

1 AN ACT concerning criminal law.

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 and 13 by adding Section 6 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~~

1 ~~having previously been convicted of any criminal offense or~~
2 ~~municipal ordinance violation, charged with a violation of a~~
3 ~~municipal ordinance or a felony or misdemeanor, is acquitted or~~
4 ~~released without being convicted, whether the acquittal or~~
5 ~~release occurred before, on, or after the effective date of~~
6 ~~this amendatory Act of 1991, the Chief Judge of the circuit~~
7 ~~wherein the charge was brought, any judge of that circuit~~
8 ~~designated by the Chief Judge, or in counties of less than~~
9 ~~3,000,000 inhabitants, the presiding trial judge at the~~
10 ~~defendant's trial may upon verified petition of the defendant~~
11 ~~order the record of arrest expunged from the official records~~
12 ~~of the arresting authority and the Department and order that~~
13 ~~the records of the clerk of the circuit court be sealed until~~
14 ~~further order of the court upon good cause shown and the name~~
15 ~~of the defendant obliterated on the official index required to~~
16 ~~be kept by the circuit court clerk under Section 16 of the~~
17 ~~Clerks of Courts Act, but the order shall not affect any index~~
18 ~~issued by the circuit court clerk before the entry of the~~
19 ~~order. The Department may charge the petitioner a fee~~
20 ~~equivalent to the cost of processing any order to expunge or~~
21 ~~seal the records, and the fee shall be deposited into the State~~
22 ~~Police Services Fund. The records of those arrests, however,~~
23 ~~that result in a disposition of supervision for any offense~~
24 ~~shall not be expunged from the records of the arresting~~
25 ~~authority or the Department nor impounded by the court until 2~~
26 ~~years after discharge and dismissal of supervision. Those~~

1 ~~records that result from a supervision for a violation of~~
2 ~~Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois~~
3 ~~Vehicle Code or a similar provision of a local ordinance, or~~
4 ~~for a violation of Section 12-3.2, 12-15 or 16A-3 of the~~
5 ~~Criminal Code of 1961, or probation under Section 10 of the~~
6 ~~Cannabis Control Act, Section 410 of the Illinois Controlled~~
7 ~~Substances Act, Section 70 of the Methamphetamine Control and~~
8 ~~Community Protection Act, Section 12-4.3(b)(1) and (2) of the~~
9 ~~Criminal Code of 1961 (as those provisions existed before their~~
10 ~~deletion by Public Act 89-313), Section 10-102 of the Illinois~~
11 ~~Alcoholism and Other Drug Dependency Act when the judgment of~~
12 ~~conviction has been vacated, Section 40-10 of the Alcoholism~~
13 ~~and Other Drug Abuse and Dependency Act when the judgment of~~
14 ~~conviction has been vacated, or Section 10 of the Steroid~~
15 ~~Control Act shall not be expunged from the records of the~~
16 ~~arresting authority nor impounded by the court until 5 years~~
17 ~~after termination of probation or supervision. Those records~~
18 ~~that result from a supervision for a violation of Section~~
19 ~~11-501 of the Illinois Vehicle Code or a similar provision of a~~
20 ~~local ordinance, shall not be expunged. All records set out~~
21 ~~above may be ordered by the court to be expunged from the~~
22 ~~records of the arresting authority and impounded by the court~~
23 ~~after 5 years, but shall not be expunged by the Department, but~~
24 ~~shall, on court order be sealed by the Department and may be~~
25 ~~disseminated by the Department only as required by law or to~~
26 ~~the arresting authority, the State's Attorney, and the court~~

1 ~~upon a later arrest for the same or a similar offense or for~~
2 ~~the purpose of sentencing for any subsequent felony. Upon~~
3 ~~conviction for any offense, the Department of Corrections shall~~
4 ~~have access to all sealed records of the Department pertaining~~
5 ~~to that individual.~~

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

9 ~~(b) Whenever a person has been convicted of a crime or of~~
10 ~~the violation of a municipal ordinance, in the name of a person~~
11 ~~whose identity he has stolen or otherwise come into possession~~
12 ~~of, the aggrieved person from whom the identity was stolen or~~
13 ~~otherwise obtained without authorization, upon learning of the~~
14 ~~person having been arrested using his identity, may, upon~~
15 ~~verified petition to the chief judge of the circuit wherein the~~
16 ~~arrest was made, have a court order entered nunc pro tunc by~~
17 ~~the chief judge to correct the arrest record, conviction~~
18 ~~record, if any, and all official records of the arresting~~
19 ~~authority, the Department, other criminal justice agencies,~~
20 ~~the prosecutor, and the trial court concerning such arrest, if~~
21 ~~any, by removing his name from all such records in connection~~
22 ~~with the arrest and conviction, if any, and by inserting in the~~
23 ~~records the name of the offender, if known or ascertainable, in~~
24 ~~lieu of the aggrieved's name. The records of the clerk of the~~
25 ~~circuit court clerk shall be sealed until further order of the~~
26 ~~court upon good cause shown and the name of the aggrieved~~

