



Rep. Emanuel Chris Welch

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1 AMENDMENT TO HOUSE BILL 708

2 AMENDMENT NO. _____. Amend House Bill 708 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by
5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

9 (1) Definitions. In this Act, words and phrases have
10 the meanings set forth in this subsection, except when a
11 particular context clearly requires a different meaning.

12 (A) The following terms shall have the meanings
13 ascribed to them in the Unified Code of Corrections,
14 730 ILCS 5/5-1-2 through 5/5-1-22:

15 (i) Business Offense (730 ILCS 5/5-1-2),

16 (ii) Charge (730 ILCS 5/5-1-3),

1 (iii) Court (730 ILCS 5/5-1-6),
2 (iv) Defendant (730 ILCS 5/5-1-7),
3 (v) Felony (730 ILCS 5/5-1-9),
4 (vi) Imprisonment (730 ILCS 5/5-1-10),
5 (vii) Judgment (730 ILCS 5/5-1-12),
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),
7 (ix) Offense (730 ILCS 5/5-1-15),
8 (x) Parole (730 ILCS 5/5-1-16),
9 (xi) Petty Offense (730 ILCS 5/5-1-17),
10 (xii) Probation (730 ILCS 5/5-1-18),
11 (xiii) Sentence (730 ILCS 5/5-1-19),
12 (xiv) Supervision (730 ILCS 5/5-1-21), and
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated
15 by arrest" means a charge (as defined by 730 ILCS
16 5/5-1-3) brought against a defendant where the
17 defendant is not arrested prior to or as a direct
18 result of the charge.

19 (C) "Conviction" means a judgment of conviction or
20 sentence entered upon a plea of guilty or upon a
21 verdict or finding of guilty of an offense, rendered by
22 a legally constituted jury or by a court of competent
23 jurisdiction authorized to try the case without a jury.
24 An order of supervision successfully completed by the
25 petitioner is not a conviction. An order of qualified
26 probation (as defined in subsection (a)(1)(J))

1 successfully completed by the petitioner is not a
2 conviction. An order of supervision or an order of
3 qualified probation that is terminated
4 unsatisfactorily is a conviction, unless the
5 unsatisfactory termination is reversed, vacated, or
6 modified and the judgment of conviction, if any, is
7 reversed or vacated.

8 (D) "Criminal offense" means a petty offense,
9 business offense, misdemeanor, felony, or municipal
10 ordinance violation (as defined in subsection
11 (a)(1)(H)). As used in this Section, a minor traffic
12 offense (as defined in subsection (a)(1)(G)) shall not
13 be considered a criminal offense.

14 (E) "Expunge" means to physically destroy the
15 records or return them to the petitioner and to
16 obliterate the petitioner's name from any official
17 index or public record, or both. Nothing in this Act
18 shall require the physical destruction of the circuit
19 court file, but such records relating to arrests or
20 charges, or both, ordered expunged shall be impounded
21 as required by subsections (d)(9)(A)(ii) and
22 (d)(9)(B)(ii).

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in
2 any jurisdiction, regardless of whether the petitioner
3 has included the criminal offense for which the
4 sentence or order of supervision or qualified
5 probation was imposed in his or her petition. If
6 multiple sentences, orders of supervision, or orders
7 of qualified probation terminate on the same day and
8 are last in time, they shall be collectively considered
9 the "last sentence" regardless of whether they were
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,
12 business offense, or Class C misdemeanor under the
13 Illinois Vehicle Code or a similar provision of a
14 municipal or local ordinance.

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

20 (I) "Petitioner" means an adult or a minor
21 prosecuted as an adult who has applied for relief under
22 this Section.

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
2 of the Unified Code of Corrections, Section
3 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
4 those provisions existed before their deletion by
5 Public Act 89-313), Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section
7 40-10 of the Alcoholism and Other Drug Abuse and
8 Dependency Act, or Section 10 of the Steroid Control
9 Act. For the purpose of this Section, "successful
10 completion" of an order of qualified probation under
11 Section 10-102 of the Illinois Alcoholism and Other
12 Drug Dependency Act and Section 40-10 of the Alcoholism
13 and Other Drug Abuse and Dependency Act means that the
14 probation was terminated satisfactorily and the
15 judgment of conviction was vacated.

