



Rep. Elizabeth Hernandez

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LRB097 06597 RLC 67268 a

1 AMENDMENT TO HOUSE BILL 1245

2 AMENDMENT NO. _____. Amend House Bill 1245 on page 1, by
3 inserting immediately below line 3 the following:

4 "Section 3. The Criminal Identification Act is amended by
5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

23 (E-5) "Gang member" and "gang-related" have the
24 meanings ascribed to those terms in Section 10 of the
25 Illinois Streetgang Terrorism Omnibus Prevention Act.

26 (F) As used in this Section, "last sentence" means

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

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

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

23 (I) "Petitioner" means an adult or a minor
24 prosecuted as an adult who has applied for relief under
25 this Section.

26 (J) "Qualified probation" means an order of

1 probation under Section 10 of the Cannabis Control Act,
2 Section 410 of the Illinois Controlled Substances Act,
3 Section 70 of the Methamphetamine Control and
4 Community Protection Act, Section 12-4.3(b)(1) and (2)
5 of the Criminal Code of 1961 (as those provisions
6 existed before their deletion by Public Act 89-313),
7 Section 10-102 of the Illinois Alcoholism and Other
8 Drug Dependency Act, Section 40-10 of the Alcoholism
9 and Other Drug Abuse and Dependency Act, or Section 10
10 of the Steroid Control Act. For the purpose of this
11 Section, "successful completion" of an order of
12 qualified probation under Section 10-102 of the
13 Illinois Alcoholism and Other Drug Dependency Act and
14 Section 40-10 of the Alcoholism and Other Drug Abuse
15 and Dependency Act means that the probation was
16 terminated satisfactorily and the judgment of
17 conviction was vacated.

18 (K) "Seal" means to physically and electronically
19 maintain the records, unless the records would
20 otherwise be destroyed due to age, but to make the
21 records unavailable without a court order, subject to
22 the exceptions in Sections 12 and 13 of this Act. The
23 petitioner's name shall also be obliterated from the
24 official index required to be kept by the circuit court
25 clerk under Section 16 of the Clerks of Courts Act, but
26 any index issued by the circuit court clerk before the

1 entry of the order to seal shall not be affected.

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

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

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

15 (3) Exclusions. Except as otherwise provided in
16 subsections (b) (5), (b) (6), (c) (2) (G), and (e) of this
17 Section, the court shall not order:

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

26 (B) the sealing or expungement of records of minor

1 traffic offenses (as defined in subsection (a)(1)(G)),
2 unless the petitioner was arrested and released
3 without charging.

4 (C) the sealing of the records of arrests or
5 charges not initiated by arrest which result in an
6 order of supervision, an order of qualified probation
7 (as defined in subsection (a)(1)(J)), or a conviction
8 for the following offenses:

9 (i) offenses included in Article 11 of the
10 Criminal Code of 1961 or a similar provision of a
11 local ordinance, except Section 11-14 of the
12 Criminal Code of 1961 or a similar provision of a
13 local ordinance;

14 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30, or
15 26-5 of the Criminal Code of 1961 or a similar
16 provision of a local ordinance;

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

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

22 (v) any offense or attempted offense that
23 would subject a person to registration under the
24 Sex Offender Registration Act.

25 (D) the sealing of the records of an arrest which
26 results in the petitioner being charged with a felony

1 offense or records of a charge not initiated by arrest
2 for a felony offense unless:

3 (i) the charge is amended to a misdemeanor and
4 is otherwise eligible to be sealed pursuant to
5 subsection (c);

6 (ii) the charge is brought along with another
7 charge as a part of one case and the charge results
8 in acquittal, dismissal, or conviction when the
9 conviction was reversed or vacated, and another
10 charge brought in the same case results in a
11 disposition for a misdemeanor offense that is
12 eligible to be sealed pursuant to subsection (c) or
13 a disposition listed in paragraph (i), (iii), or
14 (iv) of this subsection;

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

17 (iv) the charge is for a Class 4 felony offense
18 listed in subsection (c) (2) (F) or the charge is
19 amended to a Class 4 felony offense listed in
20 subsection (c) (2) (F). Records of arrests which
21 result in the petitioner being charged with a Class
22 4 felony offense listed in subsection (c) (2) (F),
23 records of charges not initiated by arrest for
24 Class 4 felony offenses listed in subsection
25 (c) (2) (F), and records of charges amended to a
26 Class 4 felony offense listed in (c) (2) (F) may be

1 sealed, regardless of the disposition, subject to
2 any waiting periods set forth in subsection
3 (c) (3);

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

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

9 (b) Expungement.

