



Rep. Jehan Gordon-Booth

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1 AMENDMENT TO HOUSE BILL 5341

2 AMENDMENT NO. _____. Amend House Bill 5341, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5.2)

8 Sec. 5.2. Expungement, sealing, and immediate sealing.

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

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

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

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

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

24 (J) "Qualified probation" means an order of
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act,

1 Section 70 of the Methamphetamine Control and
2 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
3 of the Unified Code of Corrections, Section
4 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
5 those provisions existed before their deletion by
6 Public Act 89-313), Section 10-102 of the Illinois
7 Alcoholism and Other Drug Dependency Act, Section
8 40-10 of the Alcoholism and Other Drug Abuse and
9 Dependency Act, or Section 10 of the Steroid Control
10 Act. For the purpose of this Section, "successful
11 completion" of an order of qualified probation under
12 Section 10-102 of the Illinois Alcoholism and Other
13 Drug Dependency Act and Section 40-10 of the Alcoholism
14 and Other Drug Abuse and Dependency Act means that the
15 probation was terminated satisfactorily and the
16 judgment of conviction was vacated.

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

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

5 (M) "Terminate" as it relates to a sentence or
6 order of supervision or qualified probation includes
7 either satisfactory or unsatisfactory termination of
8 the sentence, unless otherwise specified in this
9 Section. A sentence is terminated notwithstanding any
10 outstanding financial legal obligation.

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 (2.5) Commencing 180 days after July 29, 2016 (the
16 effective date of Public Act 99-697), the law enforcement
17 agency issuing the citation shall automatically expunge,
18 on or before January 1 and July 1 of each year, the law
19 enforcement records of a person found to have committed a
20 civil law violation of subsection (a) of Section 4 of the
21 Cannabis Control Act or subsection (c) of Section 3.5 of
22 the Drug Paraphernalia Control Act in the law enforcement
23 agency's possession or control and which contains the final
24 satisfactory disposition which pertain to the person
25 issued a citation for that offense. The law enforcement
26 agency shall provide by rule the process for access,

1 review, and to confirm the automatic expungement by the law
2 enforcement agency issuing the citation. Commencing 180
3 days after July 29, 2016 (the effective date of Public Act
4 99-697), the clerk of the circuit court shall expunge, upon
5 order of the court, or in the absence of a court order on
6 or before January 1 and July 1 of each year, the court
7 records of a person found in the circuit court to have
8 committed a civil law violation of subsection (a) of
9 Section 4 of the Cannabis Control Act or subsection (c) of
10 Section 3.5 of the Drug Paraphernalia Control Act in the
11 clerk's possession or control and which contains the final
12 satisfactory disposition which pertain to the person
13 issued a citation for any of those offenses.

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

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

1 of a local ordinance, that occurred prior to the
2 offender reaching the age of 25 years and the offender
3 has no other conviction for violating Section 11-501 or
4 11-503 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance.

6 (B) the sealing or expungement of records of minor
7 traffic offenses (as defined in subsection (a)(1)(G)),
8 unless the petitioner was arrested and released
9 without charging.

10 (C) the sealing of the records of arrests or
11 charges not initiated by arrest which result in an
12 order of supervision or a conviction for the following
13 offenses:

14 (i) offenses included in Article 11 of the
15 Criminal Code of 1961 or the Criminal Code of 2012
16 or a similar provision of a local ordinance, except
17 Section 11-14 and a misdemeanor violation of
18 Section 11-30 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, or a similar provision of a
20 local ordinance;

21 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
22 26-5, or 48-1 of the Criminal Code of 1961 or the
23 Criminal Code of 2012, or a similar provision of a
24 local ordinance;

25 (iii) Sections 12-3.1 or 12-3.2 of the
26 Criminal Code of 1961 or the Criminal Code of 2012,

1 or Section 125 of the Stalking No Contact Order
2 Act, or Section 219 of the Civil No Contact Order
3 Act, or a similar provision of a local ordinance;

4 (iv) Class A misdemeanors or felony offenses
5 under the Humane Care for Animals Act; or

6 (v) any offense or attempted offense that
7 would subject a person to registration under the
8 Sex Offender Registration Act.

