



Rep. Elaine Nekritz

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1 AMENDMENT TO HOUSE BILL 3945

2 AMENDMENT NO. _____. Amend House Bill 3945 on page 1, by
3 inserting immediately below the enacting clause the following:

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

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

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

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

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

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

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

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

25 (L) "Sexual offense committed against a minor"
26 includes but is not limited to the offenses of indecent

1 solicitation of a child or criminal sexual abuse when
2 the victim of such offense is under 18 years of age.

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

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

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

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

1 11-501 or 11-503 of the Illinois Vehicle Code or a
2 similar provision of a local ordinance.

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

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

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

17 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30, or
18 26-5 of the Criminal Code of 1961 or a similar
19 provision of a local ordinance;

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

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

25 (v) any offense or attempted offense that
26 would subject a person to registration under the

1 Sex Offender Registration Act.

2 (D) the sealing of the records of an arrest which
3 results in the petitioner being charged with a felony
4 offense or records of a charge not initiated by arrest
5 for a felony offense unless:

6 (i) the charge is amended to a misdemeanor and
7 is otherwise eligible to be sealed pursuant to
8 subsection (c);

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

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

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

1 Class 4 felony offenses listed in subsection
2 (c)(2)(F), and records of charges amended to a
3 Class 4 felony offense listed in (c)(2)(F) may be
4 sealed, regardless of the disposition, subject to
5 any waiting periods set forth in subsection
6 (c)(3);

7 (v) the charge results in acquittal,
8 dismissal, or the petitioner's release without
9 conviction; or

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

12 (b) Expungement.

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

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

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

1 qualified probation (as defined in subsection
2 (a) (1) (J)) and such probation was successfully
3 completed by the petitioner.

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 a similar provision of a local
21 ordinance, shall not be eligible for expungement
22 until 5 years have passed following the
23 satisfactory termination of the supervision.

24 (ii) Those arrests or charges that resulted in
25 orders of supervision for any other offenses shall
26 not be eligible for expungement until 2 years have

1 passed following the satisfactory termination of
2 the supervision.

3 (C) When the arrest or charge not initiated by
4 arrest sought to be expunged resulted in an order of
5 qualified probation, successfully completed by the
6 petitioner, such records shall not be eligible for
7 expungement until 5 years have passed following the
8 satisfactory termination of the probation.

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

13 (4) Whenever a person has been arrested for or
14 convicted of any offense, in the name of a person whose
15 identity he or she has stolen or otherwise come into
16 possession of, the aggrieved person from whom the identity
17 was stolen or otherwise obtained without authorization,
18 upon learning of the person having been arrested using his
19 or her identity, may, upon verified petition to the chief
20 judge of the circuit wherein the arrest was made, have a
21 court order entered nunc pro tunc by the Chief Judge to
22 correct the arrest record, conviction record, if any, and
23 all official records of the arresting authority, the
24 Department, other criminal justice agencies, the
25 prosecutor, and the trial court concerning such arrest, if
26 any, by removing his or her name from all such records in

1 connection with the arrest and conviction, if any, and by
2 inserting in the records the name of the offender, if known
3 or ascertainable, in lieu of the aggrieved's name. The
4 records of the circuit court clerk shall be sealed until
5 further order of the court upon good cause shown and the
6 name of the aggrieved person obliterated on the official
7 index required to be kept by the circuit court clerk under
8 Section 16 of the Clerks of Courts Act, but the order shall
9 not affect any index issued by the circuit court clerk
10 before the entry of the order. Nothing in this Section
11 shall limit the Department of State Police or other
12 criminal justice agencies or prosecutors from listing
13 under an offender's name the false names he or she has
14 used.

15 (5) Whenever a person has been convicted of criminal
16 sexual assault, aggravated criminal sexual assault,
17 predatory criminal sexual assault of a child, criminal
18 sexual abuse, or aggravated criminal sexual abuse, the
19 victim of that offense may request that the State's
20 Attorney of the county in which the conviction occurred
21 file a verified petition with the presiding trial judge at
22 the petitioner's trial to have a court order entered to
23 seal the records of the circuit court clerk in connection
24 with the proceedings of the trial court concerning that
25 offense. However, the records of the arresting authority
26 and the Department of State Police concerning the offense

1 shall not be sealed. The court, upon good cause shown,
2 shall make the records of the circuit court clerk in
3 connection with the proceedings of the trial court
4 concerning the offense available for public inspection.

