

1 AN ACT concerning the sealing of criminal records.

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

4 Section 5. The Criminal Identification Act is amended by
5 changing Sections 5, 12, and 13 as follows:

6 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

7 Sec. 5. Arrest reports; expungement.

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

23 Whenever an adult or minor prosecuted as an adult, not
24 having previously been convicted of any criminal offense or
25 municipal ordinance violation, charged with a violation of a
26 municipal ordinance or a felony or misdemeanor, is acquitted or
27 released without being convicted, whether the acquittal or
28 release occurred before, on, or after the effective date of
29 this amendatory Act of 1991, the Chief Judge of the circuit
30 wherein the charge was brought, any judge of that circuit
31 designated by the Chief Judge, or in counties of less than
32 3,000,000 inhabitants, the presiding trial judge at the

1 defendant's trial may upon verified petition of the defendant
2 order the record of arrest expunged from the official records
3 of the arresting authority and the Department and order that
4 the records of the clerk of the circuit court be sealed until
5 further order of the court upon good cause shown and the name
6 of the defendant obliterated on the official index required to
7 be kept by the circuit court clerk under Section 16 of the
8 Clerks of Courts Act, but the order shall not affect any index
9 issued by the circuit court clerk before the entry of the
10 order. The Department may charge the petitioner a fee
11 equivalent to the cost of processing any order to expunge or
12 seal the records, and the fee shall be deposited into the State
13 Police Services Fund. The records of those arrests, however,
14 that result in a disposition of supervision for any offense
15 shall not be expunged from the records of the arresting
16 authority or the Department nor impounded by the court until 2
17 years after discharge and dismissal of supervision. Those
18 records that result from a supervision for a violation of
19 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois
20 Vehicle Code or a similar provision of a local ordinance, or
21 for a violation of Section 12-3.2, 12-15 or 16A-3 of the
22 Criminal Code of 1961, or probation under Section 10 of the
23 Cannabis Control Act, Section 410 of the Illinois Controlled
24 Substances Act, Section 12-4.3(b)(1) and (2) of the Criminal
25 Code of 1961 (as those provisions existed before their deletion
26 by Public Act 89-313), Section 10-102 of the Illinois
27 Alcoholism and Other Drug Dependency Act when the judgment of
28 conviction has been vacated, Section 40-10 of the Alcoholism
29 and Other Drug Abuse and Dependency Act when the judgment of
30 conviction has been vacated, or Section 10 of the Steroid
31 Control Act shall not be expunged from the records of the
32 arresting authority nor impounded by the court until 5 years
33 after termination of probation or supervision. Those records
34 that result from a supervision for a violation of Section
35 11-501 of the Illinois Vehicle Code or a similar provision of a
36 local ordinance, shall not be expunged. All records set out

1 above may be ordered by the court to be expunged from the
2 records of the arresting authority and impounded by the court
3 after 5 years, but shall not be expunged by the Department, but
4 shall, on court order be sealed by the Department and may be
5 disseminated by the Department only as required by law or to
6 the arresting authority, the State's Attorney, and the court
7 upon a later arrest for the same or a similar offense or for
8 the purpose of sentencing for any subsequent felony. Upon
9 conviction for any offense, the Department of Corrections shall
10 have access to all sealed records of the Department pertaining
11 to that individual.

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

15 (b) Whenever a person has been convicted of a crime or of
16 the violation of a municipal ordinance, in the name of a person
17 whose identity he has stolen or otherwise come into possession
18 of, the aggrieved person from whom the identity was stolen or
19 otherwise obtained without authorization, upon learning of the
20 person having been arrested using his identity, may, upon
21 verified petition to the chief judge of the circuit wherein the
22 arrest was made, have a court order entered nunc pro tunc by
23 the chief judge to correct the arrest record, conviction
24 record, if any, and all official records of the arresting
25 authority, the Department, other criminal justice agencies,
26 the prosecutor, and the trial court concerning such arrest, if
27 any, by removing his name from all such records in connection
28 with the arrest and conviction, if any, and by inserting in the
29 records the name of the offender, if known or ascertainable, in
30 lieu of the aggrieved's name. The records of the clerk of the
31 circuit court clerk shall be sealed until further order of the
32 court upon good cause shown and the name of the aggrieved
33 person obliterated on the official index required to be kept by
34 the circuit court clerk under Section 16 of the Clerks of
35 Courts Act, but the order shall not affect any index issued by
36 the circuit court clerk before the entry of the order. Nothing

1 in this Section shall limit the Department of State Police or
2 other criminal justice agencies or prosecutors from listing
3 under an offender's name the false names he or she has used.
4 For purposes of this Section, convictions for moving and
5 nonmoving traffic violations other than convictions for
6 violations of Chapter 4, Section 11-204.1 or Section 11-501 of
7 the Illinois Vehicle Code shall not be a bar to expunging the
8 record of arrest and court records for violation of a
9 misdemeanor or municipal ordinance.