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

26 (L) "Sexual offense committed against a minor"

1 includes but is not limited to the offenses of indecent
2 solicitation of a child or criminal sexual abuse when
3 the victim of such offense is under 18 years of age.

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

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

13 (2.5) Commencing 180 days after July 29, 2016 (the
14 effective date of Public Act 99-697) ~~this amendatory Act of~~
15 ~~the 99th General Assembly~~, the law enforcement agency
16 issuing the citation shall automatically expunge, on or
17 before January 1 and July 1 of each year, the law
18 enforcement records of a person found to have committed a
19 civil law violation of subsection (a) of Section 4 of the
20 Cannabis Control Act or subsection (c) of Section 3.5 of
21 the Drug Paraphernalia Control Act in the law enforcement
22 agency's possession or control and which contains the final
23 satisfactory disposition which pertain to the person
24 issued a citation for that offense. The law enforcement
25 agency shall provide by rule the process for access,
26 review, and to confirm the automatic expungement by the law

1 enforcement agency issuing the citation. Commencing 180
2 days after July 29, 2016 (the effective date of Public Act
3 99-697) ~~this amendatory Act of the 99th General Assembly,~~
4 the clerk of the circuit court shall expunge, upon order of
5 the court, or in the absence of a court order on or before
6 January 1 and July 1 of each year, the court records of a
7 person found in the circuit court to have committed a civil
8 law violation of subsection (a) of Section 4 of the
9 Cannabis Control Act or subsection (c) of Section 3.5 of
10 the Drug Paraphernalia Control Act in the clerk's
11 possession or control and which contains the final
12 satisfactory disposition which pertain to the person
13 issued a citation for any of those offenses.

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

17 (A) the sealing or expungement of the records of
18 arrests or charges not initiated by arrest that result
19 in an order of supervision for or conviction of: (i)
20 any sexual offense committed against a minor; (ii)
21 Section 11-501 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance; or (iii)
23 Section 11-503 of the Illinois Vehicle Code or a
24 similar provision of a local ordinance, unless the
25 arrest or charge is for a misdemeanor violation of
26 subsection (a) of Section 11-503 or a similar provision

1 of a local ordinance, that occurred prior to the
2 offender reaching the age of 25 years and the offender
3 has no other conviction for violating Section 11-501 or
4 11-503 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance.

6 (B) the sealing or expungement of records of minor
7 traffic offenses (as defined in subsection (a)(1)(G)),
8 unless the petitioner was arrested and released
9 without charging.

10 (C) the sealing of the records of arrests or
11 charges not initiated by arrest which result in an
12 order of supervision or a conviction for the following
13 offenses:

14 (i) offenses included in Article 11 of the
15 Criminal Code of 1961 or the Criminal Code of 2012
16 or a similar provision of a local ordinance, except
17 Section 11-14 of the Criminal Code of 1961 or the
18 Criminal Code of 2012, or a similar provision of a
19 local ordinance;

20 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
21 26-5, or 48-1 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, or a similar provision of a
23 local ordinance;

24 (iii) Sections 12-3.1 or 12-3.2 of the
25 Criminal Code of 1961 or the Criminal Code of 2012,
26 or Section 125 of the Stalking No Contact Order

1 Act, or Section 219 of the Civil No Contact Order
2 Act, or a similar provision of a local ordinance;

3 (iv) offenses ~~which are Class A misdemeanors~~
4 under the Humane Care for Animals Act; or

5 (v) any offense or attempted offense that
6 would subject a person to registration under the
7 Sex Offender Registration Act.

8 (D) the sealing of the records of an arrest which
9 results in the petitioner being charged with a felony
10 offense or records of a charge not initiated by arrest
11 for a felony offense unless:

12 (i) the charge is amended to a misdemeanor and
13 is otherwise eligible to be sealed pursuant to
14 subsection (c);

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

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

26 (iv) the charge is for a felony offense listed

1 in subsection (c) (2) (F) or the charge is amended to
2 a felony offense listed in subsection (c) (2) (F);

3 (v) the charge results in acquittal,
4 dismissal, or the petitioner's release without
5 conviction; or

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

8 (b) Expungement.

