

1 AN ACT in relation to the expungement and sealing of
2 arrest and court records.

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

5 Section 5. The Criminal Identification Act is amended by
6 changing Section 5 as follows:

7 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

8 Sec. 5. Arrest reports; expungement.

9 (a) All policing bodies of this State shall furnish to
10 the Department, daily, in the form and detail the Department
11 requires, fingerprints and descriptions of all persons who
12 are arrested on charges of violating any penal statute of
13 this State for offenses that are classified as felonies and
14 Class A or B misdemeanors and of all minors of the age of 10
15 and over who have been arrested for an offense which would be
16 a felony if committed by an adult, and may forward such
17 fingerprints and descriptions for minors arrested for Class A
18 or B misdemeanors. Moving or nonmoving traffic violations
19 under the Illinois Vehicle Code shall not be reported except
20 for violations of Chapter 4, Section 11-204.1, or Section
21 11-501 of that Code. In addition, conservation offenses, as
22 defined in the Supreme Court Rule 501(c), that are classified
23 as Class B misdemeanors shall not be reported.

24 Whenever an adult or minor prosecuted as an adult, not
25 having previously been convicted of any criminal offense or
26 municipal ordinance violation, charged with a violation of a
27 municipal ordinance or a felony or misdemeanor, is acquitted
28 or released without being convicted, whether the acquittal or
29 release occurred before, on, or after the effective date of
30 this amendatory Act of 1991, the Chief Judge of the circuit
31 wherein the charge was brought, any judge of that circuit

1 designated by the Chief Judge, or in counties of less than
2 3,000,000 inhabitants, the presiding trial judge at the
3 defendant's trial may upon verified petition of the defendant
4 order the record of arrest expunged from the official records
5 of the arresting authority and the Department and order that
6 the records of the clerk of the circuit court be sealed until
7 further order of the court upon good cause shown and the name
8 of the defendant obliterated on the official index required
9 to be kept by the circuit court clerk under Section 16 of the
10 Clerks of Courts Act, but the order shall not affect any
11 index issued by the circuit court clerk before the entry of
12 the order. The Department may charge the petitioner a fee
13 equivalent to the cost of processing any order to expunge or
14 seal the records, and the fee shall be deposited into the
15 State Police Services Fund. The records of those arrests,
16 however, that result in a disposition of supervision for any
17 offense shall not be expunged from the records of the
18 arresting authority or the Department nor impounded by the
19 court until 2 years after discharge and dismissal of
20 supervision. Those records that result from a supervision
21 for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or
22 11-503 of the Illinois Vehicle Code or a similar provision of
23 a local ordinance, or for a violation of Section 12-3.2,
24 12-15 or 16A-3 of the Criminal Code of 1961, or probation
25 under Section 10 of the Cannabis Control Act, Section 410 of
26 the Illinois Controlled Substances Act, Section 12-4.3(b)(1)
27 and (2) of the Criminal Code of 1961 (as those provisions
28 existed before their deletion by Public Act 89-313), Section
29 10-102 of the Illinois Alcoholism and Other Drug Dependency
30 Act when the judgment of conviction has been vacated, Section
31 40-10 of the Alcoholism and Other Drug Abuse and Dependency
32 Act when the judgment of conviction has been vacated, or
33 Section 10 of the Steroid Control Act shall not be expunged
34 from the records of the arresting authority nor impounded by

1 the court until 5 years after termination of probation or
2 supervision. Those records that result from a supervision
3 for a violation of Section 11-501 of the Illinois Vehicle
4 Code or a similar provision of a local ordinance, shall not
5 be expunged. All records set out above may be ordered by the
6 court to be expunged from the records of the arresting
7 authority and impounded by the court after 5 years, but shall
8 not be expunged by the Department, but shall, on court order
9 be sealed by the Department and may be disseminated by the
10 Department only as required by law or to the arresting
11 authority, the State's Attorney, and the court upon a later
12 arrest for the same or a similar offense or for the purpose
13 of sentencing for any subsequent felony. Upon conviction for
14 any offense, the Department of Corrections shall have access
15 to all sealed records of the Department pertaining to that
16 individual.