10 (c) Whenever a person who has been convicted of an offense
11 is granted a pardon by the Governor which specifically
12 authorizes expungement, he may, upon verified petition to the
13 chief judge of the circuit where the person had been convicted,
14 any 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 defendant's trial, may have a court order
17 entered expunging the record of arrest from the official
18 records of the arresting authority and order that the records
19 of the clerk of the circuit court and the Department be sealed
20 until further order of the court upon good cause shown or as
21 otherwise provided herein, and the name of the defendant
22 obliterated from the official index requested to be kept by the
23 circuit court clerk under Section 16 of the Clerks of Courts
24 Act in connection with the arrest and conviction for the
25 offense for which he had been pardoned but the order shall not
26 affect any index issued by the circuit court clerk before the
27 entry of the order. All records sealed by the Department may be
28 disseminated by the Department only as required by law or to
29 the arresting authority, the State's Attorney, and the court
30 upon a later arrest for the same or similar offense or for the
31 purpose of sentencing for any subsequent felony. Upon
32 conviction for any subsequent offense, the Department of
33 Corrections shall have access to all sealed records of the
34 Department pertaining to that individual. Upon entry of the
35 order of expungement, the clerk of the circuit court shall
36 promptly mail a copy of the order to the person who was

1 pardoned.

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

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

23 (d) Notice of the petition for subsections (a), (b), and
24 (c) shall be served upon the State's Attorney or prosecutor
25 charged with the duty of prosecuting the offense, the
26 Department of State Police, the arresting agency and the chief
27 legal officer of the unit of local government affecting the
28 arrest. Unless the State's Attorney or prosecutor, the
29 Department of State Police, the arresting agency or such chief
30 legal officer objects to the petition within 30 days from the
31 date of the notice, the court shall enter an order granting or
32 denying the petition. The clerk of the court shall promptly
33 mail a copy of the order to the person, the arresting agency,
34 the prosecutor, the Department of State Police and such other
35 criminal justice agencies as may be ordered by the judge.

36 (e) Nothing herein shall prevent the Department of State

1 Police from maintaining all records of any person who is
2 admitted to probation upon terms and conditions and who
3 fulfills those terms and conditions pursuant to Section 10 of
4 the Cannabis Control Act, Section 410 of the Illinois
5 Controlled Substances Act, Section 12-4.3 of the Criminal Code
6 of 1961, Section 10-102 of the Illinois Alcoholism and Other
7 Drug Dependency Act, Section 40-10 of the Alcoholism and Other
8 Drug Abuse and Dependency Act, or Section 10 of the Steroid
9 Control Act.

10 (f) No court order issued under ~~pursuant to~~ the expungement
11 provisions of this Section shall become final for purposes of
12 appeal until 30 days after notice is received by the
13 Department. Any court order contrary to the provisions of this
14 Section is void.

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

24 (h) (1) Applicability. Notwithstanding any other provision
25 of this Act to the contrary and cumulative with any rights to
26 expungement of criminal records, this subsection authorizes
27 the sealing of criminal records of adults and of minors
28 prosecuted as adults.

29 (2) Sealable offenses. The following offenses may be
30 sealed:

31 (A) All municipal ordinance violations and
32 misdemeanors, with the exception of the following:

33 (i) violations of Section 11-501 of the Illinois
34 Vehicle Code or a similar provision of a local
35 ordinance;

36 (ii) violations of Article 11 of the Criminal Code

1 of 1961 or a similar provision of a local ordinance,
2 except Section 11-14 of the Criminal Code of 1961 as
3 provided in clause B(i) of this subsection (h);

4 (iii) violations of Section 12-15, 12-30, or 26-5
5 of the Criminal Code of 1961 or a similar provision of
6 a local ordinance;

7 (iv) violations that are a crime of violence as
8 defined in Section 2 of the Crime Victims Compensation
9 Act or a similar provision of a local ordinance;

10 (v) Class A misdemeanor violations of the Humane
11 Care for Animals Act; and

12 (vi) any offense or attempted offense that would
13 subject a person to registration under the Sex Offender
14 Registration Act.