9 (D) (blank).

10 (b) Expungement.

11 (1) A petitioner may petition the circuit court to
12 expunge the records of his or her arrests and charges not
13 initiated by arrest when each arrest or charge not
14 initiated by arrest sought to be expunged resulted in: (i)
15 acquittal, dismissal, or the petitioner's release without
16 charging, unless excluded by subsection (a)(3)(B); (ii) a
17 conviction which was vacated or reversed, unless excluded
18 by subsection (a)(3)(B); (iii) an order of supervision and
19 such supervision was successfully completed by the
20 petitioner, unless excluded by subsection (a)(3)(A) or
21 (a)(3)(B); or (iv) an order of qualified probation (as
22 defined in subsection (a)(1)(J)) and such probation was
23 successfully completed by the petitioner.

24 (1.5) When a petitioner seeks to have a record of
25 arrest expunged under this Section, and the offender has
26 been convicted of a criminal offense, the State's Attorney

1 may object to the expungement on the grounds that the
2 records contain specific relevant information aside from
3 the mere fact of the arrest.

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

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

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

15 (i) Those arrests or charges that resulted in
16 orders of supervision under Section 3-707, 3-708,
17 3-710, or 5-401.3 of the Illinois Vehicle Code or a
18 similar provision of a local ordinance, or under
19 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
20 Code of 1961 or the Criminal Code of 2012, or a
21 similar provision of a local ordinance, shall not
22 be eligible for expungement until 5 years have
23 passed following the satisfactory termination of
24 the supervision.

25 (i-5) Those arrests or charges that resulted
26 in orders of supervision for a misdemeanor

1 violation of subsection (a) of Section 11-503 of
2 the Illinois Vehicle Code or a similar provision of
3 a local ordinance, that occurred prior to the
4 offender reaching the age of 25 years and the
5 offender has no other conviction for violating
6 Section 11-501 or 11-503 of the Illinois Vehicle
7 Code or a similar provision of a local ordinance
8 shall not be eligible for expungement until the
9 petitioner has reached the age of 25 years.

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

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

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

25 (4) Whenever a person has been arrested for or
26 convicted of any offense, in the name of a person whose

1 identity he or she has stolen or otherwise come into
2 possession of, the aggrieved person from whom the identity
3 was stolen or otherwise obtained without authorization,
4 upon learning of the person having been arrested using his
5 or her identity, may, upon verified petition to the chief
6 judge of the circuit wherein the arrest was made, have a
7 court order entered nunc pro tunc by the Chief Judge to
8 correct the arrest record, conviction record, if any, and
9 all official records of the arresting authority, the
10 Department, other criminal justice agencies, the
11 prosecutor, and the trial court concerning such arrest, if
12 any, by removing his or her name from all such records in
13 connection with the arrest and conviction, if any, and by
14 inserting in the records the name of the offender, if known
15 or ascertainable, in lieu of the aggrieved's name. The
16 records of the circuit court clerk shall be sealed until
17 further order of the court upon good cause shown and the
18 name of the aggrieved person obliterated on the official
19 index required to be kept by the circuit court clerk under
20 Section 16 of the Clerks of Courts Act, but the order shall
21 not affect any index issued by the circuit court clerk
22 before the entry of the order. Nothing in this Section
23 shall limit the Department of State Police or other
24 criminal justice agencies or prosecutors from listing
25 under an offender's name the false names he or she has
26 used.

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

17 (6) If a conviction has been set aside on direct review
18 or on collateral attack and the court determines by clear
19 and convincing evidence that the petitioner was factually
20 innocent of the charge, the court that finds the petitioner
21 factually innocent of the charge shall enter an expungement
22 order for the conviction for which the petitioner has been
23 determined to be innocent as provided in subsection (b) of
24 Section 5-5-4 of the Unified Code of Corrections.