5 (6) If a conviction has been set aside on direct review
6 or on collateral attack and the court determines by clear
7 and convincing evidence that the petitioner was factually
8 innocent of the charge, the court shall enter an
9 expungement order as provided in subsection (b) of Section
10 5-5-4 of the Unified Code of Corrections.

11 (7) Nothing in this Section shall prevent the
12 Department of State Police from maintaining all records of
13 any person who is admitted to probation upon terms and
14 conditions and who fulfills those terms and conditions
15 pursuant to Section 10 of the Cannabis Control Act, Section
16 410 of the Illinois Controlled Substances Act, Section 70
17 of the Methamphetamine Control and Community Protection
18 Act, Section 12-4.3 or subdivision (b)(1) of Section
19 12-3.05 of the Criminal Code of 1961, Section 10-102 of the
20 Illinois Alcoholism and Other Drug Dependency Act, Section
21 40-10 of the Alcoholism and Other Drug Abuse and Dependency
22 Act, or Section 10 of the Steroid Control Act.

23 (c) Sealing.

24 (1) Applicability. Notwithstanding any other provision
25 of this Act to the contrary, and cumulative with any rights
26 to expungement of criminal records, this subsection

1 authorizes the sealing of criminal records of adults and of
2 minors prosecuted as adults.

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

5 (A) All arrests resulting in release without
6 charging;

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

11 (C) Arrests or charges not initiated by arrest
12 resulting in orders of supervision successfully
13 completed by the petitioner, unless excluded by
14 subsection (a) (3);

15 (D) Arrests or charges not initiated by arrest
16 resulting in convictions unless excluded by subsection
17 (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, or Section 70
22 of the Methamphetamine Control and Community
23 Protection Act; and

24 (F) Arrests or charges not initiated by arrest
25 resulting in Class 4 felony convictions for the
26 following offenses:

1 (i) Section 11-14 of the Criminal Code of 1961;

2 (ii) Section 4 of the Cannabis Control Act;

3 (iii) Section 402 of the Illinois Controlled
4 Substances Act;

5 (iv) the Methamphetamine Precursor Control
6 Act; and

7 (v) the Steroid Control Act.

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

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

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

24 (C) Records identified as eligible under
25 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be
26 sealed 4 years after the termination of the

1 petitioner's last sentence (as defined in subsection
2 (a) (1) (F)).

3 (D) Records identified as eligible under
4 subsection (c) (2) (D) and as identified in subsection
5 (a) (3) (A) may be sealed after the petitioner has
6 reached the age of 25 years.

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

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

20 (d) Procedure. The following procedures apply to
21 expungement under subsections (b) and (e), and sealing under
22 subsection (c):

23 (1) Filing the petition. Upon becoming eligible to
24 petition for the expungement or sealing of records under
25 this Section, the petitioner shall file a petition
26 requesting the expungement or sealing of records with the

1 clerk of the court where the arrests occurred or the
2 charges were brought, or both. If arrests occurred or
3 charges were brought in multiple jurisdictions, a petition
4 must be filed in each such jurisdiction. The petitioner
5 shall pay the applicable fee, if not waived.

6 (2) Contents of petition. The petition shall be
7 verified and shall contain the petitioner's name, date of
8 birth, current address and, for each arrest or charge not
9 initiated by arrest sought to be sealed or expunged, the
10 case number, the date of arrest (if any), the identity of
11 the arresting authority, and such other information as the
12 court may require. During the pendency of the proceeding,
13 the petitioner shall promptly notify the circuit court
14 clerk of any change of his or her address.

15 (3) Drug test. The petitioner must attach to the
16 petition proof that the petitioner has passed a test taken
17 within 30 days before the filing of the petition showing
18 the absence within his or her body of all illegal
19 substances as defined by the Illinois Controlled
20 Substances Act, the Methamphetamine Control and Community
21 Protection Act, and the Cannabis Control Act if he or she
22 is petitioning to seal felony records pursuant to clause
23 (c) (2) (E) or (c) (2) (F) (ii)-(v) or if he or she is
24 petitioning to expunge felony records of a qualified
25 probation pursuant to clause (b) (1) (B) (iv).

