



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2513

Introduced 1/12/2010, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-805
705 ILCS 405/5-915
720 ILCS 5/11-20.4 new

Amends the Juvenile Court Act of 1987 and the Criminal Code of 1961. Provides that a minor shall not knowingly and voluntarily and without threat or coercion use a computer or electronic communication device to transmit an indecent visual depiction of himself or herself to another person. Provides that a person shall not possess a visual depiction transmitted to the person in violation of this provision. Provides that it is not a violation if the person who receives the depiction took reasonable steps, whether successful or not, to destroy or eliminate the visual depiction within a reasonable time after discovering the depiction. Provides that a person 18 years of age or older who violates the provision is guilty of a Class B misdemeanor. Provides that a minor who transmits the indecent visual depiction shall be adjudicated a delinquent minor under the Juvenile Court Act of 1987. Provides that a minor who transmits the indecent visual depiction who has previously been adjudicated for such violation may be either adjudicated a delinquent minor under the Juvenile Court Act of 1987 or subject to discretionary transfer for prosecution under the criminal laws of the State in accordance with the Juvenile Court Act of 1987. Provides for the automatic expungement of the juvenile law enforcement and court records of a minor charged with or adjudicated delinquent for the violation.

LRB096 16890 RLC 32202 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 Juvenile Court Act of 1987 is amended by
5 changing Sections 5-805 and 5-915 as follows:

6 (705 ILCS 405/5-805)

7 Sec. 5-805. Transfer of jurisdiction.

8 (1) Mandatory transfers.

9 (a) If a petition alleges commission by a minor 15
10 years of age or older of an act that constitutes a forcible
11 felony under the laws of this State, and if a motion by the
12 State's Attorney to prosecute the minor under the criminal
13 laws of Illinois for the alleged forcible felony alleges
14 that (i) the minor has previously been adjudicated
15 delinquent or found guilty for commission of an act that
16 constitutes a felony under the laws of this State or any
17 other state and (ii) the act that constitutes the offense
18 was committed in furtherance of criminal activity by an
19 organized gang, the Juvenile Judge assigned to hear and
20 determine those motions shall, upon determining that there
21 is probable cause that both allegations are true, enter an
22 order permitting prosecution under the criminal laws of
23 Illinois.

1 (b) If a petition alleges commission by a minor 15
2 years of age or older of an act that constitutes a felony
3 under the laws of this State, and if a motion by a State's
4 Attorney to prosecute the minor under the criminal laws of
5 Illinois for the alleged felony alleges that (i) the minor
6 has previously been adjudicated delinquent or found guilty
7 for commission of an act that constitutes a forcible felony
8 under the laws of this State or any other state and (ii)
9 the act that constitutes the offense was committed in
10 furtherance of criminal activities by an organized gang,
11 the Juvenile Judge assigned to hear and determine those
12 motions shall, upon determining that there is probable
13 cause that both allegations are true, enter an order
14 permitting prosecution under the criminal laws of
15 Illinois.

16 (c) If a petition alleges commission by a minor 15
17 years of age or older of: (i) an act that constitutes an
18 offense enumerated in the presumptive transfer provisions
19 of subsection (2); and (ii) the minor has previously been
20 adjudicated delinquent or found guilty of a forcible
21 felony, the Juvenile Judge designated to hear and determine
22 those motions shall, upon determining that there is
23 probable cause that both allegations are true, enter an
24 order permitting prosecution under the criminal laws of
25 Illinois.

26 (d) If a petition alleges commission by a minor 15

1 years of age or older of an act that constitutes the
2 offense of aggravated discharge of a firearm committed in a
3 school, on the real property comprising a school, within
4 1,000 feet of the real property comprising a school, at a
5 school related activity, or on, boarding, or departing from
6 any conveyance owned, leased, or contracted by a school or
7 school district to transport students to or from school or
8 a school related activity, regardless of the time of day or
9 the time of year, the juvenile judge designated to hear and
10 determine those motions shall, upon determining that there
11 is probable cause that the allegations are true, enter an
12 order permitting prosecution under the criminal laws of
13 Illinois.

14 For purposes of this paragraph (d) of subsection (1):

15 "School" means a public or private elementary or
16 secondary school, community college, college, or
17 university.