1 ~~person obliterated on the official index required to be kept by~~
2 ~~the circuit court clerk under Section 16 of the Clerks of~~
3 ~~Courts Act, but the order shall not affect any index issued by~~
4 ~~the circuit court clerk before the entry of the order. Nothing~~
5 ~~in this Section shall limit the Department of State Police or~~
6 ~~other criminal justice agencies or prosecutors from listing~~
7 ~~under an offender's name the false names he or she has used.~~
8 ~~For purposes of this Section, convictions for moving and~~
9 ~~nonmoving traffic violations other than convictions for~~
10 ~~violations of Chapter 4, Section 11 204.1 or Section 11 501 of~~
11 ~~the Illinois Vehicle Code shall not be a bar to expunging the~~
12 ~~record of arrest and court records for violation of a~~
13 ~~misdemeanor or municipal ordinance.~~

14 ~~(c) Whenever a person who has been convicted of an offense~~
15 ~~is granted a pardon by the Governor which specifically~~
16 ~~authorizes expungement, he may, upon verified petition to the~~
17 ~~chief judge of the circuit where the person had been convicted,~~
18 ~~any 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 defendant's trial, may 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 clerk of the circuit court and the Department be sealed~~
24 ~~until 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 had been pardoned but the order shall not~~
4 ~~affect any index issued by the circuit court clerk before the~~
5 ~~entry of the order. All records sealed by the Department may be~~
6 ~~disseminated by the Department only as required by law or to~~
7 ~~the arresting authority, the State's Attorney, and the court~~
8 ~~upon a later arrest for the same or similar offense or for the~~
9 ~~purpose of sentencing for any subsequent felony. Upon~~
10 ~~conviction for any subsequent offense, the Department of~~
11 ~~Corrections shall have access to all sealed records of the~~
12 ~~Department pertaining to that individual. Upon entry of the~~
13 ~~order of expungement, the clerk of the circuit court shall~~
14 ~~promptly mail a copy of the order to the person who was~~
15 ~~pardoned.~~

16 ~~(c 5) Whenever a person has been convicted of criminal~~
17 ~~sexual assault, aggravated criminal sexual assault, predatory~~
18 ~~criminal sexual assault of a child, criminal sexual abuse, or~~
19 ~~aggravated criminal sexual abuse, the victim of that offense~~
20 ~~may request that the State's Attorney of the county in which~~
21 ~~the conviction occurred file a verified petition with the~~
22 ~~presiding trial judge at the defendant's trial to have a court~~
23 ~~order entered to seal the records of the clerk of the circuit~~
24 ~~court in connection with the proceedings of the trial court~~
25 ~~concerning that offense. However, the records of the arresting~~
26 ~~authority and the Department of State Police concerning the~~

1 ~~offense shall not be sealed. The court, upon good cause shown,~~
2 ~~shall make the records of the clerk of the circuit court in~~
3 ~~connection with the proceedings of the trial court concerning~~
4 ~~the offense available for public inspection.~~

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

11 ~~(d) Notice of the petition for subsections (a), (b), and~~
12 ~~(c) shall be served upon the State's Attorney or prosecutor~~
13 ~~charged with the duty of prosecuting the offense, the~~
14 ~~Department of State Police, the arresting agency and the chief~~
15 ~~legal officer of the unit of local government affecting the~~
16 ~~arrest. Unless the State's Attorney or prosecutor, the~~
17 ~~Department of State Police, the arresting agency or such chief~~
18 ~~legal officer objects to the petition within 30 days from the~~
19 ~~date of the notice, the court shall enter an order granting or~~
20 ~~denying the petition. The clerk of the court shall promptly~~
21 ~~mail a copy of the order to the person, the arresting agency,~~
22 ~~the prosecutor, the Department of State Police and such other~~
23 ~~criminal justice agencies as may be ordered by the judge.~~

24 ~~(e) Nothing herein shall prevent the Department of State~~
25 ~~Police from maintaining all records of any person who is~~
26 ~~admitted to probation upon terms and conditions and who~~

1 ~~fulfills those terms and conditions pursuant to Section 10 of~~
2 ~~the Cannabis Control Act, Section 410 of the Illinois~~
3 ~~Controlled Substances Act, Section 70 of the Methamphetamine~~
4 ~~Control and Community Protection Act, Section 12-4.3 of the~~
5 ~~Criminal Code of 1961, Section 10-102 of the Illinois~~
6 ~~Alcoholism and Other Drug Dependency Act, Section 40-10 of the~~
7 ~~Alcoholism and Other Drug Abuse and Dependency Act, or Section~~
8 ~~10 of the Steroid Control Act.~~

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

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

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

1 ~~(2) Sealable offenses. The following offenses may be~~
2 ~~sealed:~~

3 ~~(A) All municipal ordinance violations and~~
4 ~~misdemeanors, with the exception of the following:~~

5 ~~(i) violations of Section 11-501 of the Illinois~~
6 ~~Vehicle Code or a similar provision of a local~~
7 ~~ordinance;~~