26 (4) Service of petition. The circuit court clerk shall

1 promptly serve a copy of the petition on the State's
2 Attorney or prosecutor charged with the duty of prosecuting
3 the offense, the Department of State Police, the arresting
4 agency and the chief legal officer of the unit of local
5 government effecting the arrest.

6 (5) Objections.

7 (A) Any party entitled to notice of the petition
8 may file an objection to the petition. All objections
9 shall be in writing, shall be filed with the circuit
10 court clerk, and shall state with specificity the basis
11 of the objection.

12 (B) Objections to a petition to expunge or seal
13 must be filed within 60 days of the date of service of
14 the petition.

15 (6) Entry of order.

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

23 (B) Unless the State's Attorney or prosecutor, the
24 Department of State Police, the arresting agency, or
25 the chief legal officer files an objection to the
26 petition to expunge or seal within 60 days from the

1 date of service of the petition, the court shall enter
2 an order granting or denying the petition.

3 (7) Hearings. If an objection is filed, the court shall
4 set a date for a hearing and notify the petitioner and all
5 parties entitled to notice of the petition of the hearing
6 date at least 30 days prior to the hearing, and shall hear
7 evidence on whether the petition should or should not be
8 granted, and shall grant or deny the petition to expunge or
9 seal the records based on the evidence presented at the
10 hearing.

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

20 (9) Effect of order.

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

23 (i) the records shall be expunged (as defined
24 in subsection (a) (1) (E)) by the arresting agency,
25 the Department, and any other agency as ordered by
26 the court, within 60 days of the date of service of

1 the order, unless a motion to vacate, modify, or
2 reconsider the order is filed pursuant to
3 paragraph (12) of subsection (d) of this Section;

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

13 (iii) in response to an inquiry for expunged
14 records, the court, the Department, or the agency
15 receiving such inquiry, shall reply as it does in
16 response to inquiries when no records ever
17 existed.

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

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

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

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

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

23 (v) in response to an inquiry for such records
24 from anyone not authorized by law to access such
25 records the court, the Department, or the agency
26 receiving such inquiry shall reply as it does in

1 response to inquiries when no records ever
2 existed.

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

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

1 the State Police Services Fund.

2 (11) Final Order. No court order issued under the
3 expungement or sealing provisions of this Section shall
4 become final for purposes of appeal until 30 days after
5 service of the order on the petitioner and all parties
6 entitled to notice of the petition.

7 (12) Motion to Vacate, Modify, or Reconsider. The
8 petitioner or any party entitled to notice may file a
9 motion to vacate, modify, or reconsider the order granting
10 or denying the petition to expunge or seal within 60 days
11 of service of the order.

12 (e) Whenever a person who has been convicted of an offense
13 is granted a pardon by the Governor which specifically
14 authorizes expungement, he or she may, upon verified petition
15 to the Chief Judge of the circuit where the person had been
16 convicted, any judge of the circuit designated by the Chief
17 Judge, or in counties of less than 3,000,000 inhabitants, the
18 presiding trial judge at the defendant's trial, have a court
19 order entered expunging the record of arrest from the official
20 records of the arresting authority and order that the records
21 of the circuit court clerk and the Department be sealed until
22 further order of the court upon good cause shown or as
23 otherwise provided herein, and the name of the defendant
24 obliterated from the official index requested to be kept by the
25 circuit court clerk under Section 16 of the Clerks of Courts
26 Act in connection with the arrest and conviction for the

1 offense for which he or she had been pardoned but the order
2 shall not affect any index issued by the circuit court clerk
3 before the entry of the order. All records sealed by the
4 Department may be disseminated by the Department only as
5 required by law or to the arresting authority, the State's
6 Attorney, and the court upon a later arrest for the same or
7 similar offense or for the purpose of sentencing for any
8 subsequent felony. Upon conviction for any subsequent offense,
9 the Department of Corrections shall have access to all sealed
10 records of the Department pertaining to that individual. Upon
11 entry of the order of expungement, the circuit court clerk
12 shall promptly mail a copy of the order to the person who was
13 pardoned.

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

26 (Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10;

1 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff.
2 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443,
3 eff. 8-19-11; revised 9-6-11.)".