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

22 (1.5) When a petitioner seeks to have a record of
23 arrest expunged under this Section, and the offender has
24 been convicted of a criminal offense, the State's Attorney
25 may object to the expungement on the grounds that the
26 records contain specific relevant information aside from

1 the mere fact of the arrest.

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

3 (A) When the arrest or charge not initiated by
4 arrest sought to be expunged resulted in an acquittal,
5 dismissal, the petitioner's release without charging,
6 or the reversal or vacation of a conviction, there is
7 no waiting period to petition for the expungement of
8 such records.

9 (B) When the arrest or charge not initiated by
10 arrest sought to be expunged resulted in an order of
11 supervision, successfully completed by the petitioner,
12 the following time frames will apply:

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

23 (i-5) Those arrests or charges that resulted
24 in orders of supervision for a misdemeanor
25 violation of subsection (a) of Section 11-503 of
26 the Illinois Vehicle Code or a similar provision of

1 a local ordinance, that occurred prior to the
2 offender reaching the age of 25 years and the
3 offender has no other conviction for violating
4 Section 11-501 or 11-503 of the Illinois Vehicle
5 Code or a similar provision of a local ordinance
6 shall not be eligible for expungement until the
7 petitioner has reached the age of 25 years.

8 (ii) Those arrests or charges that resulted in
9 orders of supervision for any other offenses shall
10 not be eligible for expungement until 2 years have
11 passed following the satisfactory termination of
12 the supervision.

13 (C) When the arrest or charge not initiated by
14 arrest sought to be expunged resulted in an order of
15 qualified probation, successfully completed by the
16 petitioner, such records shall not be eligible for
17 expungement until 5 years have passed following the
18 satisfactory termination of the probation.

19 (3) 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 (4) Whenever a person has been arrested for or
24 convicted of any offense, in the name of a person whose
25 identity he or she has stolen or otherwise come into
26 possession of, the aggrieved person from whom the identity

1 was stolen or otherwise obtained without authorization,
2 upon learning of the person having been arrested using his
3 or her identity, may, upon verified petition to the chief
4 judge of the circuit wherein the arrest was made, have a
5 court order entered nunc pro tunc by the Chief Judge to
6 correct the arrest record, conviction record, if any, and
7 all official records of the arresting authority, the
8 Department, other criminal justice agencies, the
9 prosecutor, and the trial court concerning such arrest, if
10 any, by removing his or her name from all such records in
11 connection with the arrest and conviction, if any, and by
12 inserting in the records the name of the offender, if known
13 or ascertainable, in lieu of the aggrieved's name. The
14 records of the circuit court clerk shall be sealed until
15 further order of the court upon good cause shown and the
16 name of the aggrieved person obliterated on the official
17 index required to be kept by the circuit court clerk under
18 Section 16 of the Clerks of Courts Act, but the order shall
19 not affect any index issued by the circuit court clerk
20 before the entry of the order. Nothing in this Section
21 shall limit the Department of State Police or other
22 criminal justice agencies or prosecutors from listing
23 under an offender's name the false names he or she has
24 used.

25 (5) Whenever a person has been convicted of criminal
26 sexual assault, aggravated criminal sexual assault,

1 predatory criminal sexual assault of a child, criminal
2 sexual abuse, or aggravated criminal sexual abuse, the
3 victim of that offense may request that the State's
4 Attorney of the county in which the conviction occurred
5 file a verified petition with the presiding trial judge at
6 the petitioner's trial to have a court order entered to
7 seal the records of the circuit court clerk in connection
8 with the proceedings of the trial court concerning that
9 offense. However, the records of the arresting authority
10 and the Department of State Police concerning the offense
11 shall not be sealed. The court, upon good cause shown,
12 shall make the records of the circuit court clerk in
13 connection with the proceedings of the trial court
14 concerning the offense available for public inspection.

