

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 aggrieved's has name. The records of the clerk of the  
4 circuit court clerk shall be sealed until further order of  
5 the court upon good cause shown and the name of the aggrieved  
6 person obliterated on the official index required to be kept  
7 by the circuit court clerk under Section 16 of the Clerks of  
8 Courts Act, but the order shall not affect any index issued  
9 by the circuit court clerk before the entry of the order.  
10 Nothing in this Section shall limit the Department of State  
11 Police or other criminal justice agencies or prosecutors from  
12 listing under an offender's name the false names he or she  
13 has used. For purposes of this Section, convictions for  
14 moving and nonmoving traffic violations other than  
15 convictions for violations of Chapter 4, Section 11-204.1 or  
16 Section 11-501 of the Illinois Vehicle Code shall not be a  
17 bar to expunging the record of arrest and court records for  
18 violation of a 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) When the conviction of a person is reversed after  
29 a new trial, judgment notwithstanding the verdict, on appeal,  
30 or in a post-conviction, or habeas corpus proceeding and the  
31 court makes a finding that the person was actually innocent  
32 of the crime for which he or she was convicted, the chief  
33 judge of the circuit where the person had been convicted, any  
34 judge of the circuit designated by the Chief Judge, or, in

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

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

1 from the date of the notice, the court shall enter an order  
2 granting or denying the petition. The clerk of the court  
3 shall promptly mail a copy of the order to the person, the  
4 arresting agency, the prosecutor, the Department of State  
5 Police and such other criminal justice agencies as may be  
6 ordered by the judge.

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

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

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

32 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;  
33 91-357, eff. 7-29-99; revised 12-3-01.)

1           Section 99. Effective date. This Act takes effect upon  
2 becoming law.