

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 the 92nd General Assembly 1991, the  
31 Chief Judge of the circuit wherein the charge was brought,

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

1 Steroid Control Act shall not be expunged from the records of  
2 the arresting authority nor impounded by the court until 5  
3 years after termination of probation or supervision. Those  
4 records that result from a supervision for a violation of  
5 Section 11-501 of the Illinois Vehicle Code or a similar  
6 provision of a local ordinance, shall not be expunged. All  
7 records set out above may be ordered by the court to be  
8 expunged from the records of the arresting authority and  
9 impounded by the court after 5 years, but shall not be  
10 expunged by the Department, but shall, on court order be  
11 sealed by the Department and may be disseminated by the  
12 Department only as required by law or to the arresting  
13 authority, the State's Attorney, and the court upon a later  
14 arrest for the same or a similar offense or for the purpose  
15 of sentencing for any subsequent felony. Upon conviction for  
16 any offense, the Department of Corrections shall have access  
17 to all sealed records of the Department pertaining to that  
18 individual.

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

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

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

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

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

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

30 (d) Notice of the petition for subsections (a), (b), and  
31 (c) shall be served upon the State's Attorney or prosecutor  
32 charged with the duty of prosecuting the offense, the  
33 Department of State Police, the arresting agency and the  
34 chief legal officer of the unit of local government affecting

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

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

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

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

1 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;  
2 91-357, eff. 7-29-99; revised 12-3-01.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.