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

23 (7) Nothing in this Section shall prevent the
24 Department of State Police from maintaining all records of
25 any person who is admitted to probation upon terms and
26 conditions and who fulfills those terms and conditions

1 pursuant to Section 10 of the Cannabis Control Act, Section
2 410 of the Illinois Controlled Substances Act, Section 70
3 of the Methamphetamine Control and Community Protection
4 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
5 Corrections, Section 12-4.3 or subdivision (b)(1) of
6 Section 12-3.05 of the Criminal Code of 1961 or the
7 Criminal Code of 2012, Section 10-102 of the Illinois
8 Alcoholism and Other Drug Dependency Act, Section 40-10 of
9 the Alcoholism and Other Drug Abuse and Dependency Act, or
10 Section 10 of the Steroid Control Act.

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

18 (c) Sealing.

19 (1) Applicability. Notwithstanding any other provision
20 of this Act to the contrary, and cumulative with any rights
21 to expungement of criminal records, this subsection
22 authorizes the sealing of criminal records of adults and of
23 minors prosecuted as adults.

24 (2) Eligible Records. The following records may be
25 sealed:

26 (A) All arrests resulting in release without

1 charging;

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

6 (C) Arrests or charges not initiated by arrest
7 resulting in orders of supervision, including orders
8 of supervision for municipal ordinance violations,
9 successfully completed by the petitioner, unless
10 excluded by subsection (a) (3);

11 (D) Arrests or charges not initiated by arrest
12 resulting in convictions, including convictions on
13 municipal ordinance violations, unless excluded by
14 subsection (a) (3);

15 (E) Arrests or charges not initiated by arrest
16 resulting in orders of first offender probation under
17 Section 10 of the Cannabis Control Act, Section 410 of
18 the Illinois Controlled Substances Act, Section 70 of
19 the Methamphetamine Control and Community Protection
20 Act, or Section 5-6-3.3 of the Unified Code of
21 Corrections; and

22 (F) Arrests or charges not initiated by arrest
23 resulting in felony convictions for the following
24 offenses:

25 (i) Class 4 felony convictions for:

26 Prostitution under Section 11-14 of the

1 Criminal Code of 1961 or the Criminal Code of
2 2012.

3 Possession of cannabis under Section 4 of
4 the Cannabis Control Act.

5 Possession of a controlled substance under
6 Section 402 of the Illinois Controlled
7 Substances Act.

8 Offenses under the Methamphetamine
9 Precursor Control Act.

10 Offenses under the Steroid Control Act.

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

13 Retail theft under Section 16A-3 or
14 paragraph (a) of 16-25 of the Criminal Code of
15 1961 or the Criminal Code of 2012.

16 Deceptive practices under Section 17-1 of
17 the Criminal Code of 1961 or the Criminal Code
18 of 2012.

19 Forgery under Section 17-3 of the Criminal
20 Code of 1961 or the Criminal Code of 2012.

21 Possession of burglary tools under Section
22 19-2 of the Criminal Code of 1961 or the
23 Criminal Code of 2012.

24 (ii) Class 3 felony convictions for:

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

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

4 Deceptive practices under Section 17-1 of
5 the Criminal Code of 1961 or the Criminal Code
6 of 2012.

7 Forgery under Section 17-3 of the Criminal
8 Code of 1961 or the Criminal Code of 2012.

9 Possession with intent to manufacture or
10 deliver a controlled substance under Section
11 401 of the Illinois Controlled Substances Act.

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

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

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

23 (C) Except as otherwise provided in subparagraph
24 (E) of this paragraph (3), records identified as
25 eligible under subsections (c)(2)(D), (c)(2)(E), and
26 (c)(2)(F) may be sealed 3 years after the termination

1 of the petitioner's last sentence (as defined in
2 subsection (a) (1) (F)).

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

6 (E) Records identified as eligible under
7 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
8 (c) (2) (F) may be sealed upon termination of the
9 petitioner's last sentence if the petitioner earned a
10 high school diploma, associate's degree, career
11 certificate, vocational technical certification, or
12 bachelor's degree, or passed the high school level Test
13 of General Educational Development, during the period
14 of his or her sentence, aftercare release, or mandatory
15 supervised release. This subparagraph shall apply only
16 to a petitioner who has not completed the same
17 educational goal prior to the period of his or her
18 sentence, aftercare release, or mandatory supervised
19 release. If a petition for sealing eligible records
20 filed under this subparagraph is denied by the court,
21 the time periods under subparagraph (B) or (C) shall
22 apply to any subsequent petition for sealing filed by
23 the petitioner.