8 ~~(ii) violations of Article 11 of the Criminal Code~~
9 ~~of 1961 or a similar provision of a local ordinance,~~
10 ~~except Section 11-14 of the Criminal Code of 1961 as~~
11 ~~provided in clause B(i) of this subsection (h);~~

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

15 ~~(iv) violations that are a crime of violence as~~
16 ~~defined in Section 2 of the Crime Victims Compensation~~
17 ~~Act or a similar provision of a local ordinance;~~

18 ~~(v) Class A misdemeanor violations of the Humane~~
19 ~~Care for Animals Act; and~~

20 ~~(vi) any offense or attempted offense that would~~
21 ~~subject a person to registration under the Sex Offender~~
22 ~~Registration Act.~~

23 ~~(B) Misdemeanor and Class 4 felony violations of:~~

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

25 ~~(ii) Section 4 of the Cannabis Control Act;~~

26 ~~(iii) Section 402 of the Illinois Controlled~~

1 ~~Substances Act; and~~

2 ~~(iv) Section 60 of the Methamphetamine Control and~~
3 ~~Community Protection Act.~~

4 ~~However, for purposes of this subsection (h), a~~
5 ~~sentence of first offender probation under Section 10 of~~
6 ~~the Cannabis Control Act, Section 410 of the Illinois~~
7 ~~Controlled Substances Act, or Section 70 of the~~
8 ~~Methamphetamine Control and Community Protection Act shall~~
9 ~~be treated as a Class 4 felony conviction.~~

10 ~~(3) Requirements for sealing. Records identified as~~
11 ~~sealable under clause (h) (2) may be sealed when the individual~~
12 ~~was:~~

13 ~~(A) Acquitted of the offense or offenses or released~~
14 ~~without being convicted.~~

15 ~~(B) Convicted of the offense or offenses and the~~
16 ~~conviction or convictions were reversed.~~

17 ~~(C) Placed on misdemeanor supervision for an offense or~~
18 ~~offenses; and~~

19 ~~(i) at least 3 years have elapsed since the~~
20 ~~completion of the term of supervision, or terms of~~
21 ~~supervision, if more than one term has been ordered;~~
22 ~~and~~

23 ~~(ii) the individual has not been convicted of a~~
24 ~~felony or misdemeanor or placed on supervision for a~~
25 ~~misdemeanor or felony during the period specified in~~
26 ~~clause (i).~~

1 ~~(D) Convicted of an offense or offenses; and~~

2 ~~(i) at least 4 years have elapsed since the last~~
3 ~~such conviction or term of any sentence, probation,~~
4 ~~parole, or supervision, if any, whichever is last in~~
5 ~~time; and~~

6 ~~(ii) the individual has not been convicted of a~~
7 ~~felony or misdemeanor or placed on supervision for a~~
8 ~~misdemeanor or felony during the period specified in~~
9 ~~clause (i).~~

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

22 ~~(5) Subsequent convictions. A person may not have~~
23 ~~subsequent felony conviction records sealed as provided in this~~
24 ~~subsection (h) if he or she is convicted of any felony offense~~
25 ~~after the date of the sealing of prior felony records as~~
26 ~~provided in this subsection (h).~~

1 ~~(6) Notice of eligibility for sealing. Upon acquittal,~~
2 ~~release without conviction, or being placed on supervision for~~
3 ~~a sealable offense, or upon conviction of a sealable offense,~~
4 ~~the person shall be informed by the court of the right to have~~
5 ~~the records sealed and the procedures for the sealing of the~~
6 ~~records.~~

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

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

26 ~~(B) Drug test. A person filing a petition to have his~~

1 ~~or her records sealed for a Class 4 felony violation of~~
2 ~~Section 4 of the Cannabis Control Act or for a Class 4~~
3 ~~felony violation of Section 402 of the Illinois Controlled~~
4 ~~Substances Act must attach to the petition proof that the~~
5 ~~petitioner has passed a test taken within the previous 30~~
6 ~~days before the filing of the petition showing the absence~~
7 ~~within his or her body of all illegal substances in~~
8 ~~violation of either the Illinois Controlled Substances Act~~
9 ~~or the Cannabis Control Act.~~

10 ~~(C) Service of petition. The clerk shall promptly serve~~
11 ~~a copy of the petition on the State's Attorney or~~
12 ~~prosecutor charged with the duty of prosecuting the~~
13 ~~offense, the Department of State Police, the arresting~~
14 ~~agency and the chief legal officer of the unit of local~~
15 ~~government effecting the arrest.~~

16 ~~(D) Entry of order. Unless the State's Attorney or~~
17 ~~prosecutor, the Department of State Police, the arresting~~
18 ~~agency or such chief legal officer objects to sealing of~~
19 ~~the records within 90 days of notice the court shall enter~~
20 ~~an order sealing the defendant's records.~~

21 ~~(E) Hearing upon objection. If an objection is filed,~~
22 ~~the court shall set a date for a hearing and notify the~~
23 ~~petitioner and the parties on whom the petition had been~~
24 ~~served, and shall hear evidence on whether the sealing of~~
25 ~~the records should or should not be granted, and shall make~~
26 ~~a determination on whether to issue an order to seal the~~