25 (7) Nothing in this Section shall prevent the
26 Department of State Police from maintaining all records of

1 any person who is admitted to probation upon terms and
2 conditions and who fulfills those terms and conditions
3 pursuant to Section 10 of the Cannabis Control Act, Section
4 410 of the Illinois Controlled Substances Act, Section 70
5 of the Methamphetamine Control and Community Protection
6 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
7 Corrections, Section 12-4.3 or subdivision (b)(1) of
8 Section 12-3.05 of the Criminal Code of 1961 or the
9 Criminal Code of 2012, Section 10-102 of the Illinois
10 Alcoholism and Other Drug Dependency Act, Section 40-10 of
11 the Alcoholism and Other Drug Abuse and Dependency Act, or
12 Section 10 of the Steroid Control Act.

13 (8) If the petitioner has been granted a certificate of
14 innocence under Section 2-702 of the Code of Civil
15 Procedure, the court that grants the certificate of
16 innocence shall also enter an order expunging the
17 conviction for which the petitioner has been determined to
18 be innocent as provided in subsection (h) of Section 2-702
19 of the Code of Civil Procedure.

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. Subsection (g) of this Section
26 provides for immediate sealing of certain records.

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

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

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

9 (C) Arrests or charges not initiated by arrest
10 resulting in orders of supervision, including orders
11 of supervision for municipal ordinance violations,
12 successfully completed by the petitioner, unless
13 excluded by subsection (a) (3);

14 (D) Arrests or charges not initiated by arrest
15 resulting in convictions, including convictions on
16 municipal ordinance violations, unless excluded by
17 subsection (a) (3);

18 (E) Arrests or charges not initiated by arrest
19 resulting in orders of first offender probation under
20 Section 10 of the Cannabis Control Act, Section 410 of
21 the Illinois Controlled Substances Act, Section 70 of
22 the Methamphetamine Control and Community Protection
23 Act, or Section 5-6-3.3 of the Unified Code of
24 Corrections; and

25 (F) Arrests or charges not initiated by arrest
26 resulting in felony convictions unless otherwise

1 excluded by subsection (a) paragraph (3) of this
2 Section.

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

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

9 (B) Except as otherwise provided in subparagraph
10 (E) of this paragraph (3), records identified as
11 eligible under subsection (c)(2)(C) may be sealed 2
12 years after the termination of petitioner's last
13 sentence (as defined in subsection (a)(1)(F)).

14 (C) Except as otherwise provided in subparagraph
15 (E) of this paragraph (3), records identified as
16 eligible under subsections (c)(2)(D), (c)(2)(E), and
17 (c)(2)(F) may be sealed 3 years after the termination
18 of the petitioner's last sentence (as defined in
19 subsection (a)(1)(F)). Convictions requiring public
20 registration under the Arsonist Registration Act, the
21 Sex Offender Registration Act, or the Murderer and
22 Violent Offender Against Youth Registration Act may
23 not be sealed until the petitioner is no longer
24 required to register under that relevant Act.

25 (D) Records identified in subsection
26 (a)(3)(A)(iii) may be sealed after the petitioner has

1 reached the age of 25 years.

2 (E) Records identified as eligible under
3 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
4 (c) (2) (F) may be sealed upon termination of the
5 petitioner's last sentence if the petitioner earned a
6 high school diploma, associate's degree, career
7 certificate, vocational technical certification, or
8 bachelor's degree, or passed the high school level Test
9 of General Educational Development, during the period
10 of his or her sentence, aftercare release, or mandatory
11 supervised release. This subparagraph shall apply only
12 to a petitioner who has not completed the same
13 educational goal prior to the period of his or her
14 sentence, aftercare release, or mandatory supervised
15 release. If a petition for sealing eligible records
16 filed under this subparagraph is denied by the court,
17 the time periods under subparagraph (B) or (C) shall
18 apply to any subsequent petition for sealing filed by
19 the petitioner.

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

1 records previously ordered sealed by the court.

