



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3061

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Allows a person to petition the court and the court to order the sealing of: (1) Class 2 felony conviction records for burglary, delivery of a controlled substance, and possession of a stolen motor vehicle; (2) Class 3 felony conviction records for theft, retail theft, deceptive practices, and forgery; and (3) Class 4 felony conviction records for possession of cannabis, possession of a controlled substance, violation of the Methamphetamine Precursor Control Act, violation of the Steroid Control Act, prostitution, theft, retail theft, deceptive practices, forgery, and possession of burglary tools (rather than only Class 4 felony convictions for possession of cannabis, possession of a controlled substance, Methamphetamine Precursor Control Act, Steroid Control Act, and prostitution). The sealing is allowed 4 years after termination of the person's last sentence. Requires a person petitioning to seal a drug offense to pass a drug test within the 30 days preceding the filing of the petition to seal.

LRB098 06295 MRW 36336 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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),

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

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

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

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

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

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

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

- 1 (x) Parole (730 ILCS 5/5-1-16),
2 (xi) Petty Offense (730 ILCS 5/5-1-17),
3 (xii) Probation (730 ILCS 5/5-1-18),
4 (xiii) Sentence (730 ILCS 5/5-1-19),
5 (xiv) Supervision (730 ILCS 5/5-1-21), and
6 (xv) Victim (730 ILCS 5/5-1-22).

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

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

1 (D) "Criminal offense" means a petty offense,
2 business offense, misdemeanor, felony, or municipal
3 ordinance violation (as defined in subsection
4 (a)(1)(H)). As used in this Section, a minor traffic
5 offense (as defined in subsection (a)(1)(G)) shall not
6 be considered a criminal offense.

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

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

1 are last in time, they shall be collectively considered
2 the "last sentence" regardless of whether they were
3 ordered to run concurrently.

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

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

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

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 of the
21 Unified Code of Corrections, Section 12-4.3(b)(1) and
22 (2) of the Criminal Code of 1961 (as those provisions
23 existed before their deletion by Public Act 89-313),
24 Section 10-102 of the Illinois Alcoholism and Other
25 Drug Dependency Act, Section 40-10 of the Alcoholism
26 and Other Drug Abuse and Dependency Act, or Section 10

1 of the Steroid Control Act. For the purpose of this
2 Section, "successful completion" of an order of
3 qualified probation under Section 10-102 of the
4 Illinois Alcoholism and Other Drug Dependency Act and
5 Section 40-10 of the Alcoholism and Other Drug Abuse
6 and Dependency Act means that the probation was
7 terminated satisfactorily and the judgment of
8 conviction was vacated.

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

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

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

1 Section.

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

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

9 (A) the sealing or expungement of the records of
10 arrests or charges not initiated by arrest that result
11 in an order of supervision for or conviction of: (i)
12 any sexual offense committed against a minor; (ii)
13 Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance; or (iii)
15 Section 11-503 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, unless the
17 arrest or charge is for a misdemeanor violation of
18 subsection (a) of Section 11-503 or a similar provision
19 of a local ordinance, that occurred prior to the
20 offender reaching the age of 25 years and the offender
21 has no other conviction for violating Section 11-501 or
22 11-503 of the Illinois Vehicle Code or a similar
23 provision of a local ordinance.

24 (B) the sealing or expungement of records of minor
25 traffic offenses (as defined in subsection (a) (1) (G)),
26 unless the petitioner was arrested and released

1 without charging.

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

7 (i) offenses included in Article 11 of the
8 Criminal Code of 1961 or the Criminal Code of 2012
9 or a similar provision of a local ordinance, except
10 Section 11-14 of the Criminal Code of 1961 or the
11 Criminal Code of 2012, or a similar provision of a
12 local ordinance;

13 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
14 26-5, or 48-1 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or a similar provision of a
16 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 the Criminal Code of 2012, or a
18 similar provision of a local ordinance, shall not
19 be eligible for expungement until 5 years have
20 passed following the satisfactory termination of
21 the supervision.

22 (i-5) Those arrests or charges that resulted
23 in orders of supervision for a misdemeanor
24 violation of subsection (a) of Section 11-503 of
25 the Illinois Vehicle Code or a similar provision of
26 a local ordinance, that occurred prior to the

1 offender reaching the age of 25 years and the
2 offender has no other conviction for violating
3 Section 11-501 or 11-503 of the Illinois Vehicle
4 Code or a similar provision of a local ordinance
5 shall not be eligible for expungement until the
6 petitioner has reached the age of 25 years.

7 (ii) Those arrests or charges that resulted in
8 orders of supervision for any other offenses shall
9 not be eligible for expungement until 2 years have
10 passed following the satisfactory termination of
11 the supervision.