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

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

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

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

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

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

12 (i) Those arrests or charges that resulted in
13 orders of supervision under Section 3-707, 3-708,
14 3-710, or 5-401.3 of the Illinois Vehicle Code or a
15 similar provision of a local ordinance, or under
16 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
17 Code of 1961 or a similar provision of a local
18 ordinance, shall not be eligible for expungement
19 until 5 years have passed following the
20 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 or she has stolen or otherwise come into
13 possession of, the aggrieved person from whom the identity
14 was stolen or otherwise obtained without authorization,
15 upon learning of the person having been arrested using his
16 or her identity, may, upon verified petition to the chief
17 judge of the circuit wherein the arrest was made, have a
18 court order entered nunc pro tunc by the Chief Judge to
19 correct the arrest record, conviction record, if any, and
20 all official records of the arresting authority, the
21 Department, other criminal justice agencies, the
22 prosecutor, and the trial court concerning such arrest, if
23 any, by removing his or her name from all such records in
24 connection with the arrest and conviction, if any, and by
25 inserting in the records the name of the offender, if known
26 or ascertainable, in lieu of the aggrieved's name. The

1 records of the circuit court clerk shall be sealed until
2 further order of the court upon good cause shown and the
3 name of the aggrieved person obliterated on the official
4 index 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 circuit court clerk in connection
21 with the proceedings of the trial court concerning that
22 offense. However, the records of the arresting authority
23 and the Department of State Police concerning the offense
24 shall not be sealed. The court, upon good cause shown,
25 shall make the records of the circuit court clerk in
26 connection with the proceedings of the trial court

1 concerning the offense available for public inspection.

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

8 (7) Nothing in this Section shall prevent the
9 Department of State Police from maintaining all records of
10 any person who is admitted to probation upon terms and
11 conditions and who fulfills those terms and conditions
12 pursuant to Section 10 of the Cannabis Control Act, Section
13 410 of the Illinois Controlled Substances Act, Section 70
14 of the Methamphetamine Control and Community Protection
15 Act, Section 12-4.3 or subdivision (b)(1) of Section
16 12-3.05 of the Criminal Code of 1961, Section 10-102 of the
17 Illinois Alcoholism and Other Drug Dependency Act, Section
18 40-10 of the Alcoholism and Other Drug Abuse and Dependency
19 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);

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; and -

5 (G) Arrests or charges not initiated by arrest
6 resulting in convictions or orders of supervision for a
7 gang-related offense of a gang member under 21 years of
8 age who has not been previously convicted of, or placed
9 on supervision for, a gang-related offense and who has
10 complied with: (i) community service determined by the
11 court; (ii) completion of educational courses designed
12 to prepare the gang member to pass the high school
13 level Test of General Educational Development (GED) if
14 the gang member does not have a GED certificate or high
15 school diploma; (iii) a curfew (A) between 11:00 p.m.
16 on Friday and 6:00 a.m. on Saturday; (B) between 11:00
17 p.m. on Saturday and 6:00 a.m. on Sunday; and (C)
18 between 10:00 p.m. on Sunday to Thursday, inclusive,
19 and 6:00 a.m. on the following day; and (iv) attendance
20 at Life Skills classes conducted by a community college
21 or by a non-profit offender re-entry program under
22 paragraph (14) of subsection (c) of Section 5-5-3 of
23 the Unified Code of Corrections.

24 (3) When Records Are Eligible to Be Sealed. Records
25 identified as eligible under subsection (c)(2) may be
26 sealed as follows:

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

4 (B) Records identified as eligible under
5 subsection (c) (2) (C) or (c) (2) (G) may be sealed (i) 3
6 years after the termination of petitioner's last
7 sentence (as defined in subsection (a) (1) (F)) if the
8 petitioner has never been convicted of a criminal
9 offense (as defined in subsection (a) (1) (D)); or (ii) 4
10 years after the termination of the petitioner's last
11 sentence (as defined in subsection (a) (1) (F)) if the
12 petitioner has ever been convicted of a criminal
13 offense (as defined in subsection (a) (1) (D)).

14 (C) Records identified as eligible under
15 subsections (c) (2) (D), (c) (2) (E), and (c) (2) (F) may be
16 sealed 4 years after the termination of the
17 petitioner's last sentence (as defined in subsection
18 (a) (1) (F)).