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

7 (d) Procedure. The following procedures apply to
8 expungement under subsections (b), (e), and (e-6) and sealing
9 under subsections (c) and (e-5):

10 (1) Filing the petition. Upon becoming eligible to
11 petition for the expungement or sealing of records under
12 this Section, the petitioner shall file a petition
13 requesting the expungement or sealing of records with the
14 clerk of the court where the arrests occurred or the
15 charges were brought, or both. If arrests occurred or
16 charges were brought in multiple jurisdictions, a petition
17 must be filed in each such jurisdiction. The petitioner
18 shall pay the applicable fee, except no fee shall be
19 required if the petitioner has obtained a court order
20 waiving fees under Supreme Court Rule 298 or it is
21 otherwise waived.

22 (1.5) County fee waiver pilot program. In a county of
23 3,000,000 or more inhabitants, no fee shall be required to
24 be paid by a petitioner if the records sought to be
25 expunged or sealed were arrests resulting in release
26 without charging or arrests or charges not initiated by

1 arrest resulting in acquittal, dismissal, or conviction
2 when the conviction was reversed or vacated, unless
3 excluded by subsection (a)(3)(B). The provisions of this
4 paragraph (1.5), other than this sentence, are inoperative
5 on and after January 1, 2019 ~~or one year after January 1,~~
6 ~~2017 (the effective date of Public Act 99-881), whichever~~
7 ~~is later.~~

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

22 (3) Drug test. The petitioner must attach to the
23 petition proof that the petitioner has passed a test taken
24 within 30 days before the filing of the petition showing
25 the absence within his or her body of all illegal
26 substances as defined by the Illinois Controlled

1 Substances Act, the Methamphetamine Control and Community
2 Protection Act, and the Cannabis Control Act if he or she
3 is petitioning to:

4 (A) seal felony records under clause (c) (2) (E);

5 (B) seal felony records for a violation of the
6 Illinois Controlled Substances Act, the
7 Methamphetamine Control and Community Protection Act,
8 or the Cannabis Control Act under clause (c) (2) (F);

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

10 (D) expunge felony records of a qualified
11 probation under clause (b) (1) (iv).

12 (4) Service of petition. The circuit court clerk shall
13 promptly serve a copy of the petition and documentation to
14 support the petition under subsection (e-5) or (e-6) on the
15 State's Attorney or prosecutor charged with the duty of
16 prosecuting the offense, the Department of State Police,
17 the arresting agency and the chief legal officer of the
18 unit of local government effecting the arrest.

19 (5) Objections.

20 (A) Any party entitled to notice of the petition
21 may file an objection to the petition. All objections
22 shall be in writing, shall be filed with the circuit
23 court clerk, and shall state with specificity the basis
24 of the objection. Whenever a person who has been
25 convicted of an offense is granted a pardon by the
26 Governor which specifically authorizes expungement, an

1 objection to the petition may not be filed.

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

5 (6) Entry of order.

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

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

19 (C) Notwithstanding any other provision of law,
20 the court shall not deny a petition for sealing under
21 this Section because the petitioner has not satisfied
22 an outstanding legal financial obligation established,
23 imposed, or originated by a court, law enforcement
24 agency, or a municipal, State, county, or other unit of
25 local government, including, but not limited to, any
26 cost, assessment, fine, or fee. An outstanding legal

1 financial obligation does not include any court
2 ordered restitution to a victim under Section 5-5-6 of
3 the Unified Code of Corrections, unless the
4 restitution has been converted to a civil judgment.
5 Nothing in this subparagraph (C) waives, rescinds, or
6 abrogates a legal financial obligation or otherwise
7 eliminates or affects the right of the holder of any
8 financial obligation to pursue collection under
9 applicable federal, State, or local law.

10 (7) Hearings. If an objection is filed, the court shall
11 set a date for a hearing and notify the petitioner and all
12 parties entitled to notice of the petition of the hearing
13 date at least 30 days prior to the hearing. Prior to the
14 hearing, the State's Attorney shall consult with the
15 Department as to the appropriateness of the relief sought
16 in the petition to expunge or seal. At the hearing, the
17 court shall hear evidence on whether the petition should or
18 should not be granted, and shall grant or deny the petition
19 to expunge or seal the records based on the evidence
20 presented at the hearing. The court may consider the
21 following:

22 (A) the strength of the evidence supporting the
23 defendant's conviction;

24 (B) the reasons for retention of the conviction
25 records by the State;

26 (C) the petitioner's age, criminal record history,

1 and employment history;

2 (D) the period of time between the petitioner's
3 arrest on the charge resulting in the conviction and
4 the filing of the petition under this Section; and

5 (E) the specific adverse consequences the
6 petitioner may be subject to if the petition is denied.