12 (C) When the arrest or charge not initiated by
13 arrest sought to be expunged resulted in an order of
14 qualified probation, successfully completed by the
15 petitioner, such records shall not be eligible for
16 expungement until 5 years have passed following the
17 satisfactory termination of the probation.

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

22 (4) Whenever a person has been arrested for or
23 convicted of any offense, in the name of a person whose
24 identity he or she has stolen or otherwise come into
25 possession of, the aggrieved person from whom the identity
26 was stolen or otherwise obtained without authorization,

1 upon learning of the person having been arrested using his
2 or her identity, may, upon verified petition to the chief
3 judge of the circuit wherein the arrest was made, have a
4 court order entered nunc pro tunc by the Chief Judge to
5 correct the arrest record, conviction record, if any, and
6 all official records of the arresting authority, the
7 Department, other criminal justice agencies, the
8 prosecutor, and the trial court concerning such arrest, if
9 any, by removing his or her name from all such records in
10 connection with the arrest and conviction, if any, and by
11 inserting in the records the name of the offender, if known
12 or ascertainable, in lieu of the aggrieved's name. The
13 records of the circuit court clerk shall be sealed until
14 further order of the court upon good cause shown and the
15 name of the aggrieved person obliterated on the official
16 index required to be kept by the circuit court clerk under
17 Section 16 of the Clerks of Courts Act, but the order shall
18 not affect any index issued by the circuit court clerk
19 before the entry of the order. Nothing in this Section
20 shall limit the Department of State Police or other
21 criminal justice agencies or prosecutors from listing
22 under an offender's name the false names he or she has
23 used.

24 (5) Whenever a person has been convicted of criminal
25 sexual assault, aggravated criminal sexual assault,
26 predatory criminal sexual assault of a child, criminal

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

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

20 (7) Nothing in this Section shall prevent the
21 Department of State Police from maintaining all records of
22 any person who is admitted to probation upon terms and
23 conditions and who fulfills those terms and conditions
24 pursuant to Section 10 of the Cannabis Control Act, Section
25 410 of the Illinois Controlled Substances Act, Section 70
26 of the Methamphetamine Control and Community Protection

1 Act, Section 5-6-3.3 of the Unified Code of Corrections,
2 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05 of
3 the Criminal Code of 1961 or the Criminal Code of 2012,
4 Section 10-102 of the Illinois Alcoholism and Other Drug
5 Dependency Act, Section 40-10 of the Alcoholism and Other
6 Drug Abuse and Dependency Act, or Section 10 of the Steroid
7 Control Act.

8 (c) Sealing.

9 (1) Applicability. Notwithstanding any other provision
10 of this Act to the contrary, and cumulative with any rights
11 to expungement of criminal records, this subsection
12 authorizes the sealing of criminal records of adults and of
13 minors prosecuted as adults.

14 (2) Eligible Records. The following records may be
15 sealed:

16 (A) All arrests resulting in release without
17 charging;

18 (B) Arrests or charges not initiated by arrest
19 resulting in acquittal, dismissal, or conviction when
20 the conviction was reversed or vacated, except as
21 excluded by subsection (a) (3) (B);

22 (C) Arrests or charges not initiated by arrest
23 resulting in orders of supervision successfully
24 completed by the petitioner, unless excluded by
25 subsection (a) (3);

26 (D) Arrests or charges not initiated by arrest

1 resulting in convictions unless excluded by subsection
2 (a) (3);

3 (E) Arrests or charges not initiated by arrest
4 resulting in orders of first offender probation under
5 Section 10 of the Cannabis Control Act, Section 410 of
6 the Illinois Controlled Substances Act, Section 70 of
7 the Methamphetamine Control and Community Protection
8 Act, or Section 5-6-3.3 of the Unified Code of
9 Corrections; and

10 (F) Arrests or charges not initiated by arrest
11 resulting in ~~Class 4~~ felony convictions for the
12 following offenses:

13 (i) Class 4 felony convictions for:

14 Prostitution under Section 11-14 of the
15 Criminal Code of 1961 or the Criminal Code of
16 2012.

17 Possession of cannabis under Section 4 of
18 the Cannabis Control Act.

19 Possession of a controlled substance under
20 Section 402 of the Illinois Controlled
21 Substances Act.

22 Offenses under the Methamphetamine
23 Precursor Control Act.

24 Offenses under the Steroid Control Act.

25 Theft under Section 16-1 of the Criminal
26 Code of 1961 or the Criminal Code of 2012.

1 Retail theft under Section 16A-3 or
2 paragraph (a) of 16-25 of the Criminal Code of
3 1961 or the Criminal Code of 2012.