1 ~~records based on the evidence presented at the hearing.~~

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

11 ~~(8) Fees. Notwithstanding any provision of the Clerk of the~~
12 ~~Courts Act to the contrary, and subject to the approval of the~~
13 ~~county board, the clerk may charge a fee equivalent to the cost~~
14 ~~associated with the sealing of records by the clerk and the~~
15 ~~Department of State Police. The clerk shall forward the~~
16 ~~Department of State Police portion of the fee to the Department~~
17 ~~and it shall be deposited into the State Police Services Fund.~~

18 ~~(i) Subject to available funding, the Illinois Department~~
19 ~~of Corrections shall conduct a study of the impact of sealing,~~
20 ~~especially on employment and recidivism rates, utilizing a~~
21 ~~random sample of those who apply for the sealing of their~~
22 ~~criminal records under Public Act 93-211, in accordance to~~
23 ~~rules adopted by the Department. At the request of the Illinois~~
24 ~~Department of Corrections, records of the Illinois Department~~
25 ~~of Employment Security shall be utilized as appropriate to~~
26 ~~assist in the study. The study shall not disclose any data in a~~

~~manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2006.~~

(Source: P.A. 93-210, eff. 7-18-03; 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05; 94-556, eff. 9-11-05.)

(20 ILCS 2630/6 new)

Sec. 6. Expungement and sealing.

(a) General Provisions.

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

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

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

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

(iii) Court (730 ILCS 5/5-1-6),

(iv) Defendant (730 ILCS 5/5-1-7),

(v) Felony (730 ILCS 5/5-1-9),

(vi) Imprisonment (730 ILCS 5/5-1-10),

(vii) Judgment (730 ILCS 5/5-1-12),

(viii) Misdemeanor (730 ILCS 5/5-1-14),

(ix) Offense (730 ILCS 5/5-1-15),

(x) Parole (730 ILCS 5/5-1-16),

(xi) Petty Offense (730 ILCS 5/5-1-17),

1 (xii) Probation (730 ILCS 5/5-1-18),
2 (xiii) Sentence (730 ILCS 5/5-1-19),
3 (xiv) Supervision (730 ILCS 5/5-1-21), and
4 (xv) Victim (730 ILCS 5/5-1-22).

5 (B) As used in this Section, "charge not initiated
6 by arrest" means a charge (as defined by 730 ILCS
7 5/5-1-3) brought against a defendant where the
8 defendant is not arrested prior to or as a direct
9 result of the charge.

10 (C) "Conviction" means a judgment of conviction or
11 sentence entered upon a plea of guilty or upon a
12 verdict or finding of guilty of an offense, rendered by
13 a legally constituted jury or by a court of competent
14 jurisdiction authorized to try the case without a jury.
15 An order of supervision successfully completed by the
16 petitioner is not a conviction. An order of qualified
17 probation (as defined in subsection (a)(1)(J))
18 successfully completed by the petitioner is not a
19 conviction. An order of supervision or an order of
20 qualified probation that is terminated
21 unsatisfactorily is a conviction, unless the
22 unsatisfactory termination is reversed, vacated, or
23 modified and the judgment of conviction, if any, is
24 reversed or vacated.

25 (D) "Criminal offense" means a petty offense,
26 business offense, misdemeanor, felony, or municipal

1 ordinance violation (as defined in (a)(1)(H)). As used
2 in this Section, a minor traffic offense (as defined in
3 subsection (a)(1)(G)) shall not be considered a
4 criminal offense.

5 (E) "Expunge" means to physically destroy the
6 records or return them to the petitioner and to
7 obliterate the petitioner's name from any official
8 index or public record, or both. Nothing in this Act
9 shall require the physical destruction of the Circuit
10 Court file, but such records relating to arrests or
11 charges, or both, ordered expunged shall be impounded
12 as required by subsections (d)(9)(A)(ii) and
13 (d)(9)(B)(ii).

14 (F) As used in this Section, "last sentence" means
15 the sentence, order of supervision, or order of
16 qualified probation (as defined by subsection
17 (a)(1)(J)), for a criminal offense (as defined by
18 (a)(1)(D)) that terminates last in time in any
19 jurisdiction, regardless of whether the petitioner has
20 included the criminal offense for which the sentence or
21 order of supervision or qualified probation was
22 imposed in his or her petition or petitions. If
23 multiple sentences, orders of supervision, or orders
24 of qualified probation terminate on the same day and
25 are last in time, they shall be collectively considered
26 the "last sentence" regardless of whether they were

1 ordered to run concurrently.

2 (G) "Minor traffic offense" means a petty offense,
3 business offense, or Class C misdemeanor under the
4 Illinois Vehicle Code or a similar provision of a
5 municipal or local ordinance.

6 (H) "Municipal ordinance violation" means an
7 offense defined by a municipal or local ordinance that
8 is criminal in nature and with which the petitioner was
9 charged or for which the petitioner was arrested and
10 released without charging.

11 (I) "Petitioner" means an adult or a minor
12 prosecuted as an adult who has applied for relief under
13 this Section.