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

16 (9) Implementation of order.

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

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

26 (ii) the records of the circuit court clerk

1 shall be impounded until further order of the court
2 upon good cause shown and the name of the
3 petitioner obliterated on the official index
4 required to be kept by the circuit court clerk
5 under Section 16 of the Clerks of Courts Act, but
6 the order shall not affect any index issued by the
7 circuit court clerk before the entry of the order;
8 and

9 (iii) in response to an inquiry for expunged
10 records, the court, the Department, or the agency
11 receiving such inquiry, shall reply as it does in
12 response to inquiries when no records ever
13 existed.

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

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

23 (ii) the records of the circuit court clerk
24 shall be impounded until further order of the court
25 upon good cause shown and the name of the
26 petitioner obliterated on the official index

1 required to be kept by the circuit court clerk
2 under Section 16 of the Clerks of Courts Act, but
3 the order shall not affect any index issued by the
4 circuit court clerk before the entry of the order;

5 (iii) the records shall be impounded by the
6 Department within 60 days of the date of service of
7 the order as ordered by the court, unless a motion
8 to vacate, modify, or reconsider the order is filed
9 pursuant to paragraph (12) of subsection (d) of
10 this Section;

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

19 (v) 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
24 existed.

25 (B-5) Upon entry of an order to expunge records
26 under subsection (e-6):

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

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

16 (iii) the records shall be impounded by the
17 Department within 60 days of the date of service of
18 the order as ordered by the court, unless a motion
19 to vacate, modify, or reconsider the order is filed
20 under paragraph (12) of subsection (d) of this
21 Section;

22 (iv) records impounded by the Department may
23 be disseminated by the Department only as required
24 by law or to the arresting authority, the State's
25 Attorney, and the court upon a later arrest for the
26 same or a similar offense or for the purpose of

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

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

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

19 (D) The Department shall send written notice to the
20 petitioner of its compliance with each order to expunge
21 or seal records within 60 days of the date of service
22 of that order or, if a motion to vacate, modify, or
23 reconsider is filed, within 60 days of service of the
24 order resolving the motion, if that order requires the
25 Department to expunge or seal records. In the event of
26 an appeal from the circuit court order, the Department

1 shall send written notice to the petitioner of its
2 compliance with an Appellate Court or Supreme Court
3 judgment to expunge or seal records within 60 days of
4 the issuance of the court's mandate. The notice is not
5 required while any motion to vacate, modify, or
6 reconsider, or any appeal or petition for
7 discretionary appellate review, is pending.

8 (E) Upon motion, the court may order that a sealed
9 judgment or other court record necessary to
10 demonstrate the amount of any legal financial
11 obligation due and owing be made available for the
12 limited purpose of collecting any legal financial
13 obligations owed by the petitioner that were
14 established, imposed, or originated in the criminal
15 proceeding for which those records have been sealed.
16 The records made available under this subparagraph (E)
17 shall not be entered into the official index required
18 to be kept by the circuit court clerk under Section 16
19 of the Clerks of Courts Act and shall be immediately
20 re-impounded upon the collection of the outstanding
21 financial obligations.

22 (F) Notwithstanding any other provision of this
23 Section, a circuit court clerk may access a sealed
24 record for the limited purpose of collecting payment
25 for any legal financial obligations that were
26 established, imposed, or originated in the criminal

1 proceedings for which those records have been sealed.

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

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

26 (12) Motion to Vacate, Modify, or Reconsider. Under

1 Section 2-1203 of the Code of Civil Procedure, the
2 petitioner or any party entitled to notice may file a
3 motion to vacate, modify, or reconsider the order granting
4 or denying the petition to expunge or seal within 60 days
5 of service of the order. If filed more than 60 days after
6 service of the order, a petition to vacate, modify, or
7 reconsider shall comply with subsection (c) of Section
8 2-1401 of the Code of Civil Procedure. Upon filing of a
9 motion to vacate, modify, or reconsider, notice of the
10 motion shall be served upon the petitioner and all parties
11 entitled to notice of the petition.