18 "School related activity" means any sporting, social,
19 academic, or other activity for which students' attendance
20 or participation is sponsored, organized, or funded in
21 whole or in part by a school or school district.

22 (2) Presumptive transfer.

23 (a) If the State's Attorney files a petition, at any
24 time prior to commencement of the minor's trial, to permit
25 prosecution under the criminal laws and the petition
26 alleges the commission by a minor 15 years of age or older

1 of: (i) a Class X felony other than armed violence; (ii)
2 aggravated discharge of a firearm; (iii) armed violence
3 with a firearm when the predicate offense is a Class 1 or
4 Class 2 felony and the State's Attorney's motion to
5 transfer the case alleges that the offense committed is in
6 furtherance of the criminal activities of an organized
7 gang; (iv) armed violence with a firearm when the predicate
8 offense is a violation of the Illinois Controlled
9 Substances Act, a violation of the Cannabis Control Act, or
10 a violation of the Methamphetamine Control and Community
11 Protection Act; (v) armed violence when the weapon involved
12 was a machine gun or other weapon described in subsection
13 (a)(7) of Section 24-1 of the Criminal Code of 1961; (vi)
14 an act in violation of Section 401 of the Illinois
15 Controlled Substances Act which is a Class X felony, while
16 in a school, regardless of the time of day or the time of
17 year, or on any conveyance owned, leased, or contracted by
18 a school to transport students to or from school or a
19 school related activity, or on residential property owned,
20 operated, or managed by a public housing agency or leased
21 by a public housing agency as part of a scattered site or
22 mixed-income development; or (vii) an act in violation of
23 Section 401 of the Illinois Controlled Substances Act and
24 the offense is alleged to have occurred while in a school
25 or on a public way within 1,000 feet of the real property
26 comprising any school, regardless of the time of day or the

1 time of year when the delivery or intended delivery of any
2 amount of the controlled substance is to a person under 17
3 years of age, (to qualify for a presumptive transfer under
4 paragraph (vi) or (vii) of this clause (2)(a), the
5 violation cannot be based upon subsection (b) of Section
6 407 of the Illinois Controlled Substances Act) and, if the
7 juvenile judge assigned to hear and determine motions to
8 transfer a case for prosecution in the criminal court
9 determines that there is probable cause to believe that the
10 allegations in the petition and motion are true, there is a
11 rebuttable presumption that the minor is not a fit and
12 proper subject to be dealt with under the Juvenile Justice
13 Reform Provisions of 1998 (Public Act 90-590), and that,
14 except as provided in paragraph (b), the case should be
15 transferred to the criminal court.

16 (b) The judge shall enter an order permitting
17 prosecution under the criminal laws of Illinois unless the
18 judge makes a finding based on clear and convincing
19 evidence that the minor would be amenable to the care,
20 treatment, and training programs available through the
21 facilities of the juvenile court based on an evaluation of
22 the following:

23 (i) the age of the minor;

24 (ii) the history of the minor, including:

25 (A) any previous delinquent or criminal
26 history of the minor,

1 (B) any previous abuse or neglect history of
2 the minor, and

3 (C) any mental health, physical or educational
4 history of the minor or combination of these
5 factors;

6 (iii) the circumstances of the offense, including:

7 (A) the seriousness of the offense,

8 (B) whether the minor is charged through
9 accountability,

10 (C) whether there is evidence the offense was
11 committed in an aggressive and premeditated
12 manner,

13 (D) whether there is evidence the offense
14 caused serious bodily harm,

15 (E) whether there is evidence the minor
16 possessed a deadly weapon;

17 (iv) the advantages of treatment within the
18 juvenile justice system including whether there are
19 facilities or programs, or both, particularly
20 available in the juvenile system;

21 (v) whether the security of the public requires
22 sentencing under Chapter V of the Unified Code of
23 Corrections:

24 (A) the minor's history of services, including
25 the minor's willingness to participate
26 meaningfully in available services;

1 (B) whether there is a reasonable likelihood
2 that the minor can be rehabilitated before the
3 expiration of the juvenile court's jurisdiction;

4 (C) the adequacy of the punishment or
5 services.

6 In considering these factors, the court shall give
7 greater weight to the seriousness of the alleged offense
8 and the minor's prior record of delinquency than to the
9 other factors listed in this subsection.

