the petitioner earned a

1 high school diploma, associate's degree, career
2 certificate, vocational technical certification, or
3 bachelor's degree, or passed the high school level Test
4 of General Educational Development, during the period
5 of his or her sentence, aftercare release, or mandatory
6 supervised release. This subparagraph shall apply only
7 to a petitioner who has not completed the same
8 educational goal prior to the period of his or her
9 sentence, aftercare release, or mandatory supervised
10 release. If a petition for sealing eligible records
11 filed under this subparagraph is denied by the court,
12 the time periods under subparagraph (B) or (C) shall
13 apply to any subsequent petition for sealing filed by
14 the petitioner.

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. No fees shall be charged by
13 the circuit court clerk or the Department of State Police
14 for processing sealing petitions for eligible records
15 under subsection (c) (2) (B) on or after the effective date
16 of this amendatory Act of the 99th General Assembly.

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

22 (12) Motion to Vacate, Modify, or Reconsider. Under
23 Section 2-1203 of the Code of Civil Procedure, the
24 petitioner or any party entitled to notice may file a
25 motion to vacate, modify, or reconsider the order granting
26 or denying the petition to expunge or seal within 60 days

1 of service of the order. If filed more than 60 days after
2 service of the order, a petition to vacate, modify, or
3 reconsider shall comply with subsection (c) of Section
4 2-1401 of the Code of Civil Procedure. Upon filing of a
5 motion to vacate, modify, or reconsider, notice of the
6 motion shall be served upon the petitioner and all parties
7 entitled to notice of the petition.

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

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

25 (15) Compliance with Order Granting Petition to
26 Expunge Records. While a party is seeking relief from the

1 order granting the petition to expunge through a motion
2 filed under paragraph (12) of this subsection (d) or is
3 appealing the order, and unless a court has entered a stay
4 of that order, the parties entitled to notice of the
5 petition must seal, but need not expunge, the records until
6 there is a final order on the motion for relief or, in the
7 case of an appeal, the issuance of that court's mandate.

8 (16) The changes to this subsection (d) made by Public
9 Act 98-163 apply to all petitions pending on August 5, 2013
10 (the effective date of Public Act 98-163) and to all orders
11 ruling on a petition to expunge or seal on or after August
12 5, 2013 (the effective date of Public Act 98-163).

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

1 Act in connection with the arrest and conviction for the
2 offense for which he or she had been pardoned but the order
3 shall not affect any index issued by the circuit court clerk
4 before the entry of the order. All records sealed by the
5 Department may be disseminated by the Department only to the
6 arresting authority, the State's Attorney, and the court upon a
7 later arrest for the same or similar offense or for the purpose
8 of sentencing for any subsequent felony. Upon conviction for
9 any subsequent offense, the Department of Corrections shall
10 have access to all sealed records of the Department pertaining
11 to that individual. Upon entry of the order of expungement, the
12 circuit court clerk shall promptly mail a copy of the order to
13 the person who was pardoned.

14 (e-5) Whenever a person who has been convicted of an
15 offense is granted a certificate of eligibility for sealing by
16 the Prisoner Review Board which specifically authorizes
17 sealing, 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 sealing the record of arrest from the official records
23 of the arresting authority and order that the records of the
24 circuit court clerk and the Department be sealed until further
25 order of the court upon good cause shown or as otherwise
26 provided herein, and the name of the petitioner obliterated

1 from the official index requested to be kept by the circuit
2 court clerk under Section 16 of the Clerks of Courts Act in
3 connection with the arrest and conviction for the offense for
4 which he or she had been granted the certificate but the order
5 shall not affect any index issued by the circuit court clerk
6 before the entry of the order. All records sealed by the
7 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 sealed records of the Department pertaining
14 to that individual. Upon entry of the order of sealing, the
15 circuit court clerk shall promptly mail a copy of the order to
16 the person who was granted the certificate of eligibility for
17 sealing.

18 (e-6) Whenever a person who has been convicted of an
19 offense is granted a certificate of eligibility for expungement
20 by the Prisoner Review Board which specifically authorizes
21 expungement, he or she may, upon verified petition to the Chief
22 Judge of the circuit where the person had been convicted, any
23 judge of the circuit designated by the Chief Judge, or in
24 counties of less than 3,000,000 inhabitants, the presiding
25 trial judge at the petitioner's trial, have a court order
26 entered expunging the record of arrest from the official

1 records of the arresting authority and order that the records
2 of the circuit court clerk and the Department be sealed until
3 further order of the court upon good cause shown or as
4 otherwise provided herein, and the name of the petitioner
5 obliterated from the official index requested to be kept by the
6 circuit court clerk under Section 16 of the Clerks of Courts
7 Act in connection with the arrest and conviction for the
8 offense for which he or she had been granted the certificate
9 but the order shall not affect any index issued by the circuit
10 court clerk before the entry of the order. All records sealed
11 by the Department may be disseminated by the Department only as
12 required by this Act or to the arresting authority, a law
13 enforcement agency, 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 expunged records of the Department
18 pertaining to that individual. Upon entry of the order of
19 expungement, the circuit court clerk shall promptly mail a copy
20 of the order to the person who was granted the certificate of
21 eligibility for expungement.

