



Sen. Patricia Van Pelt

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1 AMENDMENT TO SENATE BILL 2062

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2062 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 (c-5) Notwithstanding any other provision of this Act to  
12 the contrary, except for offenses under Article 11 of the  
13 Criminal Code of 1961 or the Criminal Code of 2012, all records  
14 of arrests or charges not initiated by arrest, regardless of  
15 the result of the arrest or charge, are eligible to be sealed  
16 10 years after the petitioner's last sentence.

17 (d) Procedure. The following procedures apply to  
18 expungement under subsections (b), (e), and (e-6) and sealing  
19 under subsections (c) and (e-5):

20 (1) Filing the petition. Upon becoming eligible to  
21 petition for the expungement or sealing of records under  
22 this Section, the petitioner shall file a petition  
23 requesting the expungement or sealing of records with the  
24 clerk of the court where the arrests occurred or the  
25 charges were brought, or both. If arrests occurred or  
26 charges were brought in multiple jurisdictions, a petition

1 must be filed in each such jurisdiction. The petitioner  
2 shall pay the applicable fee, except no fee shall be  
3 required if the petitioner has obtained a court order  
4 waiving fees under Supreme Court Rule 298 or it is  
5 otherwise waived.

6 (1.5) County fee waiver pilot program. In a county of  
7 3,000,000 or more inhabitants, no fee shall be required to  
8 be paid by a petitioner if the records sought to be  
9 expunged or sealed were arrests resulting in release  
10 without charging or arrests or charges not initiated by  
11 arrest resulting in acquittal, dismissal, or conviction  
12 when the conviction was reversed or vacated, unless  
13 excluded by subsection (a) (3) (B). The provisions of this  
14 paragraph (1.5), other than this sentence, are inoperative  
15 on and after January 1, 2018 or one year after January 1,  
16 2017 (the effective date of Public Act 99-881) ~~this~~  
17 ~~amendatory Act of the 99th General Assembly~~, whichever is  
18 later.

19 (2) Contents of petition. The petition shall be  
20 verified and shall contain the petitioner's name, date of  
21 birth, current address and, for each arrest or charge not  
22 initiated by arrest sought to be sealed or expunged, the  
23 case number, the date of arrest (if any), the identity of  
24 the arresting authority, and such other information as the  
25 court may require. During the pendency of the proceeding,  
26 the petitioner shall promptly notify the circuit court

1 clerk of any change of his or her address. If the  
2 petitioner has received a certificate of eligibility for  
3 sealing from the Prisoner Review Board under paragraph (10)  
4 of subsection (a) of Section 3-3-2 of the Unified Code of  
5 Corrections, the certificate shall be attached to the  
6 petition.

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

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

16 (B) seal felony records for a violation of the  
17 Illinois Controlled Substances Act, the  
18 Methamphetamine Control and Community Protection Act,  
19 or the Cannabis Control Act under clause (c) (2) (F);

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

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

23 (4) Service of petition. The circuit court clerk shall  
24 promptly serve a copy of the petition and documentation to  
25 support the petition under subsection (e-5) or (e-6) on the  
26 State's Attorney or prosecutor charged with the duty of

1 prosecuting the offense, the Department of State Police,  
2 the arresting agency and the chief legal officer of the  
3 unit of local government effecting the arrest.

4 (5) Objections.

5 (A) Any party entitled to notice of the petition  
6 may file an objection to the petition. All objections  
7 shall be in writing, shall be filed with the circuit  
8 court clerk, and shall state with specificity the basis  
9 of the objection. Whenever a person who has been  
10 convicted of an offense is granted a pardon by the  
11 Governor which specifically authorizes expungement, an  
12 objection to the petition may not be filed.

13 (B) Objections to a petition to expunge or seal  
14 must be filed within 60 days of the date of service of  
15 the petition.

16 (6) Entry of order.