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

21 (b) Whenever a person has been convicted of a crime or
22 of the violation of a municipal ordinance, in the name of a
23 person whose identity he has stolen or otherwise come into
24 possession of, the aggrieved person from whom the identity
25 was stolen or otherwise obtained without authorization, upon
26 learning of the person having been arrested using his
27 identity, may, upon verified petition to the chief judge of
28 the circuit wherein the arrest was made, have a court order
29 entered nunc pro tunc by the chief judge to correct the
30 arrest record, conviction record, if any, and all official
31 records of the arresting authority, the Department, other
32 criminal justice agencies, the prosecutor, and the trial
33 court concerning such arrest, if any, by removing his name
34 from all such records in connection with the arrest and

1 conviction, if any, and by inserting in the records the name
2 of the offender, if known or ascertainable, in lieu of the
3 has name. The records of the clerk of the circuit court
4 clerk shall be sealed until further order of the court upon
5 good cause shown and the name of the aggrieved person
6 obliterated on the official index required to be kept by the
7 circuit court clerk under Section 16 of the Clerks of Courts
8 Act, but the order shall not affect any index issued by the
9 circuit court clerk before the entry of the order. Nothing in
10 this Section shall limit the Department of State Police or
11 other criminal justice agencies or prosecutors from listing
12 under an offender's name the false names he or she has used.
13 For purposes of this Section, convictions for moving and
14 nonmoving traffic violations other than convictions for
15 violations of Chapter 4, Section 11-204.1 or Section 11-501
16 of the Illinois Vehicle Code shall not be a bar to expunging
17 the record of arrest and court records for violation of a
18 misdemeanor or municipal ordinance.

19 (c) Whenever a person who has been convicted of an
20 offense is granted a pardon by the Governor which
21 specifically authorizes expungement, he may, upon verified
22 petition to the chief judge of the circuit where the person
23 had been convicted, any judge of the circuit designated by
24 the Chief Judge, or in counties of less than 3,000,000
25 inhabitants, the presiding trial judge at the defendant's
26 trial, may have a court order entered expunging the record of
27 arrest from the official records of the arresting authority
28 and order that the records of the clerk of the circuit court
29 and the Department be sealed until further order of the court
30 upon good cause shown or as otherwise provided herein, and
31 the name of the defendant obliterated from the official index
32 requested to be kept by the circuit court clerk under Section
33 16 of the Clerks of Courts Act in connection with the arrest
34 and conviction for the offense for which he had been pardoned

1 but the order shall not affect any index issued by the
2 circuit court clerk before the entry of the order. All
3 records sealed by the Department may be disseminated by the
4 Department only as required by law or to the arresting
5 authority, the State's Attorney, and the court upon a later
6 arrest for the same or similar offense or for the purpose of
7 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
10 pertaining to that individual. Upon entry of the order of
11 expungement, the clerk of the circuit court shall promptly
12 mail a copy of the order to the person who was pardoned.

13 (c-5) Whenever a person has been convicted of criminal
14 sexual assault, aggravated criminal sexual assault, predatory
15 criminal sexual assault of a child, criminal sexual abuse, or
16 aggravated criminal sexual abuse, the victim of that offense
17 may request that the State's Attorney of the county in which
18 the conviction occurred file a verified petition with the
19 presiding trial judge at the defendant's trial to have a
20 court order entered to seal the records of the clerk of the
21 circuit court in connection with the proceedings of the trial
22 court concerning that offense. However, the records of the
23 arresting authority and the Department of State Police
24 concerning the offense shall not be sealed. The court, upon
25 good cause shown, shall make the records of the clerk of the
26 circuit court in connection with the proceedings of the trial
27 court concerning the offense available for public inspection.