12 (13) Effect of Order. An order granting a petition
13 under the expungement or sealing provisions of this Section
14 shall not be considered void because it fails to comply
15 with the provisions of this Section or because of any error
16 asserted in a motion to vacate, modify, or reconsider. The
17 circuit court retains jurisdiction to determine whether
18 the order is voidable and to vacate, modify, or reconsider
19 its terms based on a motion filed under paragraph (12) of
20 this subsection (d).

21 (14) Compliance with Order Granting Petition to Seal
22 Records. Unless a court has entered a stay of an order
23 granting a petition to seal, all parties entitled to notice
24 of the petition must fully comply with the terms of the
25 order within 60 days of service of the order even if a
26 party is seeking relief from the order through a motion

1 filed under paragraph (12) of this subsection (d) or is
2 appealing the order.

3 (15) Compliance with Order Granting Petition to
4 Expunge Records. While a party is seeking relief from the
5 order granting the petition to expunge through a motion
6 filed under paragraph (12) of this subsection (d) or is
7 appealing the order, and unless a court has entered a stay
8 of that order, the parties entitled to notice of the
9 petition must seal, but need not expunge, the records until
10 there is a final order on the motion for relief or, in the
11 case of an appeal, the issuance of that court's mandate.

12 (16) The changes to this subsection (d) made by Public
13 Act 98-163 apply to all petitions pending on August 5, 2013
14 (the effective date of Public Act 98-163) and to all orders
15 ruling on a petition to expunge or seal on or after August
16 5, 2013 (the effective date of Public Act 98-163).

17 (e) Whenever a person who has been convicted of an offense
18 is granted a pardon by the Governor which specifically
19 authorizes expungement, he or she may, upon verified petition
20 to the Chief Judge of the circuit where the person had been
21 convicted, any judge of the circuit designated by the Chief
22 Judge, or in counties of less than 3,000,000 inhabitants, the
23 presiding trial judge at the defendant's trial, have a court
24 order entered expunging the record of arrest from the official
25 records of the arresting authority and order that the records
26 of the circuit court clerk and the Department be sealed until

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

18 (e-5) Whenever a person who has been convicted of an
19 offense is granted a certificate of eligibility for sealing by
20 the Prisoner Review Board which specifically authorizes
21 sealing, he or she may, upon verified petition to the Chief
22 Judge of the circuit where the person had been convicted, any
23 judge of the circuit designated by the Chief Judge, or in
24 counties of less than 3,000,000 inhabitants, the presiding
25 trial judge at the petitioner's trial, have a court order
26 entered sealing the record of arrest from the official records

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

22 (e-6) Whenever a person who has been convicted of an
23 offense is granted a certificate of eligibility for expungement
24 by the Prisoner Review Board which specifically authorizes
25 expungement, he or she may, upon verified petition to the Chief
26 Judge of the circuit where the person had been convicted, any

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

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 (g) Immediate Sealing.

13 (1) Applicability. Notwithstanding any other provision
14 of this Act to the contrary, and cumulative with any rights
15 to expungement or sealing of criminal records, this
16 subsection authorizes the immediate sealing of criminal
17 records of adults and of minors prosecuted as adults.

18 (2) Eligible Records. Arrests or charges not initiated
19 by arrest resulting in acquittal or dismissal with
20 prejudice, except as excluded by subsection (a)(3)(B),
21 that occur on or after January 1, 2018 (the effective date
22 of Public Act 100-282) ~~this amendatory Act of the 100th~~
23 ~~General Assembly~~, may be sealed immediately if the petition
24 is filed with the circuit court clerk on the same day and
25 during the same hearing in which the case is disposed.

26 (3) When Records are Eligible to be Immediately Sealed.