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

24 (B) Unless the State's Attorney or prosecutor, the  
25 Department of State Police, the arresting agency, or  
26 the chief legal officer files an objection to the

1 petition to expunge or seal within 60 days from the  
2 date of service of the petition, the court shall enter  
3 an order granting or denying the petition.

4 (7) Hearings. If an objection is filed, the court shall  
5 set a date for a hearing and notify the petitioner and all  
6 parties entitled to notice of the petition of the hearing  
7 date at least 30 days prior to the hearing. Prior to the  
8 hearing, the State's Attorney shall consult with the  
9 Department as to the appropriateness of the relief sought  
10 in the petition to expunge or seal. At the hearing, the  
11 court shall hear evidence on whether the petition should or  
12 should not be granted, and shall grant or deny the petition  
13 to expunge or seal the records based on the evidence  
14 presented at the hearing. The court may consider the  
15 following:

16 (A) the strength of the evidence supporting the  
17 defendant's conviction;

18 (B) the reasons for retention of the conviction  
19 records by the State;

20 (C) the petitioner's age, criminal record history,  
21 and employment history;

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

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



1           (8) Service of order. After entering an order to  
2 expunge or seal records, the court must provide copies of  
3 the order to the Department, in a form and manner  
4 prescribed by the Department, to the petitioner, to the  
5 State's Attorney or prosecutor charged with the duty of  
6 prosecuting the offense, to the arresting agency, to the  
7 chief legal officer of the unit of local government  
8 effecting the arrest, and to such other criminal justice  
9 agencies as may be ordered by the court.

10           (9) Implementation of order.

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

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

20                   (ii) the records of the circuit court clerk  
21 shall be impounded until further order of the court  
22 upon good cause shown and the name of the  
23 petitioner obliterated on the official index  
24 required to be kept by the circuit court clerk  
25 under Section 16 of the Clerks of Courts Act, but  
26 the order shall not affect any index issued by the

1 circuit court clerk before the entry of the order;  
2 and

3 (iii) in response to an inquiry for expunged  
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  
7 existed.

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

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

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

25 (iii) the records shall be impounded by the  
26 Department within 60 days of the date of service of

1 the order as ordered by the court, unless a motion  
2 to vacate, modify, or reconsider the order is filed  
3 pursuant to paragraph (12) of subsection (d) of  
4 this Section;

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

13 (v) in response to an inquiry for such records  
14 from anyone not authorized by law to access such  
15 records, the court, the Department, or the agency  
16 receiving such inquiry shall reply as it does in  
17 response to inquiries when no records ever  
18 existed.

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

21 (i) the records shall be expunged (as defined  
22 in subsection (a)(1)(E)) by the arresting agency  
23 and any other agency as ordered by the court,  
24 within 60 days of the date of service of the order,  
25 unless a motion to vacate, modify, or reconsider  
26 the order is filed under paragraph (12) of

1 subsection (d) of this Section;

2 (ii) the records of the circuit court clerk  
3 shall be impounded until further order of the court  
4 upon good cause shown and the name of the  
5 petitioner obliterated on the official index  
6 required to be kept by the circuit court clerk  
7 under Section 16 of the Clerks of Courts Act, but  
8 the order shall not affect any index issued by the  
9 circuit court clerk before the entry of the order;

10 (iii) the records shall be impounded by the  
11 Department within 60 days of the date of service of  
12 the order as ordered by the court, unless a motion  
13 to vacate, modify, or reconsider the order is filed  
14 under paragraph (12) of subsection (d) of this  
15 Section;

16 (iv) records impounded by the Department may  
17 be disseminated by the Department only as required  
18 by law or to the arresting authority, the State's  
19 Attorney, and the court upon a later arrest for the  
20 same or a similar offense or for the purpose of  
21 sentencing for any subsequent felony, and to the  
22 Department of Corrections upon conviction for any  
23 offense; and

24 (v) in response to an inquiry for these records  
25 from anyone not authorized by law to access the  
26 records, the court, the Department, or the agency

1           receiving the inquiry shall reply as it does in  
2           response to inquiries when no records ever  
3           existed.