10 For purposes of clauses (2) (a) (vi) and (vii):

11 "School" means a public or private elementary or secondary
12 school, community college, college, or university.

13 "School related activity" means any sporting, social,
14 academic, or other activity for which students' attendance or
15 participation is sponsored, organized, or funded in whole or in
16 part by a school or school district.

17 (3) Discretionary transfer.

18 (a) If a petition alleges commission by a minor 13
19 years of age or over of an act that constitutes a crime
20 under the laws of this State and, on motion of the State's
21 Attorney to permit prosecution of the minor under the
22 criminal laws, a Juvenile Judge assigned by the Chief Judge
23 of the Circuit to hear and determine those motions, after
24 hearing but before commencement of the trial, finds that
25 there is probable cause to believe that the allegations in
26 the motion are true and that it is not in the best

1 interests of the public to proceed under this Act, the
2 court may enter an order permitting prosecution under the
3 criminal laws.

4 (b) In making its determination on the motion to permit
5 prosecution under the criminal laws, the court shall
6 consider among other matters:

7 (i) the age of the minor;

8 (ii) the history of the minor, including:

9 (A) any previous delinquent or criminal
10 history of the minor,

11 (B) any previous abuse or neglect history of
12 the minor, and

13 (C) any mental health, physical, or
14 educational history of the minor or combination of
15 these factors;

16 (iii) the circumstances of the offense, including:

17 (A) the seriousness of the offense,

18 (B) whether the minor is charged through
19 accountability,

20 (C) whether there is evidence the offense was
21 committed in an aggressive and premeditated
22 manner,

23 (D) whether there is evidence the offense
24 caused serious bodily harm,

25 (E) whether there is evidence the minor
26 possessed a deadly weapon;

1 (iv) the advantages of treatment within the
2 juvenile justice system including whether there are
3 facilities or programs, or both, particularly
4 available in the juvenile system;

5 (v) whether the security of the public requires
6 sentencing under Chapter V of the Unified Code of
7 Corrections:

8 (A) the minor's history of services, including
9 the minor's willingness to participate
10 meaningfully in available services;

11 (B) whether there is a reasonable likelihood
12 that the minor can be rehabilitated before the
13 expiration of the juvenile court's jurisdiction;

14 (C) the adequacy of the punishment or
15 services.

16 In considering these factors, the court shall give
17 greater weight to the seriousness of the alleged offense
18 and the minor's prior record of delinquency than to the
19 other factors listed in this subsection.

20 (4) The rules of evidence for this hearing shall be the
21 same as under Section 5-705 of this Act. A minor must be
22 represented in court by counsel before the hearing may be
23 commenced.

24 (5) If criminal proceedings are instituted, the petition
25 for adjudication of wardship shall be dismissed insofar as the
26 act or acts involved in the criminal proceedings. Taking of

1 evidence in a trial on petition for adjudication of wardship is
2 a bar to criminal proceedings based upon the conduct alleged in
3 the petition.

4 (6) The jurisdiction of the Juvenile Court for the
5 prosecution of an alleged violation of subsection (b) of
6 Section 11-20.4 of the Criminal Code of 1961 shall be
7 determined as provided in that Section.

8 (Source: P.A. 94-556, eff. 9-11-05; 94-574, eff. 8-12-05;
9 95-331, eff. 8-21-07.)

10 (705 ILCS 405/5-915)

11 Sec. 5-915. Expungement of juvenile law enforcement and
12 court records.

13 (0.05) For purposes of this Section and Section 5-622:

14 "Expunge" means to physically destroy the records and
15 to obliterate the minor's name from any official index or
16 public record, or both. Nothing in this Act shall require
17 the physical destruction of the internal office records,
18 files, or databases maintained by a State's Attorney's
19 Office or other prosecutor.

20 "Law enforcement record" includes but is not limited to
21 records of arrest, station adjustments, fingerprints,
22 probation adjustments, the issuance of a notice to appear,
23 or any other records maintained by a law enforcement agency
24 relating to a minor suspected of committing an offense.