24 (4) Subsequent felony convictions. A person may not
25 have subsequent felony conviction records sealed as
26 provided in this subsection (c) if he or she is convicted

1 of any felony offense after the date of the sealing of
2 prior felony convictions as provided in this subsection
3 (c). The court may, upon conviction for a subsequent felony
4 offense, order the unsealing of prior felony conviction
5 records previously ordered sealed by the court.

6 (5) Notice of eligibility for sealing. Upon entry of a
7 disposition for an eligible record under this subsection
8 (c), the petitioner shall be informed by the court of the
9 right to have the records sealed and the procedures for the
10 sealing of the records.

11 (d) Procedure. The following procedures apply to
12 expungement under subsections (b), (e), and (e-6) and sealing
13 under subsections (c) and (e-5):

14 (1) Filing the petition. Upon becoming eligible to
15 petition for the expungement or sealing of records under
16 this Section, the petitioner shall file a petition
17 requesting the expungement or sealing of records with the
18 clerk of the court where the arrests occurred or the
19 charges were brought, or both. If arrests occurred or
20 charges were brought in multiple jurisdictions, a petition
21 must be filed in each such jurisdiction. The petitioner
22 shall pay the applicable fee, except no fee shall be
23 required if the petitioner has obtained a court order
24 waiving fees under Supreme Court Rule 298 or it is
25 otherwise waived.

26 (1.5) County fee waiver pilot program. In a county of

1 3,000,000 or more inhabitants, no fee shall be required to
2 be paid by a petitioner if the records sought to be
3 expunged or sealed were arrests resulting in release
4 without charging or arrests or charges not initiated by
5 arrest resulting in acquittal, dismissal, or conviction
6 when the conviction was reversed or vacated, unless
7 excluded by subsection (a) (3) (B). The provisions of this
8 paragraph (1.5), other than this sentence, are inoperative
9 on and after January 1, 2018 or one year after January 1,
10 2017 (the effective date of Public Act 99-881) ~~this~~
11 ~~amendatory Act of the 99th General Assembly~~, whichever is
12 later.

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

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

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

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

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

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

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

24 (5) Objections.

25 (A) Any party entitled to notice of the petition
26 may file an objection to the petition. All objections

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

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

10 (6) Entry of order.

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

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

24 (7) Hearings. If an objection is filed, the court shall
25 set a date for a hearing and notify the petitioner and all
26 parties entitled to notice of the petition of the hearing

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

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

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

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

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

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

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

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

4 (9) Implementation of order.

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

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

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

23 (iii) in response to an inquiry for expunged
24 records, the court, the Department, or the agency
25 receiving such inquiry, shall reply as it does in
26 response to inquiries when no records ever

1 existed.

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

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

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

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

25 (iv) records impounded by the Department may
26 be disseminated by the Department only as required

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

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

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

15 (i) the records shall be expunged (as defined
16 in subsection (a)(1)(E)) by the arresting agency
17 and any other agency as ordered by the court,
18 within 60 days of the date of service of the order,
19 unless a motion to vacate, modify, or reconsider
20 the order is filed under paragraph (12) of
21 subsection (d) of this Section;

22 (ii) the records of the circuit court clerk
23 shall be impounded until further order of the court
24 upon good cause shown and the name of the
25 petitioner obliterated on the official index
26 required to be kept by the circuit court clerk

1 under Section 16 of the Clerks of Courts Act, but
2 the order shall not affect any index issued by the
3 circuit court clerk before the entry of the order;

4 (iii) the records shall be impounded by the
5 Department within 60 days of the date of service of
6 the order as ordered by the court, unless a motion
7 to vacate, modify, or reconsider the order is filed
8 under paragraph (12) of subsection (d) of this
9 Section;

10 (iv) records impounded by the Department may
11 be disseminated by the Department only as required
12 by law or to the arresting authority, the State's
13 Attorney, and the court upon a later arrest for the
14 same or a similar offense or for the purpose of
15 sentencing for any subsequent felony, and to the
16 Department of Corrections upon conviction for any
17 offense; and

18 (v) in response to an inquiry for these records
19 from anyone not authorized by law to access the
20 records, the court, the Department, or the agency
21 receiving the inquiry shall reply as it does in
22 response to inquiries when no records ever
23 existed.