4           (C) Upon entry of an order to seal records under  
5           subsection (c), the arresting agency, any other agency  
6           as ordered by the court, the Department, and the court  
7           shall seal the records (as defined in subsection  
8           (a) (1) (K)). 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 existed.

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

1 discretionary appellate review, is pending.

2 (10) Fees. The Department may charge the petitioner a  
3 fee equivalent to the cost of processing any order to  
4 expunge or seal records. Notwithstanding any provision of  
5 the Clerks of Courts Act to the contrary, the circuit court  
6 clerk may charge a fee equivalent to the cost associated  
7 with the sealing or expungement of records by the circuit  
8 court clerk. From the total filing fee collected for the  
9 petition to seal or expunge, the circuit court clerk shall  
10 deposit \$10 into the Circuit Court Clerk Operation and  
11 Administrative Fund, to be used to offset the costs  
12 incurred by the circuit court clerk in performing the  
13 additional duties required to serve the petition to seal or  
14 expunge on all parties. The circuit court clerk shall  
15 collect and forward the Department of State Police portion  
16 of the fee to the Department and it shall be deposited in  
17 the State Police Services Fund.

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

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

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

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

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

26 (15) Compliance with Order Granting Petition to

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

9 (16) The changes to this subsection (d) made by Public  
10 Act 98-163 apply to all petitions pending on August 5, 2013  
11 (the effective date of Public Act 98-163) and to all orders  
12 ruling on a petition to expunge or seal on or after August  
13 5, 2013 (the effective date of Public Act 98-163).

14 (e) Whenever a person who has been convicted of an offense  
15 is granted a pardon by the Governor which specifically  
16 authorizes expungement, he or she may, upon verified petition  
17 to the Chief Judge of the circuit where the person had been  
18 convicted, any judge of the circuit designated by the Chief  
19 Judge, or in counties of less than 3,000,000 inhabitants, the  
20 presiding trial judge at the defendant's trial, have a court  
21 order 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 defendant  
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 pardoned but the order  
4 shall not affect any index issued by the circuit court clerk  
5 before the entry of the order. All records sealed by the  
6 Department may be disseminated by the Department only to the  
7 arresting authority, the State's Attorney, and the court upon a  
8 later arrest for the same or similar offense or for the purpose  
9 of 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 pertaining  
12 to that individual. Upon entry of the order of expungement, the  
13 circuit court clerk shall promptly mail a copy of the order to  
14 the person who was pardoned.

15 (e-5) Whenever a person who has been convicted of an  
16 offense is granted a certificate of eligibility for sealing by  
17 the Prisoner Review Board which specifically authorizes  
18 sealing, he or she may, upon verified petition to the Chief  
19 Judge of the circuit where the person had been convicted, any  
20 judge of the circuit designated by the Chief Judge, or in  
21 counties of less than 3,000,000 inhabitants, the presiding  
22 trial judge at the petitioner's trial, have a court order  
23 entered sealing the record of arrest from the official records  
24 of the arresting authority and order that the records of the  
25 circuit court clerk and the Department be sealed until further  
26 order of the court upon good cause shown or as otherwise

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

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

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

23 (f) Subject to available funding, the Illinois Department  
24 of Corrections shall conduct a study of the impact of sealing,  
25 especially on employment and recidivism rates, utilizing a  
26 random sample of those who apply for the sealing of their

1 criminal records under Public Act 93-211. At the request of the  
2 Illinois Department of Corrections, records of the Illinois  
3 Department of Employment Security shall be utilized as  
4 appropriate to assist in the study. The study shall not  
5 disclose any data in a manner that would allow the  
6 identification of any particular individual or employing unit.  
7 The study shall be made available to the General Assembly no  
8 later than September 1, 2010.

9 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,  
10 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,  
11 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;  
12 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;  
13 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff.  
14 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)".