15 (B) Misdemeanor and Class 4 felony violations of:

16 (i) Section 11-14 of the Criminal Code of 1961;

17 (ii) Section 4 of the Cannabis Control Act;

18 (iii) Section 402 of the Illinois Controlled
19 Substances Act; and

20 (iv) However, for purposes of this subsection (h),
21 a sentence of first offender probation under Section 10
22 of the Cannabis Control Act and Section 410 of the
23 Illinois Controlled Substances Act shall be treated as
24 a Class 4 felony conviction.

25 (3) Requirements for sealing. Records identified as
26 sealable under clause (h) (2) may be sealed when the individual
27 was:

28 (A) Acquitted of the offense or offenses or released
29 without being convicted.

30 (B) Convicted of the offense or offenses and the
31 conviction or convictions were reversed.

32 (C) Placed on misdemeanor supervision for an offense or
33 offenses; and

34 (i) at least 3 years have elapsed since the
35 completion of the term of supervision, or terms of
36 supervision, if more than one term has been ordered;

1 and

2 (ii) the individual has not been convicted of a
3 felony or misdemeanor or placed on supervision for a
4 misdemeanor or felony during the period specified in
5 clause (i).

6 (D) Convicted of an offense or offenses; and

7 (i) at least 4 years have elapsed since the last
8 such conviction or term of any sentence, probation,
9 parole, or supervision, if any, whichever is last in
10 time; and

11 (ii) the individual has not been convicted of a
12 felony or misdemeanor or placed on supervision for a
13 misdemeanor or felony during the period specified in
14 clause (i).

15 (4) Requirements for sealing of records when more than one
16 charge and disposition have been filed. When multiple offenses
17 are petitioned to be sealed under this subsection (h), the
18 requirements of the relevant provisions of clauses (h) (3) (A)
19 through (D) each apply. In instances in which more than one
20 waiting period is applicable under clauses (h) (C) (i) and (ii)
21 and (h) (D) (i) and (ii), the longer applicable period applies,
22 and the requirements of clause (h) (3) shall be considered met
23 when the petition is filed after the passage of the longer
24 applicable waiting period. That period commences on the date of
25 the completion of the last sentence or the end of supervision,
26 probation, or parole, whichever is last in time.

27 (5) Subsequent convictions. A person may not have
28 subsequent felony conviction records sealed as provided in this
29 subsection (h) if he or she is convicted of any felony offense
30 after the date of the sealing of prior felony records as
31 provided in this subsection (h).

32 (6) Notice of eligibility for sealing. Upon acquittal,
33 release without conviction, or being placed on supervision for
34 a sealable offense, or upon conviction of a sealable offense,
35 the person shall be informed by the court of the right to have
36 the records sealed and the procedures for the sealing of the

1 records.

2 (7) Procedure. Upon becoming eligible for the sealing of
3 records under this subsection (h), the person who seeks the
4 sealing of his or her records shall file a petition requesting
5 the sealing of records with the clerk of the court where the
6 charge or charges were brought. The records may be sealed by
7 the Chief Judge of the circuit wherein the charge was brought,
8 any judge of that circuit designated by the Chief Judge, or in
9 counties of less than 3,000,000 inhabitants, the presiding
10 trial judge at the defendant's trial, if any. If charges were
11 brought in multiple jurisdictions, a petition must be filed in
12 each such jurisdiction. The petitioner shall pay the applicable
13 fee, if not waived.

14 (A) Contents of petition. The petition shall contain
15 the petitioner's name, date of birth, current address, each
16 charge, each case number, the date of each charge, the
17 identity of the arresting authority, and such other
18 information as the court may require. During the pendency
19 of the proceeding, the petitioner shall promptly notify the
20 clerk of the court of any change of address.

21 (B) Drug test. A person filing a petition to have his
22 or her records sealed for a Class 4 felony violation of
23 Section 4 of the Cannabis Control Act or for a Class 4
24 felony violation of Section 402 of the Illinois Controlled
25 Substances Act must attach to the petition proof that the
26 petitioner has passed a test taken within the previous 30
27 days before the filing of the petition showing the absence
28 within his or her body of all illegal substances in
29 violation of either the Illinois Controlled Substances Act
30 or the Cannabis Control Act.

