



Rep. Constance A. Howard

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09300SB3007ham005

LRB093 21097 RLC 51258 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007, AS AMENDED,
3 by replacing the introductory clause of Section 5 with the
4 following:

5 "Section 5. The Criminal Identification Act is amended by
6 changing Sections 5, 12, and 13 as follows:"; and

7 by deleting all of subsection (l) of Sec. 5 of Section 5; and

8 by relettering subsection "(m)" of Sec. 5 of Section 5 as
9 subsection "(l)"; and

10 by inserting after the last line of Sec. 5 of Section 5 the
11 following:

12 "(20 ILCS 2630/12)

13 Sec. 12. Entry of order; effect of expungement or sealing
14 records.

15 (a) Except with respect to law enforcement agencies, the
16 Department of Corrections, State's Attorneys, or other
17 prosecutors, and as provided in Section 13 of this Act, an
18 expunged or sealed record may not be considered by any private
19 or public entity in employment matters, certification,
20 licensing, revocation of certification or licensure, or
21 registration. Applications for employment must contain
22 specific language which states that the applicant is not

1 obligated to disclose sealed or expunged records of conviction
2 or arrest. Employers may not ask if an applicant has had
3 records expunged or sealed.

4 (b) A person whose records have been sealed or expunged is
5 not entitled to remission of any fines, costs, or other money
6 paid as a consequence of the sealing or expungement. This
7 amendatory Act of the 93rd General Assembly does not affect the
8 right of the victim of a crime to prosecute or defend a civil
9 action for damages. Persons engaged in civil litigation
10 involving criminal records that have been sealed may petition
11 the court to open the records for the limited purpose of using
12 them in the course of litigation.

13 (Source: P.A. 93-211, eff. 1-1-04.)

14 (20 ILCS 2630/13)

15 Sec. 13. Retention and release of sealed records ~~Prohibited~~
16 ~~conduct, misdemeanor, penalty.~~

17 (a) The Department of State Police shall retain records
18 sealed under subsections (h), and (i), and (j) of Section 5 and
19 shall release them only as authorized by this Act. Felony
20 records ~~The~~ sealed under subsection (j) of Section 5 ~~records~~
21 shall be used and disseminated by the Department only as
22 otherwise specifically required or authorized by a federal or
23 State law, rule, or regulation that requires inquiry into and
24 release of criminal records, including, but not limited to,
25 subsection (A) of Section 3 of this Act. However, all requests
26 for records that have been expunged, sealed, and impounded and
27 the use of those records are subject to the provisions of
28 Section 2-103 of the Illinois Human Rights Act ~~allowed by law.~~
29 Upon conviction for any offense, the Department of Corrections
30 shall have access to all sealed records of the Department
31 pertaining to that individual.

32 (b) The sealed records maintained under subsection (a) are
33 exempt from disclosure under the Freedom of Information Act.

1 (c) The Department of State Police shall commence the
2 sealing of records of felony arrests and felony convictions
3 pursuant to the provisions of subsection (j) of Section 5 of
4 this Act no later than one year from the date that funds have
5 been made available for purposes of establishing the
6 technologies necessary to implement the changes made by this
7 amendatory Act of the 93rd General Assembly.

8 (Source: P.A. 93-211, eff. 1-1-04.)

9 Section 10. The Illinois Human Rights Act is amended by
10 changing Section 2-103 as follows:

11 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

12 Sec. 2-103. Arrest Record.

13 (A) Unless otherwise authorized by law, it is a civil
14 rights violation for any employer, employment agency or labor
15 organization to inquire into or to use the fact of an arrest or
16 criminal history record information ordered expunged, sealed
17 or impounded under Section 5 of the Criminal Identification Act
18 as a basis to refuse to hire, to segregate, or to act with
19 respect to recruitment, hiring, promotion, renewal of
20 employment, selection for training or apprenticeship,
21 discharge, discipline, tenure or terms, privileges or
22 conditions of employment. This Section does not prohibit a
23 State agency, unit of local government or school district, or
24 private organization from requesting or utilizing sealed
25 felony conviction information obtained from the Department of
26 State Police under the provisions of Section 3 of the Criminal
27 Identification Act or under other State or federal laws or
28 regulations that require criminal background checks in
29 evaluating the qualifications and character of an employee or a
30 prospective employee.

31 (B) The prohibition against the use of the fact of an
32 arrest contained in this Section shall not be construed to

1 prohibit an employer, employment agency, or labor organization
2 from obtaining or using other information which indicates that
3 a person actually engaged in the conduct for which he or she
4 was arrested.

5 (Source: P.A. 89-370, eff. 8-18-95.)".