14 (J) "Qualified probation" means an order of
15 probation under Section 10 of the Cannabis Control Act,
16 Section 410 of the Illinois Controlled Substances Act,
17 Section 70 of the Methamphetamine Control and
18 Community Protection Act, Section 12-4.3(b)(1) and (2)
19 of the Criminal Code of 1961 (as those provisions
20 existed before their deletion by Public Act 89-313),
21 Section 10-102 of the Illinois Alcoholism and Other
22 Drug Dependency Act, Section 40-10 of the Alcoholism
23 and Other Drug Abuse and Dependency Act, or Section 10
24 of the Steroid Control Act. For the purpose of this
25 Section, "successful completion" of an order of
26 qualified probation under Section 10-102 of the

1 Illinois Alcoholism and Other Drug Dependency Act and
2 Section 40-10 of the Alcoholism and Other Drug Abuse
3 and Dependency Act means that the probation was
4 terminated satisfactorily and the judgment of
5 conviction was vacated.

6 (K) "Seal" means to physically and electronically
7 maintain the records, unless the records would
8 otherwise be destroyed due to age, but to make the
9 records unavailable without a court order, subject to
10 the exceptions in Sections 12 and 13 of this Act. The
11 petitioner's name shall also be obliterated from the
12 official index required to be kept by the circuit court
13 clerk under Section 16 of the Clerks of Courts Act, but
14 any index issued by the circuit court clerk before the
15 entry of the order to seal shall not be affected.

16 (L) "Sexual offense committed against a minor"
17 includes but is not limited to the offenses of indecent
18 solicitation of a child or criminal sexual abuse when
19 the victim of such offense is under 18 years of age.

20 (M) "Terminate" as it relates to a sentence or
21 order of supervision or qualified probation includes
22 either satisfactory or unsatisfactory termination of
23 the sentence, unless otherwise specified in this
24 Section.

25 (2) Minor Traffic Offenses. Orders of supervision or
26 convictions for minor traffic offenses shall not affect a

1 petitioner's eligibility to expunge or seal records
2 pursuant to this Section.

3 (3) Exclusions. Except as otherwise provided in
4 subsections (b) (5), (b) (6), and subsection (e) of this
5 Section, the court shall not order:

6 (A) the sealing or expungement of the records
7 of arrests or charges not initiated by arrest that
8 result in an order of supervision for or conviction of:

9 (i) any sexual offense committed against a minor; (ii)
10 Section 11-501 of the Illinois Vehicle Code or a
11 similar provision of a local ordinance; or (iii)
12 Section 11-503 of the Illinois Vehicle Code or a
13 similar provision of a local ordinance.

14 (B) the sealing or expungement of records of minor
15 traffic offenses (as defined in subsection (a) (1) (G)),
16 unless the petitioner was arrested and released
17 without charging.

18 (C) the sealing of the records of arrests or
19 charges not initiated by arrest which result in an
20 order of supervision, an order of qualified probation
21 (as defined in subsection (a) (1) (J)), or a conviction
22 for the following offenses:

23 (i) offenses included in Article 11 of the
24 Criminal Code of 1961 or a similar provision of a
25 local ordinance, except Section 11-14 of the
26 Criminal Code of 1961 or a similar provision of a

1 local ordinance;

2 (ii) Section 12-15, 12-30, or 26-5 of the
3 Criminal Code of 1961 or a similar provision of a
4 local ordinance;

5 (iii) offenses defined as "crimes of violence"
6 in Section 2 of the Crime Victims Compensation Act
7 or a similar provision of a local ordinance;

8 (iv) offenses which are Class A misdemeanors
9 under the Humane Care for Animals Act; or

10 (v) any offense or attempted offense that
11 would subject a person to registration under the
12 Sex Offender Registration Act.

13 (D) the sealing of the records of an arrest which
14 results in the petitioner being charged with a felony
15 offense or records of a charge not initiated by arrest
16 for a felony offense, regardless of the disposition,
17 unless:

18 (i) the charge is amended to a misdemeanor and
19 is otherwise eligible to be sealed pursuant to
20 subsection (c);

21 (ii) the charge results in first offender
22 probation as set forth in subsection (c)(2)(E); or

23 (iii) the charge is for a Class 4 felony
24 offense listed in subsection (c)(2)(F) or the
25 charge is amended to a Class 4 felony offense
26 listed in subsection (c)(2)(F). Records of arrests

1 which result in the petitioner being charged with a
2 Class 4 felony offense listed in subsection
3 (c)(2)(F), records of charges not initiated by
4 arrest for Class 4 felony offenses listed in
5 subsection (c)(2)(F), and records of charges
6 amended to a Class 4 felony offense listed in
7 (c)(2)(F) may be sealed, regardless of the
8 disposition, subject to any waiting periods set
9 forth in subsection (c)(3).

10 (b) Expungement.