25 (1) Whenever any person has attained the age of 17 or

1 whenever all juvenile court proceedings relating to that person
2 have been terminated, whichever is later, the person may
3 petition the court to expunge law enforcement records relating
4 to incidents occurring before his or her 17th birthday or his
5 or her juvenile court records, or both, but only in the
6 following circumstances:

7 (a) the minor was arrested and no petition for
8 delinquency was filed with the clerk of the circuit court;
9 or

10 (b) the minor was charged with an offense and was found
11 not delinquent of that offense; or

12 (c) the minor was placed under supervision pursuant to
13 Section 5-615, and the order of supervision has since been
14 successfully terminated; or

15 (d) the minor was adjudicated for an offense which
16 would be a Class B misdemeanor, Class C misdemeanor, or a
17 petty or business offense if committed by an adult.

18 (2) Any person may petition the court to expunge all law
19 enforcement records relating to any incidents occurring before
20 his or her 17th birthday which did not result in proceedings in
21 criminal court and all juvenile court records with respect to
22 any adjudications except those based upon first degree murder
23 and sex offenses which would be felonies if committed by an
24 adult, if the person for whom expungement is sought has had no
25 convictions for any crime since his or her 17th birthday and:

26 (a) has attained the age of 21 years; or

1 (b) 5 years have elapsed since all juvenile court
2 proceedings relating to him or her have been terminated or
3 his or her commitment to the Department of Juvenile Justice
4 pursuant to this Act has been terminated;

5 whichever is later of (a) or (b). Nothing in this Section 5-915
6 precludes a minor from obtaining expungement under Section
7 5-622.

8 (2.5) If a minor is arrested and no petition for
9 delinquency is filed with the clerk of the circuit court as
10 provided in paragraph (a) of subsection (1) at the time the
11 minor is released from custody, the youth officer, if
12 applicable, or other designated person from the arresting
13 agency, shall notify verbally and in writing to the minor or
14 the minor's parents or guardians that if the State's Attorney
15 does not file a petition for delinquency, the minor has a right
16 to petition to have his or her arrest record expunged when the
17 minor attains the age of 17 or when all juvenile court
18 proceedings relating to that minor have been terminated and
19 that unless a petition to expunge is filed, the minor shall
20 have an arrest record and shall provide the minor and the
21 minor's parents or guardians with an expungement information
22 packet, including a petition to expunge juvenile records
23 obtained from the clerk of the circuit court.

24 (2.6) If a minor is charged with an offense and is found
25 not delinquent of that offense; or if a minor is placed under
26 supervision under Section 5-615, and the order of supervision

1 is successfully terminated; or if a minor is adjudicated for an
2 offense that would be a Class B misdemeanor, a Class C
3 misdemeanor, or a business or petty offense if committed by an
4 adult; or if a minor has incidents occurring before his or her
5 17th birthday that have not resulted in proceedings in criminal
6 court, or resulted in proceedings in juvenile court, and the
7 adjudications were not based upon first degree murder or sex
8 offenses that would be felonies if committed by an adult; then
9 at the time of sentencing or dismissal of the case, the judge
10 shall inform the delinquent minor of his or her right to
11 petition for expungement as provided by law, and the clerk of
12 the circuit court shall provide an expungement information
13 packet to the delinquent minor, written in plain language,
14 including a petition for expungement, a sample of a completed
15 petition, expungement instructions that shall include
16 information informing the minor that (i) once the case is
17 expunged, it shall be treated as if it never occurred, (ii) he
18 or she may apply to have petition fees waived, (iii) once he or
19 she obtains an expungement, he or she may not be required to
20 disclose that he or she had a juvenile record, and (iv) he or
21 she may file the petition on his or her own or with the
22 assistance of an attorney. The failure of the judge to inform
23 the delinquent minor of his or her right to petition for
24 expungement as provided by law does not create a substantive
25 right, nor is that failure grounds for: (i) a reversal of an
26 adjudication of delinquency, (ii) a new trial; or (iii) an

1 appeal.

2 (2.7) For counties with a population over 3,000,000, the
3 clerk of the circuit court shall send a "Notification of a
4 Possible Right to Expungement" post card to the minor at the
5 address last received by the clerk of the circuit court on the
6 date that the minor attains the age of 17 based on the
7 birthdate provided to the court by the minor or his or her
8 guardian in cases under paragraphs (b), (c), and (d) of
9 subsection (1); and when the minor attains the age of 21 based
10 on the birthdate provided to the court by the minor or his or
11 her guardian in cases under subsection (2).