31 (C) Service of petition. The clerk shall promptly serve
32 a copy of the petition on the State's Attorney or
33 prosecutor charged with the duty of prosecuting the
34 offense, the Department of State Police, the arresting
35 agency and the chief legal officer of the unit of local
36 government effecting the arrest.

1 (D) Entry of order. Unless the State's Attorney or
2 prosecutor, the Department of State Police, the arresting
3 agency or such chief legal officer objects to sealing of
4 the records within 90 days of notice the court shall enter
5 an order sealing the defendant's records.

6 (E) Hearing upon objection. If an objection is filed,
7 the court shall set a date for a hearing and notify the
8 petitioner and the parties on whom the petition had been
9 served, and shall hear evidence on whether the sealing of
10 the records should or should not be granted, and shall make
11 a determination on whether to issue an order to seal the
12 records based on the evidence presented at the hearing.

13 (F) Service of order. After entering the order to seal
14 records, the court must provide copies of the order to the
15 Department, in a form and manner prescribed by the
16 Department, to the petitioner, to the State's Attorney or
17 prosecutor charged with the duty of prosecuting the
18 offense, to the arresting agency, to the chief legal
19 officer of the unit of local government effecting the
20 arrest, and to such other criminal justice agencies as may
21 be ordered by the court.

22 (8) Fees. Notwithstanding any provision of the Clerk of the
23 Courts Act to the contrary, and subject to the approval of the
24 county board, the clerk may charge a fee equivalent to the cost
25 associated with the sealing of records by the clerk and the
26 Department of State Police. The clerk shall forward the
27 Department of State Police portion of the fee to the Department
28 and it shall be deposited into the State Police Services Fund.

29
30 ~~(h) (1) Notwithstanding any other provision of this Act to~~
31 ~~the contrary and cumulative with any rights to expungement of~~
32 ~~criminal records, whenever an adult or minor prosecuted as an~~
33 ~~adult charged with a violation of a municipal ordinance or a~~
34 ~~misdemeanor is acquitted or released without being convicted,~~
35 ~~or if the person is convicted but the conviction is reversed,~~
36 ~~or if the person has been placed on supervision for a~~

~~1 misdemeanor and has not been convicted of a felony or
2 misdemeanor or placed on supervision for a misdemeanor within 3
3 years after the acquittal or release or reversal of conviction,
4 or the completion of the terms and conditions of the
5 supervision, if the acquittal, release, finding of not guilty,
6 or reversal of conviction occurred on or after the effective
7 date of this amendatory Act of the 93rd General Assembly, the
8 Chief Judge of the circuit in which the charge was brought may
9 have the official records of the arresting authority, the
10 Department, and the clerk of the circuit court sealed 3 years
11 after the dismissal of the charge, the finding of not guilty,
12 the reversal of conviction, or the completion of the terms and
13 conditions of the supervision, except those records are subject
14 to inspection and use by the court for the purposes of
15 subsequent sentencing for misdemeanor and felony violations
16 and inspection and use by law enforcement agencies and State's
17 Attorneys or other prosecutors in carrying out the duties of
18 their offices. This subsection (h) does not apply to persons
19 placed on supervision for: (1) a violation of Section 11-501 of
20 the Illinois Vehicle Code or a similar provision of a local
21 ordinance; (2) a misdemeanor violation of Article 11 of the
22 Criminal Code of 1961 or a similar provision of a local
23 ordinance; (3) a misdemeanor violation of Section 12-15, 12-30,
24 or 26-5 of the Criminal Code of 1961 or a similar provision of a
25 local ordinance; (4) a misdemeanor violation that is a crime of
26 violence as defined in Section 2 of the Crime Victims
27 Compensation Act or a similar provision of a local ordinance;
28 (5) a Class A misdemeanor violation of the Humane Care for
29 Animals Act; or (6) any offense or attempted offense that would
30 subject a person to registration under the Sex Offender
31 Registration Act.~~

~~32 (2) Upon acquittal, release without conviction, or being
33 placed on supervision, the person charged with the offense
34 shall be informed by the court of the right to have the records
35 sealed and the procedures for the sealing of the records. Three
36 years after the dismissal of the charge, the finding of not~~

