

1 AMENDMENT TO HOUSE BILL 302

2 AMENDMENT NO. _____. Amend House Bill 302 by replacing
3 everything after the enacting clause with with following:

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

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

7 Sec. 5. Arrest reports; expungement.

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

1 Whenever an adult or minor prosecuted as an adult, not
2 having previously been convicted of any criminal offense or
3 municipal ordinance violation, charged with a violation of a
4 municipal ordinance or a felony or misdemeanor, is acquitted
5 or released without being convicted, whether the acquittal or
6 release occurred before, on, or after the effective date of
7 this amendatory Act of 1991, the Chief Judge of the circuit
8 wherein the charge was brought, any judge of that circuit
9 designated by the Chief Judge, or in counties of less than
10 3,000,000 inhabitants, the presiding trial judge at the
11 defendant's trial may upon verified petition of the defendant
12 order the record of arrest expunged from the official records
13 of the arresting authority and the Department and order that
14 the records of the clerk of the circuit court be sealed until
15 further order of the court upon good cause shown and the name
16 of the defendant obliterated on the official index required
17 to be kept by the circuit court clerk under Section 16 of the
18 Clerks of Courts Act, but the order shall not affect any
19 index issued by the circuit court clerk before the entry of
20 the order. The Department may charge the petitioner a fee
21 equivalent to the cost of processing any order to expunge or
22 seal the records, and the fee shall be deposited into the
23 State Police Services Fund. The records of those arrests,
24 however, that result in a disposition of supervision for any
25 offense shall not be expunged from the records of the
26 arresting authority or the Department nor impounded by the
27 court until 2 years after discharge and dismissal of
28 supervision. Those records that result from a supervision
29 for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or
30 11-503 of the Illinois Vehicle Code or a similar provision of
31 a local ordinance, or for a violation of Section 12-3.2,
32 12-15 or 16A-3 of the Criminal Code of 1961, or probation
33 under Section 10 of the Cannabis Control Act, Section 410 of
34 the Illinois Controlled Substances Act, Section 12-4.3(b)(1)

1 and (2) of the Criminal Code of 1961 (as those provisions
2 existed before their deletion by Public Act 89-313), Section
3 10-102 of the Illinois Alcoholism and Other Drug Dependency
4 Act when the judgment of conviction has been vacated, Section
5 40-10 of the Alcoholism and Other Drug Abuse and Dependency
6 Act when the judgment of conviction has been vacated, or
7 Section 10 of the Steroid Control Act shall not be expunged
8 from the records of the arresting authority nor impounded by
9 the court until 5 years after termination of probation or
10 supervision. Those records that result from a supervision
11 for a violation of Section 11-501 of the Illinois Vehicle
12 Code or a similar provision of a local ordinance, shall not
13 be expunged. All records set out above may be ordered by the
14 court to be expunged from the records of the arresting
15 authority and impounded by the court after 5 years, but shall
16 not be expunged by the Department, but shall, on court order
17 be sealed by the Department and may be disseminated by the
18 Department only as required by law or to the arresting
19 authority, the State's Attorney, and the court upon a later
20 arrest for the same or a similar offense or for the purpose
21 of sentencing for any subsequent felony. Upon conviction for
22 any offense, the Department of Corrections shall have access
23 to all sealed records of the Department pertaining to that
24 individual.

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

29 (b) Whenever a person has been convicted of a crime or
30 of the violation of a municipal ordinance, in the name of a
31 person whose identity he has stolen or otherwise come into
32 possession of, the aggrieved person from whom the identity
33 was stolen or otherwise obtained without authorization, upon
34 learning of the person having been arrested using his

1 identity, may, upon verified petition to the chief judge of
2 the circuit wherein the arrest was made, have a court order
3 entered nunc pro tunc by the chief judge to correct the
4 arrest record, conviction record, if any, and all official
5 records of the arresting authority, the Department, other
6 criminal justice agencies, the prosecutor, and the trial
7 court concerning such arrest, if any, by removing his name
8 from all such records in connection with the arrest and
9 conviction, if any, and by inserting in the records the name
10 of the offender, if known or ascertainable, in lieu of the
11 has name. The records of the clerk of the circuit court
12 clerk shall be sealed until further order of the court upon
13 good cause shown and the name of the aggrieved person
14 obliterated on the official index required to be kept by the
15 circuit court clerk under Section 16 of the Clerks of Courts
16 Act, but the order shall not affect any index issued by the
17 circuit court clerk before the entry of the order. Nothing in
18 this Section shall limit the Department of State Police or
19 other criminal justice agencies or prosecutors from listing
20 under an offender's name the false names he or she has used.
21 For purposes of this Section, convictions for moving and
22 nonmoving traffic violations other than convictions for
23 violations of Chapter 4, Section 11-204.1 or Section 11-501
24 of the Illinois Vehicle Code shall not be a bar to expunging
25 the record of arrest and court records for violation of a
26 misdemeanor or municipal ordinance.