4 Deceptive practices under Section 17-1 of
5 the Criminal Code of 1961 or the Criminal Code
6 of 2012.

7 Forgery under Section 17-3 of the Criminal
8 Code of 1961 or the Criminal Code of 2012.

9 Possession of burglary tools under Section
10 19-2 of the Criminal Code of 1961 or the
11 Criminal Code of 2012.

12 (ii) Class 3 felony convictions for:

13 Theft under Section 16-1 of the Criminal
14 Code of 1961 or the Criminal Code of 2012.

15 Retail theft under Section 16A-3 or
16 paragraph (a) of 16-25 of the Criminal Code of
17 1961 or the Criminal Code of 2012.

18 Deceptive practices under Section 17-1 of
19 the Criminal Code of 1961 or the Criminal Code
20 of 2012.

21 Forgery under Section 17-3 of the Criminal
22 Code of 1961 or the Criminal Code of 2012.

23 (iii) Class 2 felony convictions for:

24 Burglary under Section 19-1 of the
25 Criminal Code of 1961 or the Criminal Code of
26 2012.

1 Offenses under Section 401 of the Illinois
2 Controlled Substances Act.

3 Possession of a stolen motor vehicle under
4 Section 4-103 of the Illinois Vehicle Code.

5 ~~(i) Section 11-14 of the Criminal Code of 1961~~
6 ~~or the Criminal Code of 2012;~~

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

8 ~~(iii) Section 402 of the Illinois Controlled~~
9 ~~Substances Act;~~

10 ~~(iv) the Methamphetamine Precursor Control~~
11 ~~Act; and~~

12 ~~(v) the Steroid Control Act.~~

13 (3) When Records Are Eligible to Be Sealed. Records
14 identified as eligible under subsection (c)(2) may be
15 sealed as follows:

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

19 (B) Records identified as eligible under
20 subsection (c)(2)(C) may be sealed (i) 3 years after
21 the termination of petitioner's last sentence (as
22 defined in subsection (a)(1)(F)) if the petitioner has
23 never been convicted of a criminal offense (as defined
24 in subsection (a)(1)(D)); or (ii) 4 years after the
25 termination of the petitioner's last sentence (as
26 defined in subsection (a)(1)(F)) if the petitioner has

1 ever been convicted of a criminal offense (as defined
2 in subsection (a) (1) (D)).

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

8 (D) Records identified in subsection
9 (a) (3) (A) (iii) may be sealed after the petitioner has
10 reached the age of 25 years.

11 (4) Subsequent felony convictions. A person may not
12 have subsequent felony conviction records sealed as
13 provided in this subsection (c) if he or she is convicted
14 of any felony offense after the date of the sealing of
15 prior felony convictions as provided in this subsection
16 (c). The court may, upon conviction for a subsequent felony
17 offense, order the unsealing of prior felony conviction
18 records previously ordered sealed by the court.

19 (5) Notice of eligibility for sealing. Upon entry of a
20 disposition for an eligible record under this subsection
21 (c), the petitioner shall be informed by the court of the
22 right to have the records sealed and the procedures for the
23 sealing of the records.

24 (d) Procedure. The following procedures apply to
25 expungement under subsections (b) and (e), and sealing under
26 subsections (c) and (e-5):

1 (1) Filing the petition. Upon becoming eligible to
2 petition for the expungement or sealing of records under
3 this Section, the petitioner shall file a petition
4 requesting the expungement or sealing of records with the
5 clerk of the court where the arrests occurred or the
6 charges were brought, or both. If arrests occurred or
7 charges were brought in multiple jurisdictions, a petition
8 must be filed in each such jurisdiction. The petitioner
9 shall pay the applicable fee, if not waived.

10 (2) Contents of petition. The petition shall be
11 verified and shall contain the petitioner's name, date of
12 birth, current address and, for each arrest or charge not
13 initiated by arrest sought to be sealed or expunged, the
14 case number, the date of arrest (if any), the identity of
15 the arresting authority, and such other information as the
16 court may require. During the pendency of the proceeding,
17 the petitioner shall promptly notify the circuit court
18 clerk of any change of his or her address. If the
19 petitioner has received a certificate of eligibility for
20 sealing from the Prisoner Review Board under paragraph (10)
21 of subsection (a) of Section 3-3-2 of the Unified Code of
22 Corrections, the certificate shall be attached to the
23 petition.