1 ~~guilty, the reversal of conviction, or the completion of the~~
2 ~~terms and conditions of the supervision, the defendant shall~~
3 ~~provide the clerk of the court with a notice of request for~~
4 ~~sealing of records and payment of the applicable fee and a~~
5 ~~current address and shall promptly notify the clerk of the~~
6 ~~court of any change of address. The clerk shall promptly serve~~
7 ~~notice that the person's records are to be sealed on the~~
8 ~~State's Attorney or prosecutor charged with the duty of~~
9 ~~prosecuting the offense, the Department of State Police, the~~
10 ~~arresting agency and the chief legal officer of the unit of~~
11 ~~local government effecting the arrest. Unless the State's~~
12 ~~Attorney or prosecutor, the Department of State Police, the~~
13 ~~arresting agency or such chief legal officer objects to sealing~~
14 ~~of the records within 90 days of notice the court shall enter~~
15 ~~an order sealing the defendant's records 3 years after the~~
16 ~~dismissal of the charge, the finding of not guilty, the~~
17 ~~reversal of conviction, or the completion of the terms and~~
18 ~~conditions of the supervision. The clerk of the court shall~~
19 ~~promptly serve by mail or in person a copy of the order to the~~
20 ~~person, the arresting agency, the prosecutor, the Department of~~
21 ~~State Police and such other criminal justice agencies as may be~~
22 ~~ordered by the judge. If an objection is filed, the court shall~~
23 ~~set a date for hearing. At the hearing the court shall hear~~
24 ~~evidence on whether the sealing of the records should or should~~
25 ~~not be granted.~~

26 ~~(3) The clerk may charge a fee equivalent to the cost~~
27 ~~associated with the sealing of records by the clerk and the~~
28 ~~Department of State Police. The clerk shall forward the~~
29 ~~Department of State Police portion of the fee to the Department~~
30 ~~and it shall be deposited into the State Police Services Fund.~~

31 ~~(4) Whenever sealing of records is required under this~~
32 ~~subsection (h), the notification of the sealing must be given~~
33 ~~by the circuit court where the arrest occurred to the~~
34 ~~Department in a form and manner prescribed by the Department.~~

35 ~~(5) An adult or a minor prosecuted as an adult who was~~
36 ~~charged with a violation of a municipal ordinance or a~~

1 ~~misdemeanor who was acquitted, released without being~~
2 ~~convicted, convicted and the conviction was reversed, or placed~~
3 ~~on supervision for a misdemeanor before the date of this~~
4 ~~amendatory Act of the 93rd General Assembly and was not~~
5 ~~convicted of a felony or misdemeanor or placed on supervision~~
6 ~~for a misdemeanor for 3 years after the acquittal or release or~~
7 ~~reversal of conviction, or completion of the terms and~~
8 ~~conditions of the supervision may petition the Chief Judge of~~
9 ~~the circuit in which the charge was brought, any judge of that~~
10 ~~circuit in which the charge was brought, any judge of the~~
11 ~~circuit designated by the Chief Judge, or, in counties of less~~
12 ~~than 3,000,000 inhabitants, the presiding trial judge at that~~
13 ~~defendant's trial, to seal the official records of the~~
14 ~~arresting authority, the Department, and the clerk of the~~
15 ~~court, except those records are subject to inspection and use~~
16 ~~by the court for the purposes of subsequent sentencing for~~
17 ~~misdemeanor and felony violations and inspection and use by law~~
18 ~~enforcement agencies, the Department of Corrections, and~~
19 ~~State's Attorneys and other prosecutors in carrying out the~~
20 ~~duties of their offices. This subsection (h) does not apply to~~
21 ~~persons placed on supervision for: (1) a violation of Section~~
22 ~~11-501 of the Illinois Vehicle Code or a similar provision of a~~
23 ~~local ordinance; (2) a misdemeanor violation of Article 11 of~~
24 ~~the Criminal Code of 1961 or a similar provision of a local~~
25 ~~ordinance; (3) a misdemeanor violation of Section 12-15, 12-30,~~
26 ~~or 26-5 of the Criminal Code of 1961 or a similar provision of a~~
27 ~~local ordinance; (4) a misdemeanor violation that is a crime of~~
28 ~~violence as defined in Section 2 of the Crime Victims~~
29 ~~Compensation Act or a similar provision of a local ordinance;~~
30 ~~(5) a Class A misdemeanor violation of the Humane Care for~~
31 ~~Animals Act; or (6) any offense or attempted offense that would~~
32 ~~subject a person to registration under the Sex Offender~~
33 ~~Registration Act. The State's Attorney or prosecutor charged~~
34 ~~with the duty of prosecuting the offense, the Department of~~
35 ~~State Police, the arresting agency and the chief legal officer~~
36 ~~of the unit of local government effecting the arrest shall be~~