27 (c) Whenever a person who has been convicted of an
28 offense is granted a pardon by the Governor which
29 specifically authorizes expungement, he may, upon verified
30 petition to the chief judge of the circuit where the person
31 had been convicted, any judge of the circuit designated by
32 the Chief Judge, or in counties of less than 3,000,000
33 inhabitants, the presiding trial judge at the defendant's
34 trial, may have a court order entered expunging the record of

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

21 (c-5) Whenever a person has been convicted of criminal
22 sexual assault, aggravated criminal sexual assault, predatory
23 criminal sexual assault of a child, criminal sexual abuse, or
24 aggravated criminal sexual abuse, the victim of that offense
25 may request that the State's Attorney of the county in which
26 the conviction occurred file a verified petition with the
27 presiding trial judge at the defendant's trial to have a
28 court order entered to seal the records of the clerk of the
29 circuit court in connection with the proceedings of the trial
30 court concerning that offense. However, the records of the
31 arresting authority and the Department of State Police
32 concerning the offense shall not be sealed. The court, upon
33 good cause shown, shall make the records of the clerk of the
34 circuit court in connection with the proceedings of the trial

1 court concerning the offense available for public inspection.

2 (c-6) For employment application purposes only, whenever
3 a person has been convicted of a Class 4 felony, 24 months
4 after completion of the sentence, the chief judge of the
5 circuit where the person had been convicted, any judge of the
6 circuit designated by the Chief Judge, or in counties of less
7 than 3,000,000 inhabitants, the presiding trial judge at the
8 defendant's trial, shall enter a court order expunging the
9 record of arrest from the official records of the arresting
10 authority as to access to those records by employers and
11 prospective employers and order that the records of the clerk
12 of the circuit court and the Department be sealed from
13 employers or prospective employers. All records sealed by
14 the Department from employers and prospective employers may
15 be disseminated by the Department only as required by law or
16 to the arresting authority, the State's Attorney, and the
17 court. The Department of Corrections shall have access to
18 all sealed records of the Department pertaining to that
19 individual. Upon entry of the order of expungement, the clerk
20 of the circuit court shall promptly mail a copy of the order
21 to the person who was subject to the expungement. This
22 subsection (c-6) does not apply to the following offenses and
23 an employer or prospective employer may have access to
24 conviction information for these offenses:

25 (1) A violation of Section 11-501 of the Illinois
26 Vehicle Code or a similar provision of a local ordinance.

27 (2) A violation of Article 11 or Section 12-15 of
28 the Criminal Code of 1961 or any predecessor or successor
29 offenses that are similar to the offenses enumerated in
30 this paragraph (2).

31 (3) A violation of the Firearm Owners
32 Identification Card Act or Article 24 of the Criminal
33 Code of 1961.

34 (4) A crime of violence as defined in Section 2 of

1 the Crime Victims Compensation Act.

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

16 (e) Nothing herein shall prevent the Department of State
17 Police from maintaining all records of any person who is
18 admitted to probation upon terms and conditions and who
19 fulfills those terms and conditions pursuant to Section 10 of
20 the Cannabis Control Act, Section 410 of the Illinois
21 Controlled Substances Act, Section 12-4.3 of the Criminal
22 Code of 1961, Section 10-102 of the Illinois Alcoholism and
23 Other Drug Dependency Act, Section 40-10 of the Alcoholism
24 and Other Drug Abuse and Dependency Act, or Section 10 of the
25 Steroid Control Act.

26 (f) No court order issued pursuant to the expungement
27 provisions of this Section shall become final for purposes of
28 appeal until 30 days after notice is received by the
29 Department. Any court order contrary to the provisions of
30 this Section is void.

31 (g) Except as otherwise provided in subsection (c-5) of
32 this Section, the court shall not order the sealing or
33 expungement of the arrest records and records of the circuit
34 court clerk of any person granted supervision for or

1 convicted of any sexual offense committed against a minor
2 under 18 years of age. For the purposes of this Section,
3 "sexual offense committed against a minor" includes but is
4 not limited to the offenses of indecent solicitation of a
5 child or criminal sexual abuse when the victim of such
6 offense is under 18 years of age.

7 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;
8 91-357, eff. 7-29-99.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."