1 Eligible records under paragraph (2) of this subsection (g)
2 may be sealed immediately after entry of the final
3 disposition of a case, notwithstanding the disposition of
4 other charges in the same case.

5 (4) Notice of Eligibility for Immediate Sealing. Upon
6 entry of a disposition for an eligible record under this
7 subsection (g), the defendant shall be informed by the
8 court of his or her right to have eligible records
9 immediately sealed and the procedure for the immediate
10 sealing of these records.

11 (5) Procedure. The following procedures apply to
12 immediate sealing under this subsection (g).

13 (A) Filing the Petition. Upon entry of the final
14 disposition of the case, the defendant's attorney may
15 immediately petition the court, on behalf of the
16 defendant, for immediate sealing of eligible records
17 under paragraph (2) of this subsection (g) that are
18 entered on or after January 1, 2018 (the effective date
19 of Public Act 100-282) ~~this amendatory Act of the 100th~~
20 ~~General Assembly~~. The immediate sealing petition may
21 be filed with the circuit court clerk during the
22 hearing in which the final disposition of the case is
23 entered. If the defendant's attorney does not file the
24 petition for immediate sealing during the hearing, the
25 defendant may file a petition for sealing at any time
26 as authorized under subsection (c) (3) (A).

1 (B) Contents of Petition. The immediate sealing
2 petition shall be verified and shall contain the
3 petitioner's name, date of birth, current address, and
4 for each eligible record, the case number, the date of
5 arrest if applicable, the identity of the arresting
6 authority if applicable, and other information as the
7 court may require.

8 (C) Drug Test. The petitioner shall not be required
9 to attach proof that he or she has passed a drug test.

10 (D) Service of Petition. A copy of the petition
11 shall be served on the State's Attorney in open court.
12 The petitioner shall not be required to serve a copy of
13 the petition on any other agency.

14 (E) Entry of Order. The presiding trial judge shall
15 enter an order granting or denying the petition for
16 immediate sealing during the hearing in which it is
17 filed. Petitions for immediate sealing shall be ruled
18 on in the same hearing in which the final disposition
19 of the case is entered.

20 (F) Hearings. The court shall hear the petition for
21 immediate sealing on the same day and during the same
22 hearing in which the disposition is rendered.

23 (G) Service of Order. An order to immediately seal
24 eligible records shall be served in conformance with
25 subsection (d) (8).

26 (H) Implementation of Order. An order to

1 immediately seal records shall be implemented in
2 conformance with subsections (d) (9) (C) and (d) (9) (D).

3 (I) Fees. The fee imposed by the circuit court
4 clerk and the Department of State Police shall comply
5 with paragraph (1) of subsection (d) of this Section.

6 (J) Final Order. No court order issued under this
7 subsection (g) shall become final for purposes of
8 appeal until 30 days after service of the order on the
9 petitioner and all parties entitled to service of the
10 order in conformance with subsection (d) (8).

11 (K) Motion to Vacate, Modify, or Reconsider. Under
12 Section 2-1203 of the Code of Civil Procedure, the
13 petitioner, State's Attorney, or the Department of
14 State Police may file a motion to vacate, modify, or
15 reconsider the order denying the petition to
16 immediately seal within 60 days of service of the
17 order. If filed more than 60 days after service of the
18 order, a petition to vacate, modify, or reconsider
19 shall comply with subsection (c) of Section 2-1401 of
20 the Code of Civil Procedure.

21 (L) Effect of Order. An order granting an immediate
22 sealing petition shall not be considered void because
23 it fails to comply with the provisions of this Section
24 or because of an error asserted in a motion to vacate,
25 modify, or reconsider. The circuit court retains
26 jurisdiction to determine whether the order is

1 voidable, and to vacate, modify, or reconsider its
2 terms based on a motion filed under subparagraph (L) of
3 this subsection (g).

4 (M) Compliance with Order Granting Petition to
5 Seal Records. Unless a court has entered a stay of an
6 order granting a petition to immediately seal, all
7 parties entitled to service of the order must fully
8 comply with the terms of the order within 60 days of
9 service of the order.

10 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
11 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
12 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
13 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; revised
14 10-13-17.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."