1 ~~served with a copy of the verified petition and shall have 90~~
2 ~~days to object. If an objection is filed, the court shall set a~~
3 ~~date for hearing. At the hearing the court shall hear evidence~~
4 ~~on whether the sealing of the records should or should not be~~
5 ~~granted. The person whose records are sealed under the~~
6 ~~provisions of this Act shall pay to the clerk of the court and~~
7 ~~the Department of State Police a fee equivalent to the cost~~
8 ~~associated with the sealing of records. The fees shall be paid~~
9 ~~to the clerk of the court who shall forward the appropriate~~
10 ~~portion to the Department at the time the court order to seal~~
11 ~~the defendant's record is forwarded to the Department for~~
12 ~~processing. The Department of State Police portion of the fee~~
13 ~~shall be deposited into the State Police Services Fund.~~

14 ~~(i) (1) any other provision of this Act to the contrary and~~
15 ~~cumulative with any rights to expungement of criminal records,~~
16 ~~whenever an adult or minor prosecuted as an adult charged with~~
17 ~~a violation of a municipal ordinance or a misdemeanor is~~
18 ~~convicted of a misdemeanor and has not been convicted of a~~
19 ~~felony or misdemeanor or placed on supervision for a~~
20 ~~misdemeanor within 4 years after the completion of the~~
21 ~~sentence, if the conviction occurred on or after the effective~~
22 ~~date of this amendatory Act of the 93rd General Assembly, the~~
23 ~~Chief Judge of the circuit in which the charge was brought may~~
24 ~~have the official records of the arresting authority, the~~
25 ~~Department, and the clerk of the circuit court sealed 4 years~~
26 ~~after the completion of the sentence, except those records are~~
27 ~~subject to inspection and use by the court for the purposes of~~
28 ~~subsequent sentencing for misdemeanor and felony violations~~
29 ~~and inspection and use by law enforcement agencies and State's~~
30 ~~Attorneys or other prosecutors in carrying out the duties of~~
31 ~~their offices. This subsection (i) does not apply to persons~~
32 ~~convicted of: (1) a violation of Section 11-501 of the Illinois~~
33 ~~Vehicle Code or a similar provision of a local ordinance; (2) a~~
34 ~~misdemeanor violation of Article 11 of the Criminal Code of~~
35 ~~1961 or a similar provision of a local ordinance; (3) a~~
36 ~~misdemeanor violation of Section 12-15, 12-30, or 26-5 of the~~

1 ~~Criminal Code of 1961 or a similar provision of a local~~
2 ~~ordinance; (4) a misdemeanor violation that is a crime of~~
3 ~~violence as defined in Section 2 of the Crime Victims~~
4 ~~Compensation Act or a similar provision of a local ordinance;~~
5 ~~(5) a Class A misdemeanor violation of the Humane Care for~~
6 ~~Animals Act; or (6) any offense or attempted offense that would~~
7 ~~subject a person to registration under the Sex Offender~~
8 ~~Registration Act.~~

9 ~~(2) Upon the conviction of such offense, the person charged~~
10 ~~with the offense shall be informed by the court of the right to~~
11 ~~have the records sealed and the procedures for the sealing of~~
12 ~~the records. Four years after the completion of the sentence,~~
13 ~~the defendant shall provide the clerk of the court with a~~
14 ~~notice of request for sealing of records and payment of the~~
15 ~~applicable fee and a current address and shall promptly notify~~
16 ~~the clerk of the court of any change of address. The clerk~~
17 ~~shall promptly serve notice that the person's records are to be~~
18 ~~sealed on the State's Attorney or prosecutor charged with the~~
19 ~~duty of prosecuting the offense, the Department of State~~
20 ~~Police, the arresting agency and the chief legal officer of the~~
21 ~~unit of local government effecting the arrest. Unless the~~
22 ~~State's Attorney or prosecutor, the Department of State Police,~~
23 ~~the arresting agency or such chief legal officer objects to~~
24 ~~sealing of the records within 90 days of notice the court shall~~
25 ~~enter an order sealing the defendant's records 4 years after~~
26 ~~the completion of the sentence. The clerk of the court shall~~
27 ~~promptly serve by mail or in person a copy of the order to the~~
28 ~~person, the arresting agency, the prosecutor, the Department of~~
29 ~~State Police and such other criminal justice agencies as may be~~
30 ~~ordered by the judge. If an objection is filed, the court shall~~
31 ~~set a date for hearing. At the hearing the court shall hear~~
32 ~~evidence on whether the sealing of the records should or should~~
33 ~~not be granted.~~