19 (4) Subsequent felony convictions. A person may not
20 have subsequent felony conviction records sealed as
21 provided in this subsection (c) if he or she is convicted
22 of any felony offense after the date of the sealing of
23 prior felony convictions as provided in this subsection
24 (c). The court may, upon conviction for a subsequent felony
25 offense, order the unsealing of prior felony conviction
26 records previously ordered sealed by the court.

1 (5) Notice of eligibility for sealing. Upon entry of a
2 disposition for an eligible record under this subsection
3 (c), the petitioner shall be informed by the court of the
4 right to have the records sealed and the procedures for the
5 sealing of the records.

6 (d) Procedure. The following procedures apply to
7 expungement under subsections (b) and (e), and sealing under
8 subsection (c):

9 (1) Filing the petition. Upon becoming eligible to
10 petition for the expungement or sealing of records under
11 this Section, the petitioner shall file a petition
12 requesting the expungement or sealing of records with the
13 clerk of the court where the arrests occurred or the
14 charges were brought, or both. If arrests occurred or
15 charges were brought in multiple jurisdictions, a petition
16 must be filed in each such jurisdiction. The petitioner
17 shall pay the applicable fee, if not waived.

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

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

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

18 (5) Objections.

19 (A) Any party entitled to notice of the petition
20 may file an objection to the petition. All objections
21 shall be in writing, shall be filed with the circuit
22 court clerk, and shall state with specificity the basis
23 of the objection.

24 (B) Objections to a petition to expunge or seal
25 must be filed within 60 days of the date of service of
26 the petition.

1 (6) Entry of order.

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

9 (B) Unless the State's Attorney or prosecutor, the
10 Department of State Police, the arresting agency, or
11 the chief legal officer files an objection to the
12 petition to expunge or seal within 60 days from the
13 date of service of the petition, the court shall enter
14 an order granting or denying the petition.

15 (7) Hearings. If an objection is filed, the court shall
16 set a date for a hearing and notify the petitioner and all
17 parties entitled to notice of the petition of the hearing
18 date at least 30 days prior to the hearing, and shall hear
19 evidence on whether the petition should or should not be
20 granted, and shall grant or deny the petition to expunge or
21 seal the records based on the evidence presented at the
22 hearing.

23 (8) Service of order. After entering an order to
24 expunge or seal records, the court must provide copies of
25 the order to the Department, in a form and manner
26 prescribed by the Department, to the petitioner, to the

1 State's Attorney or prosecutor charged with the duty of
2 prosecuting the offense, to the arresting agency, to the
3 chief legal officer of the unit of local government
4 effecting the arrest, and to such other criminal justice
5 agencies as may be ordered by the court.

6 (9) Effect of order.

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

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

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

25 (iii) in response to an inquiry for expunged
26 records, the court, the Department, or the agency

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

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

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

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

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

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

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

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

24 (10) Fees. The Department may charge the petitioner a
25 fee equivalent to the cost of processing any order to
26 expunge or seal records. Notwithstanding any provision of

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

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

19 (12) Motion to Vacate, Modify, or Reconsider. The
20 petitioner or any party entitled to notice may file a
21 motion to vacate, modify, or reconsider the order granting
22 or denying the petition to expunge or seal within 60 days
23 of service of the order.

24 (e) Whenever a person who has been convicted of an offense
25 is granted a pardon by the Governor which specifically
26 authorizes expungement, he or she may, upon verified petition

1 to the Chief Judge of the circuit where the person had been
2 convicted, any judge of the circuit designated by the Chief
3 Judge, or in counties of less than 3,000,000 inhabitants, the
4 presiding trial judge at the defendant's trial, have a court
5 order entered expunging the record of arrest from the official
6 records of the arresting authority and order that the records
7 of the circuit court clerk and the Department be sealed until
8 further order of the court upon good cause shown or as
9 otherwise provided herein, and the name of the defendant
10 obliterated from the official index requested to be kept by the
11 circuit court clerk under Section 16 of the Clerks of Courts
12 Act in connection with the arrest and conviction for the
13 offense for which he or she had been pardoned but the order
14 shall not affect any index issued by the circuit court clerk
15 before the entry of the order. All records sealed by the
16 Department may be disseminated by the Department only as
17 required by law or to the arresting authority, the State's
18 Attorney, and the court upon a later arrest for the same or
19 similar offense or for the purpose of sentencing for any
20 subsequent felony. Upon conviction for any subsequent offense,
21 the Department of Corrections shall have access to all sealed
22 records of the Department pertaining to that individual. Upon
23 entry of the order of expungement, the circuit court clerk
24 shall promptly mail a copy of the order to the person who was
25 pardoned.