11 (1) A petitioner may petition the circuit court to
12 expunge the records of his or her arrests and charges not
13 initiated by arrest when:

14 (A) He or she has never been convicted of a
15 criminal offense; and

16 (B) Each arrest or charge not initiated by arrest
17 sought to be expunged resulted in: (i) acquittal,
18 dismissal, or the petitioner's release without
19 charging, unless excluded by subsection (a)(3)(B);
20 (ii) a conviction which was vacated or reversed, unless
21 excluded by subsection (a)(3)(B); (iii) an order of
22 supervision and such supervision was successfully
23 completed by the petitioner, unless excluded by
24 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of
25 qualified probation (as defined in subsection
26 (a)(1)(J)) and such probation was successfully

1 completed by the petitioner.

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, 5-401.3, or 11-503 of the Illinois Vehicle
16 Code or a similar provision of a local ordinance,
17 or under Section 12-3.2, 12-15 or 16A-3 of the
18 Criminal Code of 1961, shall not be eligible for
19 expungement until 5 years have passed following
20 the satisfactory termination of the supervision.

21 (ii) Those arrests or charges that resulted in
22 orders of supervision for any other offenses shall
23 not be eligible for expungement until 2 years have
24 passed following the satisfactory termination of
25 the supervision.

26 (C) When the arrest or charge not initiated by

1 arrest sought to be expunged resulted in an order of
2 qualified probation, successfully completed by the
3 petitioner, such records shall not be eligible for
4 expungement until 5 years have passed following the
5 satisfactory termination of the probation.

6 (3) Those records maintained by the Department for
7 persons arrested prior to their 17th birthday shall be
8 expunged as provided in Section 5-915 of the Juvenile Court
9 Act of 1987.

10 (4) Whenever a person has been arrested for or
11 convicted of any offense, in the name of a person whose
12 identity he has stolen or otherwise come into possession
13 of, the aggrieved person from whom the identity was stolen
14 or otherwise obtained without authorization, upon learning
15 of the person having been arrested using his identity, may,
16 upon verified petition to the chief judge of the circuit
17 wherein the arrest was made, have a court order entered
18 nunc pro tunc by the chief judge to correct the arrest
19 record, conviction record, if any, and all official records
20 of the arresting authority, the Department, other criminal
21 justice agencies, the prosecutor, and the trial court
22 concerning such arrest, if any, by removing his name from
23 all such records in connection with the arrest and
24 conviction, if any, and by inserting in the records the
25 name of the offender, if known or ascertainable, in lieu of
26 the aggrieved's name. The records of the clerk of the

1 circuit court clerk shall be sealed until further order of
2 the court upon good cause shown and the name of the
3 aggrieved person obliterated on the official index
4 required to be kept by the circuit court clerk under
5 Section 16 of the Clerks of Courts Act, but the order shall
6 not affect any index issued by the circuit court clerk
7 before the entry of the order. Nothing in this Section
8 shall limit the Department of State Police or other
9 criminal justice agencies or prosecutors from listing
10 under an offender's name the false names he or she has
11 used.

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

1 trial court concerning the offense available for public
2 inspection.

3 (6) If a conviction has been set aside on direct review
4 or on collateral attack and the court determines by clear
5 and convincing evidence that the petitioner was factually
6 innocent of the charge, the court shall enter an
7 expungement order as provided in subsection (b) of Section
8 5-5-4 of the Unified Code of Corrections.

9 (7) Nothing herein shall prevent the Department of
10 State Police from maintaining all records of any person who
11 is admitted to probation upon terms and conditions and who
12 fulfills those terms and conditions pursuant to Section 10
13 of the Cannabis Control Act, Section 410 of the Illinois
14 Controlled Substances Act, Section 70 of the
15 Methamphetamine Control and Community Protection Act,
16 Section 12-4.3 of the Criminal Code of 1961, Section 10-102
17 of the Illinois Alcoholism and Other Drug Dependency Act,
18 Section 40-10 of the Alcoholism and Other Drug Abuse and
19 Dependency Act, or Section 10 of the Steroid Control Act.

20 (c) Sealing.

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

26 (2) Eligible Records. The following records may be

1 sealed:

2 (A) All arrests resulting in release without
3 charging;

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

8 (C) Arrests or charges not initiated by arrest
9 resulting in orders of supervision successfully
10 completed by the petitioner, unless excluded by
11 subsection (a) (3);

12 (D) Arrests or charges not initiated by arrest
13 resulting in convictions unless excluded by subsection
14 (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, or Section 70
19 of the Methamphetamine Control and Community
20 Protection Act; and

21 (F) Arrests or charges not initiated by arrest
22 resulting in Class 4 felony convictions for the
23 following offenses:

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

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

26 (iii) Section 402 of the Illinois Controlled

1 Substances Act;

2 (iv) the Methamphetamine Precursor Control
3 Act; and

4 (v) the Steroid Control Act.

5 (3) When Records Are Eligible to Be Sealed. Records
6 identified as eligible under subsection (c)(2) may be
7 sealed as follows:

8 (A) Records identified as eligible under
9 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
10 time.

11 (B) Records identified as eligible under
12 subsection (c)(2)(C) may be sealed (i) 3 years after
13 the termination of petitioner's last sentence (as
14 defined in subsection (a)(1)(F)) if the petitioner has
15 never been convicted of a criminal offense (as defined
16 in subsection (a)(1)(D)); or (ii) 4 years after the
17 termination of the petitioner's last sentence (as
18 defined in subsection (a)(1)(F)) if the petitioner has
19 ever been convicted of a criminal offense (as defined
20 in subsection (a)(1)(D)).