34 ~~(3) The clerk may charge a fee equivalent to the cost~~
35 ~~associated with the sealing of records by the clerk and the~~
36 ~~Department of State Police. The clerk shall forward the~~

1 ~~Department of State Police portion of the fee to the Department~~
2 ~~and it shall be deposited into the State Police Services Fund.~~

3 ~~(4) Whenever sealing of records is required under this~~
4 ~~subsection (i), the notification of the sealing must be given~~
5 ~~by the circuit court where the arrest occurred to the~~
6 ~~Department in a form and manner prescribed by the Department.~~

7 ~~(5) An adult or a minor prosecuted as an adult who was~~
8 ~~charged with a violation of a municipal ordinance or a~~
9 ~~misdemeanor who was convicted of a misdemeanor before the date~~
10 ~~of this amendatory Act of the 93rd General Assembly and was not~~
11 ~~convicted of a felony or misdemeanor or placed on supervision~~
12 ~~for a misdemeanor for 4 years after the completion of the~~
13 ~~sentence may petition the Chief Judge of the circuit in which~~
14 ~~the charge was brought, any judge of that circuit in which the~~
15 ~~charge was brought, any judge of the circuit designated by the~~
16 ~~Chief Judge, or, in counties of less than 3,000,000~~
17 ~~inhabitants, the presiding trial judge at that defendant's~~
18 ~~trial, to seal the official records of the arresting authority,~~
19 ~~the Department, and the clerk of the court, except those~~
20 ~~records are subject to inspection and use by the court for the~~
21 ~~purposes of subsequent sentencing for misdemeanor and felony~~
22 ~~violations and inspection and use by law enforcement agencies,~~
23 ~~the Department of Corrections, and State's Attorneys and other~~
24 ~~prosecutors in carrying out the duties of their offices. This~~
25 ~~subsection (i) does not apply to persons convicted of: (1) a~~
26 ~~violation of Section 11-501 of the Illinois Vehicle Code or a~~
27 ~~similar provision of a local ordinance; (2) a misdemeanor~~
28 ~~violation of Article 11 of the Criminal Code of 1961 or a~~
29 ~~similar provision of a local ordinance; (3) a misdemeanor~~
30 ~~violation of Section 12-15, 12-30, or 26-5 of the Criminal Code~~
31 ~~of 1961 or a similar provision of a local ordinance; (4) a~~
32 ~~misdemeanor violation that is a crime of violence as defined in~~
33 ~~Section 2 of the Crime Victims Compensation Act or a similar~~
34 ~~provision of a local ordinance; (5) a Class A misdemeanor~~
35 ~~violation of the Humane Care for Animals Act; or (6) any~~
36 ~~offense or attempted offense that would subject a person to~~

~~1 registration under the Sex Offender Registration Act. The
2 State's Attorney or prosecutor charged with the duty of
3 prosecuting the offense, the Department of State Police, the
4 arresting agency and the chief legal officer of the unit of
5 local government effecting the arrest shall be served with a
6 copy of the verified petition and shall have 90 days to object.
7 If an objection is filed, the court shall set a date for
8 hearing. At the hearing the court shall hear evidence on
9 whether the sealing of the records should or should not be
10 granted. The person whose records are sealed under the
11 provisions of this Act shall pay to the clerk of the court and
12 the Department of State Police a fee equivalent to the cost
13 associated with the sealing of records. The fees shall be paid
14 to the clerk of the court who shall forward the appropriate
15 portion to the Department at the time the court order to seal
16 the defendant's record is forwarded to the Department for
17 processing. The Department of State Police portion of the fee
18 shall be deposited into the State Police Services Fund.~~

19 (i) Subject to available funding, the Illinois Department
20 of Corrections shall conduct a study of the impact of sealing,
21 especially on employment and recidivism rates, utilizing a
22 random sample of those who apply for the sealing of their
23 criminal records under Public Act 93-211, in accordance to
24 rules adopted by the Department. At the request of the Illinois
25 Department of Corrections, records of the Illinois Department
26 of Employment Security shall be utilized as appropriate to
27 assist in the study. The study shall not disclose any data in a
28 manner that would allow the identification of any particular
29 individual or employing unit. The study shall be made available
30 to the General Assembly no later than September 1, 2006.