26 (f) Subject to available funding, the Illinois Department

1 of Corrections shall conduct a study of the impact of sealing,
2 especially on employment and recidivism rates, utilizing a
3 random sample of those who apply for the sealing of their
4 criminal records under Public Act 93-211. At the request of the
5 Illinois Department of Corrections, records of the Illinois
6 Department of Employment Security shall be utilized as
7 appropriate to assist in the study. The study shall not
8 disclose any data in a manner that would allow the
9 identification of any particular individual or employing unit.
10 The study shall be made available to the General Assembly no
11 later than September 1, 2010.

12 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
13 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
14 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
15 eff. 8-19-11; revised 9-6-11.)"; and

16 on page 1, line 5, by replacing "Section 5-710" with "Sections
17 5-710 and 5-901"; and

18 on page 13, by inserting immediately below line 5 the
19 following:

20 "(705 ILCS 405/5-901)

21 Sec. 5-901. Court file.

22 (1) The Court file with respect to proceedings under this
23 Article shall consist of the petitions, pleadings, victim

1 impact statements, process, service of process, orders, writs
2 and docket entries reflecting hearings held and judgments and
3 decrees entered by the court. The court file shall be kept
4 separate from other records of the court.

5 (a) The file, including information identifying the
6 victim or alleged victim of any sex offense, shall be
7 disclosed only to the following parties when necessary for
8 discharge of their official duties:

9 (i) A judge of the circuit court and members of the
10 staff of the court designated by the judge;

11 (ii) Parties to the proceedings and their
12 attorneys;

13 (iii) Victims and their attorneys, except in cases
14 of multiple victims of sex offenses in which case the
15 information identifying the nonrequesting victims
16 shall be redacted;

17 (iv) Probation officers, law enforcement officers
18 or prosecutors or their staff;

19 (v) Adult and juvenile Prisoner Review Boards.

20 (b) The Court file redacted to remove any information
21 identifying the victim or alleged victim of any sex offense
22 shall be disclosed only to the following parties when
23 necessary for discharge of their official duties:

24 (i) Authorized military personnel;

25 (ii) Persons engaged in bona fide research, with
26 the permission of the judge of the juvenile court and

1 the chief executive of the agency that prepared the
2 particular recording: provided that publication of
3 such research results in no disclosure of a minor's
4 identity and protects the confidentiality of the
5 record;

6 (iii) The Secretary of State to whom the Clerk of
7 the Court shall report the disposition of all cases, as
8 required in Section 6-204 or Section 6-205.1 of the
9 Illinois Vehicle Code. However, information reported
10 relative to these offenses shall be privileged and
11 available only to the Secretary of State, courts, and
12 police officers;

13 (iv) The administrator of a bonafide substance
14 abuse student assistance program with the permission
15 of the presiding judge of the juvenile court;

16 (v) Any individual, or any public or private agency
17 or institution, having custody of the juvenile under
18 court order or providing educational, medical or
19 mental health services to the juvenile or a
20 court-approved advocate for the juvenile or any
21 placement provider or potential placement provider as
22 determined by the court.

23 (3) A minor who is the victim or alleged victim in a
24 juvenile proceeding shall be provided the same confidentiality
25 regarding disclosure of identity as the minor who is the
26 subject of record. Information identifying victims and alleged

1 victims of sex offenses, shall not be disclosed or open to
2 public inspection under any circumstances. Nothing in this
3 Section shall prohibit the victim or alleged victim of any sex
4 offense from voluntarily disclosing his or her identity.

5 (4) Relevant information, reports and records shall be made
6 available to the Department of Juvenile Justice when a juvenile
7 offender has been placed in the custody of the Department of
8 Juvenile Justice.

9 (5) Except as otherwise provided in this subsection (5),
10 juvenile court records shall not be made available to the
11 general public but may be inspected by representatives of
12 agencies, associations and news media or other properly
13 interested persons by general or special order of the court.
14 The State's Attorney, the minor, his or her parents, guardian
15 and counsel shall at all times have the right to examine court
16 files and records.