24 (3) Drug test. The petitioner must attach to the
25 petition proof that the petitioner has passed a test taken
26 within 30 days before the filing of the petition showing

1 the absence within his or her body of all illegal
2 substances as defined by the Illinois Controlled
3 Substances Act, the Methamphetamine Control and Community
4 Protection Act, and the Cannabis Control Act if he or she
5 is petitioning to:

6 (A) seal felony records under ~~pursuant to~~ clause
7 (c) (2) (E) ~~;~~

8 (B) seal felony records for a violation of the
9 Illinois Controlled Substances Act, the
10 Methamphetamine Control and Community Protection Act,
11 or the Cannabis Control Act under clause (c) (2) (F);
12 ~~(c) (2) (F) (ii) - (v), or~~

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

14 (D) if he or she is petitioning to expunge felony
15 records of a qualified probation under ~~pursuant to~~
16 clause (b) (1) (B) (iv).

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

23 (5) Objections.

24 (A) Any party entitled to notice of the petition
25 may file an objection to the petition. All objections
26 shall be in writing, shall be filed with the circuit

1 court clerk, and shall state with specificity the basis
2 of the objection.

3 (B) Objections to a petition to expunge or seal
4 must be filed within 60 days of the date of service of
5 the petition.

6 (6) Entry of order.

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

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

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

1 hearing.

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

11 (9) Effect of order.

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

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

21 (ii) the records of the circuit court clerk
22 shall be impounded until further order of the court
23 upon good cause shown and the name of the
24 petitioner obliterated on the official index
25 required to be kept by the circuit court clerk
26 under Section 16 of the Clerks of Courts Act, but

1 the order shall not affect any index issued by the
2 circuit court clerk before the entry of the order;
3 and

4 (iii) in response to an inquiry for expunged
5 records, the court, the Department, or the agency
6 receiving such inquiry, shall reply as it does in
7 response to inquiries when no records ever
8 existed.

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

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

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

26 (iii) the records shall be impounded by the

1 Department within 60 days of the date of service of
2 the order as ordered by the court, unless a motion
3 to vacate, modify, or reconsider the order is filed
4 pursuant to paragraph (12) of subsection (d) of
5 this Section;

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

14 (v) 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
19 existed.

20 (C) Upon entry of an order to seal records under
21 subsection (c), the arresting agency, any other agency
22 as ordered by the court, the Department, and the court
23 shall seal the records (as defined in subsection
24 (a)(1)(K)). In response to an inquiry for such records
25 from anyone not authorized by law to access such
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 existed.

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

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

24 (12) Motion to Vacate, Modify, or Reconsider. The
25 petitioner or any party entitled to notice may file a
26 motion to vacate, modify, or reconsider the order granting

1 or denying the petition to expunge or seal within 60 days
2 of service of the order.

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

1 to that individual. Upon entry of the order of expungement, the
2 circuit court clerk shall promptly mail a copy of the order to
3 the person who was pardoned.

4 (e-5) Whenever a person who has been convicted of an
5 offense is granted a certificate of eligibility for sealing by
6 the Prisoner Review Board which specifically authorizes
7 sealing, he or she may, upon verified petition to the Chief
8 Judge of the circuit where the person had been convicted, any
9 judge of the circuit designated by the Chief Judge, or in
10 counties of less than 3,000,000 inhabitants, the presiding
11 trial judge at the petitioner's trial, have a court order
12 entered sealing the record of arrest from the official records
13 of the arresting authority and order that the records of the
14 circuit court clerk and the Department be sealed until further
15 order of the court upon good cause shown or as otherwise
16 provided herein, and the name of the petitioner obliterated
17 from the official index requested to be kept by the circuit
18 court clerk under Section 16 of the Clerks of Courts Act in
19 connection with the arrest and conviction for the offense for
20 which he or she had been granted the certificate but the order
21 shall not affect any index issued by the circuit court clerk
22 before the entry of the order. All records sealed by the
23 Department may be disseminated by the Department only as
24 required by this Act or to the arresting authority, a law
25 enforcement agency, the State's Attorney, and the court upon a
26 later arrest for the same or similar offense or for the purpose

1 of sentencing for any subsequent felony. Upon conviction for
2 any subsequent offense, the Department of Corrections shall
3 have access to all sealed records of the Department pertaining
4 to that individual. Upon entry of the order of sealing, the
5 circuit court clerk shall promptly mail a copy of the order to
6 the person who was granted the certificate of eligibility for
7 sealing.

8 (f) Subject to available funding, the Illinois Department
9 of Corrections shall conduct a study of the impact of sealing,
10 especially on employment and recidivism rates, utilizing a
11 random sample of those who apply for the sealing of their
12 criminal records under Public Act 93-211. At the request of the
13 Illinois Department of Corrections, records of the Illinois
14 Department of Employment Security shall be utilized as
15 appropriate to assist in the study. The study shall not
16 disclose any data in a manner that would allow the
17 identification of any particular individual or employing unit.
18 The study shall be made available to the General Assembly no
19 later than September 1, 2010.

20 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;
21 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
22 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
23 eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13;
24 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff.
25 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)