28 (c-6) Whenever a minor who has been convicted as an
29 adult and sentenced to a term of probation or conditional
30 discharge has completed his or her sentence, and has not,
31 within 2 years from the date he or she was sentenced, been
32 convicted of any felony or misdemeanor, excluding violations
33 of the Illinois Vehicle Code except for Section 11-501 or a
34 similar provision of a law of another state or a local

1 ordinance, the chief judge of the circuit where the minor had
2 been convicted, any judge of the circuit designated by the
3 Chief Judge, or, in counties of less than 3,000,000
4 inhabitants, the judge who terminated the original court
5 disposition must immediately have a court order entered
6 expunging the record of arrest from the official records of
7 the arresting authority and order that the records of the
8 clerk of the circuit court and the Department be sealed until
9 further order of the court upon good cause shown or as
10 otherwise provided in this Section, and the name of the minor
11 obliterated from the official index requested to be kept by
12 the circuit court clerk under Section 16 of the Clerks of
13 Courts Act in connection with the arrest and conviction for
14 the offense for which he or she had been convicted but the
15 order shall not affect any index issued by the circuit court
16 clerk before the entry of the order. All records sealed by
17 the Department may be disseminated by the Department only as
18 required by law or to the arresting authority, the State's
19 Attorney, and the court upon a later arrest for the same or
20 similar offense or for the purpose of sentencing for any
21 subsequent felony. Upon conviction for any subsequent
22 offense, the Department of Corrections shall have access to
23 all sealed records of the Department pertaining to that
24 individual. Upon entry of the order of expungement, the
25 clerk of the circuit court shall promptly mail a copy of the
26 order to the person whose records were expunged and sealed.

27 (d) Notice of the petition for subsections (a), (b), and
28 (c), and notice of the order of expungement and sealing of
29 records under subsection (c-6), shall be served upon the
30 State's Attorney or prosecutor charged with the duty of
31 prosecuting the offense, the Department of State Police, the
32 arresting agency and the chief legal officer of the unit of
33 local government affecting the arrest. Unless the State's
34 Attorney or prosecutor, the Department of State Police, the

1 arresting agency or such chief legal officer objects to the
2 petition under subsection (a), (b), or (c) within 30 days
3 from the date of the notice, the court shall enter an order
4 granting or denying the petition. The clerk of the court
5 shall promptly mail a copy of the order to the person, the
6 arresting agency, the prosecutor, the Department of State
7 Police and such other criminal justice agencies as may be
8 ordered by the judge.

9 (e) Nothing herein shall prevent the Department of State
10 Police from maintaining all records of any person who is
11 admitted to probation upon terms and conditions and who
12 fulfills those terms and conditions pursuant to Section 10 of
13 the Cannabis Control Act, Section 410 of the Illinois
14 Controlled Substances Act, Section 12-4.3 of the Criminal
15 Code of 1961, Section 10-102 of the Illinois Alcoholism and
16 Other Drug Dependency Act, Section 40-10 of the Alcoholism
17 and Other Drug Abuse and Dependency Act, or Section 10 of the
18 Steroid Control Act.

19 (f) No court order issued pursuant to the expungement
20 provisions of this Section shall become final for purposes of
21 appeal until 30 days after notice is received by the
22 Department. Any court order contrary to the provisions of
23 this Section is void.

24 (g) Except as otherwise provided in subsection (c-5) of
25 this Section, the court shall not order the sealing or
26 expungement of the arrest records and records of the circuit
27 court clerk of any person granted supervision for or
28 convicted of any sexual offense committed against a minor
29 under 18 years of age. For the purposes of this Section,
30 "sexual offense committed against a minor" includes but is
31 not limited to the offenses of indecent solicitation of a
32 child or criminal sexual abuse when the victim of such
33 offense is under 18 years of age.

34 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;

1 91-357, eff. 7-29-99.)

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.