24 (C) Upon entry of an order to seal records under
25 subsection (c), the arresting agency, any other agency
26 as ordered by the court, the Department, and the court

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

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

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

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

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

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

1 motion shall be served upon the petitioner and all parties
2 entitled to notice of the petition.

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

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

20 (15) Compliance with Order Granting Petition to
21 Expunge Records. While a party is seeking relief from the
22 order granting the petition to expunge through a motion
23 filed under paragraph (12) of this subsection (d) or is
24 appealing the order, and unless a court has entered a stay
25 of that order, the parties entitled to notice of the
26 petition must seal, but need not expunge, the records until

1 there is a final order on the motion for relief or, in the
2 case of an appeal, the issuance of that court's mandate.

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

8 (e) Whenever a person who has been convicted of an offense
9 is granted a pardon by the Governor which specifically
10 authorizes expungement, he or she may, upon verified petition
11 to the Chief Judge of the circuit where the person had been
12 convicted, any judge of the circuit designated by the Chief
13 Judge, or in counties of less than 3,000,000 inhabitants, the
14 presiding trial judge at the defendant's trial, have a court
15 order entered expunging the record of arrest from the official
16 records of the arresting authority and order that the records
17 of the circuit court clerk and the Department be sealed until
18 further order of the court upon good cause shown or as
19 otherwise provided herein, and the name of the defendant
20 obliterated from the official index requested to be kept by the
21 circuit court clerk under Section 16 of the Clerks of Courts
22 Act in connection with the arrest and conviction for the
23 offense for which he or she had been pardoned but the order
24 shall not affect any index issued by the circuit court clerk
25 before the entry of the order. All records sealed by the
26 Department may be disseminated by the Department only to the

1 arresting authority, the State's Attorney, and the court upon a
2 later arrest for the same or similar offense or for the purpose
3 of sentencing for any subsequent felony. Upon conviction for
4 any subsequent offense, the Department of Corrections shall
5 have access to all sealed records of the Department pertaining
6 to that individual. Upon entry of the order of expungement, the
7 circuit court clerk shall promptly mail a copy of the order to
8 the person who was pardoned.

9 (e-5) Whenever a person who has been convicted of an
10 offense is granted a certificate of eligibility for sealing by
11 the Prisoner Review Board which specifically authorizes
12 sealing, he or she may, upon verified petition to the Chief
13 Judge of the circuit where the person had been convicted, any
14 judge of the circuit designated by the Chief Judge, or in
15 counties of less than 3,000,000 inhabitants, the presiding
16 trial judge at the petitioner's trial, have a court order
17 entered sealing the record of arrest from the official records
18 of the arresting authority and order that the records of the
19 circuit court clerk and the Department be sealed until further
20 order of the court upon good cause shown or as otherwise
21 provided herein, and the name of the petitioner obliterated
22 from the official index requested to be kept by the circuit
23 court clerk under Section 16 of the Clerks of Courts Act in
24 connection with the arrest and conviction for the offense for
25 which he or she had been granted the certificate but the order
26 shall not affect any index issued by the circuit court clerk

1 before the entry of the order. All records sealed by the
2 Department may be disseminated by the Department only as
3 required by this Act or to the arresting authority, a law
4 enforcement agency, the State's Attorney, and the court upon a
5 later arrest for the same or similar offense or for the purpose
6 of sentencing for any subsequent felony. Upon conviction for
7 any subsequent offense, the Department of Corrections shall
8 have access to all sealed records of the Department pertaining
9 to that individual. Upon entry of the order of sealing, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was granted the certificate of eligibility for
12 sealing.

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

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

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

1 The study shall be made available to the General Assembly no
2 later than September 1, 2010.

3 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
4 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
5 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
6 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;
7 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff.
8 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)".