22 (f) Subject to available funding, the Illinois Department
23 of Corrections shall conduct a study of the impact of sealing,
24 especially on employment and recidivism rates, utilizing a
25 random sample of those who apply for the sealing of their
26 criminal records under Public Act 93-211. At the request of the

1 Illinois Department of Corrections, records of the Illinois
2 Department of Employment Security shall be utilized as
3 appropriate to assist in the study. The study shall not
4 disclose any data in a manner that would allow the
5 identification of any particular individual or employing unit.
6 The study shall be made available to the General Assembly no
7 later than September 1, 2010.

8 (g) Immediate Sealing.

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

14 (2) Eligible Records. Arrests or charges not initiated
15 by arrest resulting in acquittal or dismissal with
16 prejudice, except as excluded by subsection (a)(3)(B),
17 that occur on or after the effective date of this
18 amendatory Act of the 99th General Assembly, may be sealed
19 immediately if the petition is filed with the circuit court
20 clerk on the same day and during the same hearing in which
21 the case is disposed.

22 (3) When Records are Eligible to be Immediately Sealed.
23 Eligible records under paragraph (2) of this subsection (g)
24 may be sealed immediately after entry of the final
25 disposition of a case, notwithstanding the disposition of
26 other charges in the same case.

1 (4) Notice of Eligibility for Immediate Sealing. Upon
2 entry of a disposition for an eligible record under this
3 subsection (g), the defendant shall be informed by the
4 court of his or her right to have eligible records
5 immediately sealed and the procedure for the immediate
6 sealing of these records.

7 (5) Procedure. The following procedures apply to
8 immediate sealing under this subsection (g).

9 (A) Filing the Petition. Upon entry of the final
10 disposition of the case, the defendant's attorney may
11 immediately petition the court, on behalf of the
12 defendant, for immediate sealing of eligible records
13 under paragraph (2) of this subsection (g) that are
14 entered on or after the effective date of this
15 amendatory Act of the 99th General Assembly. The
16 immediate sealing petition may be filed with the
17 circuit court clerk during the hearing in which the
18 final disposition of the case is entered. If the
19 defendant's attorney does not file the petition for
20 immediate sealing during the hearing, the defendant
21 may file a petition for sealing at any time as
22 authorized under subsection (c) (3) (A).

23 (B) Contents of Petition. The immediate sealing
24 petition shall be verified and shall contain the
25 petitioner's name, date of birth, current address, and
26 for each eligible record, the case number, the date of

1 arrest if applicable, the identity of the arresting
2 authority if applicable, and other information as the
3 court may require.

4 (C) Drug Test. The petitioner shall not be required
5 to attach proof that he or she has passed a drug test.

6 (D) Service of Petition. A copy of the petition
7 shall be served on the State's Attorney in open court.
8 The petitioner shall not be required to serve a copy of
9 the petition on any other agency.

10 (E) Objections. The State's Attorney may not
11 object to an immediate sealing petition.

12 (F) Entry of Order. The presiding trial judge shall
13 enter an order granting or denying the petition for
14 immediate sealing during the hearing in which it is
15 filed. Petitions for immediate sealing shall be ruled
16 on in the same hearing in which the final disposition
17 of the case is entered.

18 (G) Hearings. The court shall hear the petition for
19 immediate sealing on the same day and during the same
20 hearing in which the disposition is rendered.

21 (H) Service of Order. An order to immediately seal
22 eligible records shall be served in conformance with
23 subsection (d) (8).

24 (I) Implementation of Order. An order to
25 immediately seal records shall be implemented in
26 conformance with subsections (d) (9) (C) and (d) (9) (D).

1 (J) Fees. No fees shall be charged by the circuit
2 court clerk or the Department of State Police for
3 processing petitions filed under this subsection (g).

4 (K) Final Order. No court order issued under this
5 subsection (g) shall become final for purposes of
6 appeal until 30 days after service of the order on the
7 petitioner and all parties entitled to service of the
8 order in conformance with subsection (d) (8).

9 (L) Motion to Vacate, Modify, or Reconsider. Under
10 Section 2-1203 of the Code of Civil Procedure, the
11 petitioner may file a motion to vacate, modify, or
12 reconsider the order denying the petition to
13 immediately seal within 60 days of service of the
14 order. If filed more than 60 days after service of the
15 order, a petition to vacate, modify, or reconsider
16 shall comply with subsection (c) of Section 2-1401 of
17 the Code of Civil Procedure.

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

1 (N) Compliance with Order Granting Petition to
2 Seal Records. Unless a court has entered a stay of an
3 order granting a petition to immediately seal, all
4 parties entitled to service of the order must fully
5 comply with the terms of the order within 60 days of
6 service of the order.

7 (Source: P.A. 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; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;
11 99-385, eff. 1-1-16; revised 10-15-15.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.