21 (C) Records identified as eligible under
22 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be
23 sealed 4 years after the termination of the
24 petitioner's last sentence (as defined in subsection
25 (a)(1)(F)).

26 (4) Subsequent felony convictions. A person may not

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

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

13 (d) Procedure. The following procedures apply to
14 expungement under subsections (b) and (e), and sealing under
15 subsection (c):

16 (1) Filing the petition. Upon becoming eligible to
17 petition for the expungement or sealing of records under
18 this Section, the petitioner shall file a petition
19 requesting the expungement or sealing of records with the
20 clerk of the court where the arrests occurred or the
21 charges were brought, or both. If arrests occurred or
22 charges were brought in multiple jurisdictions, a petition
23 must be filed in each such jurisdiction. The petitioner
24 shall pay the applicable fee, if not waived.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

1 birth, current address and, for each arrest or charge not
2 initiated by arrest sought to be sealed or expunged, the
3 case number, the date of arrest (if any), the identity of
4 the arresting authority, and such other information as the
5 court may require. During the pendency of the proceeding,
6 the petitioner shall promptly notify the clerk of the court
7 of any change of his or her address.

8 (3) Drug test. The petitioner must attach to the
9 petition proof that the petitioner has passed a test taken
10 within 30 days before the filing of the petition showing
11 the absence within his or her body of all illegal
12 substances as defined by the Illinois Controlled
13 Substances Act, the Methamphetamine Control and Community
14 Protection Act, and the Cannabis Control Act if he or she
15 is petitioning to seal felony records pursuant to clause
16 (c) (2) (E) or (c) (2) (F) (ii)-(v) or if he or she is
17 petitioning to expunge felony records of a qualified
18 probation pursuant to clause (b) (1) (B) (iv).

19 (4) Service of petition. The clerk of the court shall
20 promptly serve a copy of the petition on the State's
21 Attorney or prosecutor charged with the duty of prosecuting
22 the offense, the Department of State Police, the arresting
23 agency and the chief legal officer of the unit of local
24 government effecting the arrest.

25 (5) Objections.

26 (A) Any party entitled to notice of the petition

1 may file an objection to the petition. All objections
2 shall be in writing, shall be filed with the Clerk of
3 Court, and shall state with specificity the basis of
4 the objection.

5 (B) Objections to petitions to expunge or seal must
6 be filed within 60 days of the date of service of the
7 petition(s).

8 (6) Entry of order.

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

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

22 (7) Hearings. If an objection is filed, the court shall
23 set a date for a hearing and notify the petitioner and all
24 parties entitled to notice of the petition of the hearing
25 date at least 30 days prior to the hearing, and shall hear
26 evidence on whether the petition(s) should or should not be

1 granted, and shall grant or deny the petition(s) to expunge
2 or seal the records based on the evidence presented at the
3 hearing.

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

13 (9) Effect of order.

14 (A) Upon entry of an order to expunge records
15 pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both,

16 (i) the records shall be expunged (as defined
17 in subsection (a) (1) (E)) by the arresting agency,
18 the Department, and any other agency as ordered by
19 the court; and

20 (ii) the records of the clerk of the circuit
21 court shall be impounded until further order of the
22 court 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 (iii) In response to an inquiry for expunged
3 records, the court, the Department, or the agency
4 receiving such inquiry shall reply as it does in
5 response to inquiries when no records ever
6 existed.

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

9 (i) the records shall be expunged (as defined
10 in subsection (a) (1) (E)) by the arresting agency
11 and any other agency as ordered by the court;

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

21 (iii) the records shall be impounded by the
22 Department.

23 (iv) Records impounded by the Department may
24 be disseminated by the Department only to the
25 arresting authority, the State's Attorney, and the
26 court upon a later arrest for the same or a similar

1 offense or for the purpose of sentencing for any
2 subsequent felony, and to the Department of
3 Corrections upon conviction for any offense.

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

10 (C) Upon entry of an order to seal records under
11 subsection (c), the arresting agency, any other agency
12 as ordered by the court, the Department, and the court
13 shall seal the records (as defined in subsection
14 (a) (1) (K)). In response to an inquiry for such records
15 from anyone not authorized by law to access such
16 records the court, the Department, or the agency
17 receiving such inquiry shall reply as it does in
18 response to inquiries when no records ever existed.

19 (10) Fees. The Department may charge the petitioner a
20 fee equivalent to the cost of processing any order to
21 expunge or seal records. Notwithstanding any provision of
22 the Clerks of Courts Act to the contrary, the clerk may
23 charge a fee equivalent to the cost associated with the
24 sealing or expungement of records by the clerk. From the
25 total filing fee collected for the petition to seal or
26 expunge, the clerk shall deposit \$10 into the Circuit Court

1 Clerk Operation and Administrative Fund, to be used to
2 offset the costs incurred by the Circuit Court Clerk in
3 performing the additional duties required to serve the
4 petition to seal or expunge on all parties. The clerk shall
5 collect and forward the Department of State Police portion
6 of the fee to the Department and it shall be deposited in
7 the State Police Services Fund.