17 (a) The court shall allow the general public to have
18 access to the name, address, and offense of a minor who is
19 adjudicated a delinquent minor under this Act under either
20 of the following circumstances:

21 (i) The adjudication of delinquency was based upon
22 the minor's commission of first degree murder, attempt
23 to commit first degree murder, aggravated criminal
24 sexual assault, or criminal sexual assault; or

25 (ii) The court has made a finding that the minor
26 was at least 13 years of age at the time the act was

1 committed and the adjudication of delinquency was
2 based upon the minor's commission of: (A) an act in
3 furtherance of the commission of a felony as a member
4 of or on behalf of a criminal street gang, except that
5 the name, address, and offense of a minor who is
6 adjudicated a delinquent minor under this Act shall not
7 be disclosed if the minor complies with the provisions
8 of clauses (i) through (iv) of subsection (13) of
9 Section 5-710 of this Act, (B) an act involving the use
10 of a firearm in the commission of a felony, (C) an act
11 that would be a Class X felony offense under or the
12 minor's second or subsequent Class 2 or greater felony
13 offense under the Cannabis Control Act if committed by
14 an adult, (D) an act that would be a second or
15 subsequent offense under Section 402 of the Illinois
16 Controlled Substances Act if committed by an adult, (E)
17 an act that would be an offense under Section 401 of
18 the Illinois Controlled Substances Act if committed by
19 an adult, or (F) an act that would be an offense under
20 the Methamphetamine Control and Community Protection
21 Act if committed by an adult.

22 (b) The court shall allow the general public to have
23 access to the name, address, and offense of a minor who is
24 at least 13 years of age at the time the offense is
25 committed and who is convicted, in criminal proceedings
26 permitted or required under Section 5-805, under either of

1 the following circumstances:

2 (i) The minor has been convicted of first degree
3 murder, attempt to commit first degree murder,
4 aggravated criminal sexual assault, or criminal sexual
5 assault,

6 (ii) The court has made a finding that the minor
7 was at least 13 years of age at the time the offense
8 was committed and the conviction was based upon the
9 minor's commission of: (A) an offense in furtherance of
10 the commission of a felony as a member of or on behalf
11 of a criminal street gang, (B) an offense involving the
12 use of a firearm in the commission of a felony, (C) a
13 Class X felony offense under the Cannabis Control Act
14 or a second or subsequent Class 2 or greater felony
15 offense under the Cannabis Control Act, (D) a second or
16 subsequent offense under Section 402 of the Illinois
17 Controlled Substances Act, (E) an offense under
18 Section 401 of the Illinois Controlled Substances Act,
19 or (F) an offense under the Methamphetamine Control and
20 Community Protection Act.

21 (6) Nothing in this Section shall be construed to limit the
22 use of a adjudication of delinquency as evidence in any
23 juvenile or criminal proceeding, where it would otherwise be
24 admissible under the rules of evidence, including but not
25 limited to, use as impeachment evidence against any witness,
26 including the minor if he or she testifies.

1 (7) Nothing in this Section shall affect the right of a
2 Civil Service Commission or appointing authority examining the
3 character and fitness of an applicant for a position as a law
4 enforcement officer to ascertain whether that applicant was
5 ever adjudicated to be a delinquent minor and, if so, to
6 examine the records or evidence which were made in proceedings
7 under this Act.

8 (8) Following any adjudication of delinquency for a crime
9 which would be a felony if committed by an adult, or following
10 any adjudication of delinquency for a violation of Section
11 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
12 State's Attorney shall ascertain whether the minor respondent
13 is enrolled in school and, if so, shall provide a copy of the
14 sentencing order to the principal or chief administrative
15 officer of the school. Access to such juvenile records shall be
16 limited to the principal or chief administrative officer of the
17 school and any guidance counselor designated by him or her.

18 (9) Nothing contained in this Act prevents the sharing or
19 disclosure of information or records relating or pertaining to
20 juveniles subject to the provisions of the Serious Habitual
21 Offender Comprehensive Action Program when that information is
22 used to assist in the early identification and treatment of
23 habitual juvenile offenders.

24 (11) The Clerk of the Circuit Court shall report to the
25 Department of State Police, in the form and manner required by
26 the Department of State Police, the final disposition of each

1 minor who has been arrested or taken into custody before his or
2 her 17th birthday for those offenses required to be reported
3 under Section 5 of the Criminal Identification Act. Information
4 reported to the Department under this Section may be maintained
5 with records that the Department files under Section 2.1 of the
6 Criminal Identification Act.

7 (12) Information or records may be disclosed to the general
8 public when the court is conducting hearings under Section
9 5-805 or 5-810.

10 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)".