12 (2.8) The petition for expungement for subsection (1) shall
13 be substantially in the following form:

14 IN THE CIRCUIT COURT OF, ILLINOIS
15 JUDICIAL CIRCUIT

16 IN THE INTEREST OF) NO.
17)
18)
19)
20 (Name of Petitioner)

21 PETITION TO EXPUNGE JUVENILE RECORDS
22 (705 ILCS 405/5-915 (SUBSECTION 1))

23 (Please prepare a separate petition for each offense)

24 Now comes, petitioner, and respectfully requests

1 that this Honorable Court enter an order expunging all juvenile
 2 law enforcement and court records of petitioner and in support
 3 thereof states that: Petitioner has attained the age of 17,
 4 his/her birth date being, or all Juvenile Court
 5 proceedings terminated as of, whichever occurred later.
 6 Petitioner was arrested on by the Police
 7 Department for the offense of, and:

8 (Check One:)

9 () a. no petition was filed with the Clerk of the Circuit
 10 Court.

11 () b. was charged with and was found not delinquent of
 12 the offense.

13 () c. a petition was filed and the petition was dismissed
 14 without a finding of delinquency on

15 () d. on placed under supervision pursuant to Section
 16 5-615 of the Juvenile Court Act of 1987 and such order of
 17 supervision successfully terminated on

18 () e. was adjudicated for the offense, which would have been a
 19 Class B misdemeanor, a Class C misdemeanor, or a petty offense
 20 or business offense if committed by an adult.

21 Petitioner has has not been arrested on charges in
 22 this or any county other than the charges listed above. If
 23 petitioner has been arrested on additional charges, please list
 24 the charges below:

25 Charge(s):

26 Arresting Agency or Agencies:

1 Disposition/Result: (choose from a. through e., above):

2 WHEREFORE, the petitioner respectfully requests this Honorable
3 Court to (1) order all law enforcement agencies to expunge all
4 records of petitioner to this incident, and (2) to order the
5 Clerk of the Court to expunge all records concerning the
6 petitioner regarding this incident.

7

8 Petitioner (Signature)

9

10 Petitioner's Street Address

11

12 City, State, Zip Code

13

14 Petitioner's Telephone Number

15 Pursuant to the penalties of perjury under the Code of Civil
16 Procedure, 735 ILCS 5/1-109, I hereby certify that the
17 statements in this petition are true and correct, or on
18 information and belief I believe the same to be true.

19

20 Petitioner (Signature)

1 The Petition for Expungement for subsection (2) shall be
2 substantially in the following form:

3 IN THE CIRCUIT COURT OF, ILLINOIS
4 JUDICIAL CIRCUIT

5 IN THE INTEREST OF) NO.
6)
7)
8)
9 (Name of Petitioner)

10 PETITION TO EXPUNGE JUVENILE RECORDS
11 (705 ILCS 405/5-915 (SUBSECTION 2))

12 (Please prepare a separate petition for each offense)

13 Now comes, petitioner, and respectfully requests
14 that this Honorable Court enter an order expunging all Juvenile
15 Law Enforcement and Court records of petitioner and in support
16 thereof states that:

17 The incident for which the Petitioner seeks expungement
18 occurred before the Petitioner's 17th birthday and did not
19 result in proceedings in criminal court and the Petitioner has
20 not had any convictions for any crime since his/her 17th
21 birthday; and

22 The incident for which the Petitioner seeks expungement
23 occurred before the Petitioner's 17th birthday and the

1 adjudication was not based upon first-degree murder or sex
2 offenses which would be felonies if committed by an adult, and
3 the Petitioner has not had any convictions for any crime since
4 his/her 17th birthday.

5 Petitioner was arrested on by the Police
6 Department for the offense of, and:

7 (Check whichever one occurred the latest:)

8 () a. The Petitioner has attained the age of 21 years, his/her
9 birthday being

10 () b. 5 years have elapsed since all juvenile court
11 proceedings relating to the Petitioner have been terminated; or
12 the Petitioner's commitment to the Department of Juvenile
13 Justice pursuant to the expungement of juvenile law enforcement
14 and court records provisions of the Juvenile Court Act of 1987
15 has been terminated. Petitioner ...has ...has not been arrested
16 on charges in this or any other county other than the charge
17 listed above. If petitioner has been arrested on additional
18 charges, please list the charges below:

19 Charge(s):

20 Arresting Agency or Agencies:

21 Disposition/Result: (choose from a or b, above):

22 WHEREFORE, the petitioner respectfully requests this Honorable
23 Court to (1) order all law enforcement agencies to expunge all
24 records of petitioner related to this incident, and (2) to
25 order the Clerk of the Court to expunge all records concerning
26 the petitioner regarding this incident.