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

13 (12) Motion to Vacate, Modify, or Reconsider. The
14 petitioner or any party entitled to notice may file a
15 motion to vacate, modify, or reconsider the order(s)
16 granting or denying the petition(s) to expunge or seal
17 within 60 days of service of the order(s).

18 (13) Void Orders. Any court order to expunge or seal
19 records that is contrary to this Section is void.

20 (e) Whenever a person who has been convicted of an offense
21 is granted a pardon by the Governor which specifically
22 authorizes expungement, he or she may, upon verified petition
23 to the chief judge of the circuit where the person had been
24 convicted, any judge of the circuit designated by the Chief
25 Judge, or in counties of less than 3,000,000 inhabitants, the
26 presiding trial judge at the defendant's trial, may have a

1 court order entered expunging the record of arrest from the
2 official records of the arresting authority and order that the
3 records of the clerk of the circuit court and the Department be
4 sealed until further order of the court upon good cause shown
5 or as otherwise provided herein, and the name of the defendant
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 pardoned but the order
10 shall not affect any index issued by the circuit court clerk
11 before the entry of the order. All records sealed by the
12 Department may be disseminated by the Department only as
13 required by law or to the arresting authority, the State's
14 Attorney, and the court upon a later arrest for the same or
15 similar offense or for the purpose of sentencing for any
16 subsequent felony. Upon conviction for any subsequent offense,
17 the Department of Corrections shall have access to all sealed
18 records of the Department pertaining to that individual. Upon
19 entry of the order of expungement, the clerk of the circuit
20 court shall promptly mail a copy of the order to the person who
21 was pardoned.

22 (f) Subject to available funding, the Illinois Department
23 of Corrections shall conduct a study of the impact of sealing,
24 especially on employment and recidivism rates, utilizing a
25 random sample of those who apply for the sealing of their
26 criminal records under Public Act 93-211. At the request of the

1 Illinois Department of Corrections, records of the Illinois
2 Department of Employment Security shall be utilized as
3 appropriate to assist in the study. The study shall not
4 disclose any data in a manner that would allow the
5 identification of any particular individual or employing unit.
6 The study shall be made available to the General Assembly no
7 later than September 1, 2009.

8 (g) Notwithstanding any other rulemaking authority that
9 may exist, neither the Governor nor any agency or agency head
10 under the jurisdiction of the Governor has any authority to
11 make or promulgate rules to implement or enforce the provisions
12 of this amendatory Act of the 95th General Assembly. If,
13 however, the Governor believes that rules are necessary to
14 implement or enforce the provisions of this amendatory Act of
15 the 95th General Assembly, the Governor may suggest rules to
16 the General Assembly by filing them with the Clerk of the House
17 and the Secretary of the Senate and by requesting that the
18 General Assembly authorize such rulemaking by law, enact those
19 suggested rules into law, or take any other appropriate action
20 in the General Assembly's discretion. Nothing contained in this
21 amendatory Act of the 95th General Assembly shall be
22 interpreted to grant rulemaking authority under any other
23 Illinois statute where such authority is not otherwise
24 explicitly given. For the purposes of this subsection (g),
25 "rules" is given the meaning contained in Section 1-70 of the
26 Illinois Administrative Procedure Act, and "agency" and

1 "agency head" are given the meanings contained in Sections 1-20
2 and 1-25 of the Illinois Administrative Procedure Act to the
3 extent that such definitions apply to agencies or agency heads
4 under the jurisdiction of the Governor.

5 (20 ILCS 2630/13)

6 Sec. 13. Retention and release of sealed records.

7 (a) The Department of State Police shall retain records
8 sealed under subsection (c) ~~(h)~~ of Section 6 ~~5~~ and shall
9 release them only as authorized by this Act. Felony records
10 sealed under subsection (c) ~~(h)~~ of Section 6 ~~5~~ shall be used
11 and disseminated by the Department only as otherwise
12 specifically required or authorized by a federal or State law,
13 rule, or regulation that requires inquiry into and release of
14 criminal records, including, but not limited to, subsection (A)
15 of Section 3 of this Act. However, all requests for records
16 that have been expunged, sealed, and impounded and the use of
17 those records are subject to the provisions of Section 2-103 of
18 the Illinois Human Rights Act. Upon conviction for any offense,
19 the Department of Corrections shall have access to all sealed
20 records of the Department pertaining to that individual.

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

25 (c) The sealed records maintained under subsection (a) are

1 exempt from disclosure under the Freedom of Information Act.

2 (d) The Department of State Police shall commence the
3 sealing of records of felony arrests and felony convictions
4 pursuant to the provisions of subsection (c) ~~(h)~~ of Section 6 ~~5~~
5 of this Act no later than one year from the date that funds
6 have been made available for purposes of establishing the
7 technologies necessary to implement the changes made by this
8 amendatory Act of the 93rd General Assembly.

9 (Source: P.A. 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)