31 (Source: P.A. 92-651, eff. 7-11-02; 93-210, eff. 7-18-03;
32 93-211, eff. 1-1-04; revised 8-25-03.)

33 20 ILCS 2630/12)

34 Sec. 12. Entry of order; effect of expungement or sealing
35 records.

1 (a) Except with respect to law enforcement agencies, the
2 Department of Corrections, State's Attorneys, or other
3 prosecutors, and as provided in Section 13 of this Act, an
4 expunged or sealed record may not be considered by any private
5 or public entity in employment matters, certification,
6 licensing, revocation of certification or licensure, or
7 registration. Applications for employment must contain
8 specific language which states that the applicant is not
9 obligated to disclose sealed or expunged records of conviction
10 or arrest. Employers may not ask if an applicant has had
11 records expunged or sealed.

12 (b) A person whose records have been sealed or expunged is
13 not entitled to remission of any fines, costs, or other money
14 paid as a consequence of the sealing or expungement. This
15 amendatory Act of the 93rd General Assembly does not affect the
16 right of the victim of a crime to prosecute or defend a civil
17 action for damages. Persons engaged in civil litigation
18 involving criminal records that have been sealed may petition
19 the court to open the records for the limited purpose of using
20 them in the course of litigation.

21 (Source: P.A. 93-211, eff. 1-1-04.)

22 (20 ILCS 2630/13)

23 Sec. 13. Retention and release of sealed records ~~Prohibited~~
24 ~~conduct; misdemeanor; penalty.~~

25 (a) The Department of State Police shall retain records
26 sealed under subsection ~~subsections~~ (h) ~~and (i)~~ of Section 5
27 and shall release them only as authorized by this Act. Felony
28 records ~~The~~ sealed under subsection (h) of Section 5 ~~records~~
29 shall be used and disseminated by the Department only as
30 otherwise specifically required or authorized by a federal or
31 State law, rule, or regulation that requires inquiry into and
32 release of criminal records, including, but not limited to,
33 subsection (A) of Section 3 of this Act. However, all requests
34 for records that have been expunged, sealed, and impounded and
35 the use of those records are subject to the provisions of

1 Section 2-103 of the Illinois Human Rights Act ~~allowed by law.~~
2 Upon conviction for any offense, the Department of Corrections
3 shall have access to all sealed records of the Department
4 pertaining to that individual.

5 (b) Notwithstanding the foregoing, all sealed records are
6 subject to inspection and use by the court and inspection and
7 use by law enforcement agencies and State's Attorneys or other
8 prosecutors in carrying out the duties of their offices.

9 (c) ~~(b)~~ The sealed records maintained under subsection (a)
10 are exempt from disclosure under the Freedom of Information
11 Act.

12 (d) The Department of State Police shall commence the
13 sealing of records of felony arrests and felony convictions
14 pursuant to the provisions of subsection (h) of Section 5 of
15 this Act no later than one year from the date that funds have
16 been made available for purposes of establishing the
17 technologies necessary to implement the changes made by this
18 amendatory Act of the 93rd General Assembly.

19 (Source: P.A. 93-211, eff. 1-1-04.)

20 Section 10. The Illinois Human Rights Act is amended by
21 changing Section 2-103 as follows:

22 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

23 Sec. 2-103. Arrest Record.

24 (A) Unless otherwise authorized by law, it is a civil
25 rights violation for any employer, employment agency or labor
26 organization to inquire into or to use the fact of an arrest or
27 criminal history record information ordered expunged, sealed
28 or impounded under Section 5 of the Criminal Identification Act
29 as a basis to refuse to hire, to segregate, or to act with
30 respect to recruitment, hiring, promotion, renewal of
31 employment, selection for training or apprenticeship,
32 discharge, discipline, tenure or terms, privileges or
33 conditions of employment. This Section does not prohibit a
34 State agency, unit of local government or school district, or

1 private organization from requesting or utilizing sealed
2 felony conviction information obtained from the Department of
3 State Police under the provisions of Section 3 of the Criminal
4 Identification Act or under other State or federal laws or
5 regulations that require criminal background checks in
6 evaluating the qualifications and character of an employee or a
7 prospective employee.

8 (B) The prohibition against the use of the fact of an
9 arrest contained in this Section shall not be construed to
10 prohibit an employer, employment agency, or labor organization
11 from obtaining or using other information which indicates that
12 a person actually engaged in the conduct for which he or she
13 was arrested.

14 (Source: P.A. 89-370, eff. 8-18-95.)