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4 Petitioner (Signature)

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7 Petitioner's Street Address

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10 City, State, Zip Code

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13 Petitioner's Telephone Number

14 Pursuant to the penalties of perjury under the Code of Civil
15 Procedure, 735 ILCS 5/1-109, I hereby certify that the
16 statements in this petition are true and correct, or on
17 information and belief I believe the same to be true.

18
19

20 Petitioner (Signature)

21 (3) The chief judge of the circuit in which an arrest was
22 made or a charge was brought or any judge of that circuit
designated by the chief judge may, upon verified petition of a
person who is the subject of an arrest or a juvenile court
proceeding under subsection (1) or (2) of this Section, order
the law enforcement records or official court file, or both, to
be expunged from the official records of the arresting
authority, the clerk of the circuit court and the Department of

1 State Police. The person whose records are to be expunged shall
2 petition the court using the appropriate form containing his or
3 her current address and shall promptly notify the clerk of the
4 circuit court of any change of address. Notice of the petition
5 shall be served upon the State's Attorney or prosecutor charged
6 with the duty of prosecuting the offense, the Department of
7 State Police, and the arresting agency or agencies by the clerk
8 of the circuit court. If an objection is filed within 45 days
9 of the notice of the petition, the clerk of the circuit court
10 shall set a date for hearing after the 45 day objection period.
11 At the hearing the court shall hear evidence on whether the
12 expungement should or should not be granted. Unless the State's
13 Attorney or prosecutor, the Department of State Police, or an
14 arresting agency objects to the expungement within 45 days of
15 the notice, the court may enter an order granting expungement.
16 The person whose records are to be expunged shall pay the clerk
17 of the circuit court a fee equivalent to the cost associated
18 with expungement of records by the clerk and the Department of
19 State Police. The clerk shall forward a certified copy of the
20 order to the Department of State Police, the appropriate
21 portion of the fee to the Department of State Police for
22 processing, and deliver a certified copy of the order to the
23 arresting agency.

24 (3.1) The Notice of Expungement shall be in substantially
25 the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

1 a Petition to Expunge Juvenile records in the above-entitled
2 matter, at which time and place you may appear.

3
4 Petitioner's Signature
5
6 Petitioner's Street Address
7
8 City, State, Zip Code
9
10 Petitioner's Telephone Number

11 PROOF OF SERVICE

12 On the day of, 20..., I on oath state that I
13 served this notice and true and correct copies of the
14 above-checked documents by:

15 (Check One:)
16 delivering copies personally to each entity to whom they are
17 directed;
18 or
19 by mailing copies to each entity to whom they are directed by
20 depositing the same in the U.S. Mail, proper postage fully
21 prepaid, before the hour of 5:00 p.m., at the United States
22 Postal Depository located at

23

24
25 Signature

26 Clerk of the Circuit Court or Deputy Clerk

1 Printed Name of Delinquent Minor/Petitioner:

2 Address:

3 Telephone Number:

4 (3.2) The Order of Expungement shall be in substantially
5 the following form:

6 IN THE CIRCUIT COURT OF, ILLINOIS
7 JUDICIAL CIRCUIT

8 IN THE INTEREST OF) NO.

9)

10)

11)

12 (Name of Petitioner)

13 DOB

14 Arresting Agency/Agencies

15 ORDER OF EXPUNGEMENT

16 (705 ILCS 405/5-915 (SUBSECTION 3))

17 This matter having been heard on the petitioner's motion and
18 the court being fully advised in the premises does find that
19 the petitioner is indigent or has presented reasonable cause to
20 waive all costs in this matter, IT IS HEREBY ORDERED that:

21 () 1. Clerk of Court and Department of State Police costs
22 are hereby waived in this matter.

23 () 2. The Illinois State Police Bureau of Identification
24 and the following law enforcement agencies expunge all records

1 of petitioner relating to an arrest dated for the
2 offense of

3 Law Enforcement Agencies:
4
5

6 () 3. IT IS FURTHER ORDERED that the Clerk of the Circuit
7 Court expunge all records regarding the above-captioned case.

8 ENTER:

9

10 JUDGE

11 DATED:

12 Name:

13 Attorney for:

14 Address: City/State/Zip:

15 Attorney Number:

16 (3.3) The Notice of Objection shall be in substantially the
17 following form:

18 IN THE CIRCUIT COURT OF, ILLINOIS
19 JUDICIAL CIRCUIT

20 IN THE INTEREST OF) NO.

21)

22)

23)

24 (Name of Petitioner)

NOTICE OF OBJECTION

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TO:(Attorney, Public Defender, Minor)

.....

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TO:(Illinois State Police)

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.....

TO:(Clerk of the Court)

.....

.....

TO:(Judge)

.....

.....

TO:(Arresting Agency/Agencies)

.....

.....

ATTENTION: You are hereby notified that an objection has been filed by the following entity regarding the above-named minor's petition for expungement of juvenile records:

- () State's Attorney's Office;
- () Prosecutor (other than State's Attorney's Office) charged with the duty of prosecuting the offense sought to be expunged;
- () Department of Illinois State Police; or
- () Arresting Agency or Agencies.

The agency checked above respectfully requests that this case be continued and set for hearing on whether the expungement

1 should or should not be granted.

2 DATED:

3 Name:

4 Attorney For:

5 Address:

6 City/State/Zip:

7 Telephone:

8 Attorney No.:

9 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

10 This matter has been set for hearing on the foregoing
11 objection, on in room, located at, before the
12 Honorable, Judge, or any judge sitting in his/her stead.
13 (Only one hearing shall be set, regardless of the number of
14 Notices of Objection received on the same case).

15 A copy of this completed Notice of Objection containing the
16 court date, time, and location, has been sent via regular U.S.
17 Mail to the following entities. (If more than one Notice of
18 Objection is received on the same case, each one must be
19 completed with the court date, time and location and mailed to
20 the following entities):

21 () Attorney, Public Defender or Minor;

22 () State's Attorney's Office;

23 () Prosecutor (other than State's Attorney's Office) charged
24 with the duty of prosecuting the offense sought to be expunged;

25 () Department of Illinois State Police; and

26 () Arresting agency or agencies.

1 Date:

2 Initials of Clerk completing this section:

3 (4) Upon entry of an order expunging records or files, the
4 offense, which the records or files concern shall be treated as
5 if it never occurred. Law enforcement officers and other public
6 offices and agencies shall properly reply on inquiry that no
7 record or file exists with respect to the person.

8 (5) Records which have not been expunged are sealed, and
9 may be obtained only under the provisions of Sections 5-901,
10 5-905 and 5-915.

11 (6) Nothing in this Section shall be construed to prohibit
12 the maintenance of information relating to an offense after
13 records or files concerning the offense have been expunged if
14 the information is kept in a manner that does not enable
15 identification of the offender. This information may only be
16 used for statistical and bona fide research purposes.

17 (7)(a) The State Appellate Defender shall establish,
18 maintain, and carry out, by December 31, 2004, a juvenile
19 expungement program to provide information and assistance to
20 minors eligible to have their juvenile records expunged.

21 (b) The State Appellate Defender shall develop brochures,
22 pamphlets, and other materials in printed form and through the
23 agency's World Wide Web site. The pamphlets and other materials
24 shall include at a minimum the following information:

25 (i) An explanation of the State's juvenile expungement
26 process;

1 (ii) The circumstances under which juvenile
2 expungement may occur;

3 (iii) The juvenile offenses that may be expunged;

4 (iv) The steps necessary to initiate and complete the
5 juvenile expungement process; and

6 (v) Directions on how to contact the State Appellate
7 Defender.

8 (c) The State Appellate Defender shall establish and
9 maintain a statewide toll-free telephone number that a person
10 may use to receive information or assistance concerning the
11 expungement of juvenile records. The State Appellate Defender
12 shall advertise the toll-free telephone number statewide. The
13 State Appellate Defender shall develop an expungement
14 information packet that may be sent to eligible persons seeking
15 expungement of their juvenile records, which may include, but
16 is not limited to, a pre-printed expungement petition with
17 instructions on how to complete the petition and a pamphlet
18 containing information that would assist individuals through
19 the juvenile expungement process.

20 (d) The State Appellate Defender shall compile a statewide
21 list of volunteer attorneys willing to assist eligible
22 individuals through the juvenile expungement process.

23 (e) This Section shall be implemented from funds
24 appropriated by the General Assembly to the State Appellate
25 Defender for this purpose. The State Appellate Defender shall
26 employ the necessary staff and adopt the necessary rules for

1 implementation of this Section.

2 (8) (a) Except with respect to law enforcement agencies, the
3 Department of Corrections, State's Attorneys, or other
4 prosecutors, an expunged juvenile record may not be considered
5 by any private or public entity in employment matters,
6 certification, licensing, revocation of certification or
7 licensure, or registration. Applications for employment must
8 contain specific language that states that the applicant is not
9 obligated to disclose expunged juvenile records of conviction
10 or arrest. Employers may not ask if an applicant has had a
11 juvenile record expunged. Effective January 1, 2005, the
12 Department of Labor shall develop a link on the Department's
13 website to inform employers that employers may not ask if an
14 applicant had a juvenile record expunged and that application
15 for employment must contain specific language that states that
16 the applicant is not obligated to disclose expunged juvenile
17 records of arrest or conviction.

18 (b) A person whose juvenile records have been expunged is
19 not entitled to remission of any fines, costs, or other money
20 paid as a consequence of expungement. This amendatory Act of
21 the 93rd General Assembly does not affect the right of the
22 victim of a crime to prosecute or defend a civil action for
23 damages.

24 (c) The expungement of juvenile records under Section 5-622
25 shall be funded by the additional fine imposed under Section
26 5-9-1.17 of the Unified Code of Corrections and additional

1 appropriations made by the General Assembly for such purpose.

2 (d) The clerk of the court shall automatically expunge
3 juvenile law enforcement and court records of a minor charged
4 with or adjudicated delinquent for a violation of Section
5 11-20.4 of the Criminal Code of 1961 upon the minor attaining
6 18 years of age.

7 (Source: P.A. 95-861, eff. 1-1-09; 96-707, eff. 1-1-10.)

8 Section 10. The Criminal Code of 1961 is amended by adding
9 Section 11-20.4 as follows:

10 (720 ILCS 5/11-20.4 new)

11 Sec. 11-20.4. Minor electronically disseminating indecent
12 visual depiction of himself or herself to another person.

13 (a) For the purposes of this Section:

14 "Computer" has the meaning ascribed to it in Section
15 16D-2 of this Code.

16 "Electronic communication device" means an electronic
17 device, including but not limited to a wireless telephone,
18 personal digital assistant, or a portable or mobile
19 computer, that is capable of transmitting images or
20 pictures.

21 "Indecent visual depiction" means the depiction of the
22 unclothed or transparently clothed genitals, pubic area,
23 buttocks, or, if the person is female, a fully or partially
24 developed breast of the person.

1 "Minor" means a person under 18 years of age.

2 (b) A minor shall not knowingly and voluntarily and without
3 threat or coercion use a computer or electronic communication
4 device to transmit an indecent visual depiction of himself or
5 herself to another person.

6 (c) A person shall not possess a visual depiction
7 transmitted to the person in violation of subsection (b) of
8 this Section. It is not a violation of this subsection (c) if
9 the person took reasonable steps, whether successful or not, to
10 destroy or eliminate the visual depiction within a reasonable
11 time after discovering the depiction.

12 (d) Sentence.

13 (1) A person 18 years of age or older who violates
14 subsection (c) of this Section is guilty of a Class B
15 misdemeanor.

16 (2) Except as provided in paragraph (3) of this
17 subsection (d), a minor who violates subsection (b) of this
18 Section shall be adjudicated a delinquent minor under the
19 Juvenile Court Act of 1987.

20 (3) A minor who violates subsection (b) of this Section
21 who has previously been adjudicated in violation of that
22 subsection may be either adjudicated a delinquent minor
23 under the Juvenile Court Act of 1987 or subject to
24 discretionary transfer for prosecution under the criminal
25 laws of this State in accordance with subsection (3) of
26 Section 5-805 of that Act.

1 (e) This Section shall not be construed to prohibit a
2 prosecution for disorderly conduct, public indecency, child
3 pornography, a violation of the Harassing and Obscene
4 Communications Act, or any other applicable provision of law.

5