



Rep. Arthur Turner

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1 AMENDMENT TO HOUSE BILL 6328

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6328 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

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

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

26 (L) "Sexual offense committed against a minor"

1 includes but is not limited to the offenses of indecent  
2 solicitation of a child or criminal sexual abuse when  
3 the victim of such offense is under 18 years of age.

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

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

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

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

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

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

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

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

19 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
20 26-5, or 48-1 of the Criminal Code of 1961 or the  
21 Criminal Code of 2012, or a similar provision of a  
22 local ordinance;

23 (iii) Sections 12-3.1 or 12-3.2 of the  
24 Criminal Code of 1961 or the Criminal Code of 2012,  
25 or Section 125 of the Stalking No Contact Order  
26 Act, or Section 219 of the Civil No Contact Order

1 Act, or a similar provision of a local ordinance;

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

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

7 (D) the sealing of the records of an arrest which  
8 results in the petitioner being charged with a felony  
9 offense or records of a charge not initiated by arrest  
10 for a felony offense unless:

11 (i) the charge is amended to a misdemeanor and  
12 is otherwise eligible to be sealed pursuant to  
13 subsection (c);

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

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

25 (iv) the charge is for a felony offense listed  
26 in subsection (c) (2) (F) or the charge is amended to



1 a felony offense listed in subsection (c) (2) (F);

2 (v) the charge results in acquittal,  
3 dismissal, or the petitioner's release without  
4 conviction; or

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

7 (b) Expungement.

8 (1) A petitioner may petition the circuit court to  
9 expunge the records of his or her arrests and charges not  
10 initiated by arrest when each ÷

11 ~~(A) He or she has never been convicted of a~~  
12 ~~criminal offense; and~~

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

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

26 (A) When the arrest or charge not initiated by

1           arrest sought to be expunged resulted in an acquittal,  
2           dismissal, the petitioner's release without charging,  
3           or the reversal or vacation of a conviction, there is  
4           no waiting period to petition for the expungement of  
5           such records.

6           (B) When the arrest or charge not initiated by  
7           arrest sought to be expunged resulted in an order of  
8           supervision, successfully completed by the petitioner,  
9           the following time frames will apply:

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

20           (i-5) Those arrests or charges that resulted  
21           in orders of supervision for a misdemeanor  
22           violation of subsection (a) of Section 11-503 of  
23           the Illinois Vehicle Code or a similar provision of  
24           a local ordinance, that occurred prior to the  
25           offender reaching the age of 25 years and the  
26           offender has no other conviction for violating

1           Section 11-501 or 11-503 of the Illinois Vehicle  
2           Code or a similar provision of a local ordinance  
3           shall not be eligible for expungement until the  
4           petitioner has reached the age of 25 years.

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

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

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

20          (4) Whenever a person has been arrested for or  
21          convicted of any offense, in the name of a person whose  
22          identity he or she has stolen or otherwise come into  
23          possession of, the aggrieved person from whom the identity  
24          was stolen or otherwise obtained without authorization,  
25          upon learning of the person having been arrested using his  
26          or her identity, may, upon verified petition to the chief

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

22 (5) Whenever a person has been convicted of criminal  
23 sexual assault, aggravated criminal sexual assault,  
24 predatory criminal sexual assault of a child, criminal  
25 sexual abuse, or aggravated criminal sexual abuse, the  
26 victim of that offense may request that the State's

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

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

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

1 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of  
2 Corrections, Section 12-4.3 or subdivision (b)(1) of  
3 Section 12-3.05 of the Criminal Code of 1961 or the  
4 Criminal Code of 2012, Section 10-102 of the Illinois  
5 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
6 the Alcoholism and Other Drug Abuse and Dependency Act, or  
7 Section 10 of the Steroid Control Act.

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

15 (c) Sealing.

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

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

23 (A) All arrests resulting in release without  
24 charging;

25 (B) Arrests or charges not initiated by arrest  
26 resulting in acquittal, dismissal, or conviction when

1 the conviction was reversed or vacated, except as  
2 excluded by subsection (a) (3) (B);

3 (C) Arrests or charges not initiated by arrest  
4 resulting in orders of supervision, including orders  
5 of supervision for municipal ordinance violations,  
6 successfully completed by the petitioner, unless  
7 excluded by subsection (a) (3);

8 (D) Arrests or charges not initiated by arrest  
9 resulting in convictions, including convictions on  
10 municipal ordinance violations, unless excluded by  
11 subsection (a) (3);

12 (E) Arrests or charges not initiated by arrest  
13 resulting in orders of first offender probation under  
14 Section 10 of the Cannabis Control Act, Section 410 of  
15 the Illinois Controlled Substances Act, Section 70 of  
16 the Methamphetamine Control and Community Protection  
17 Act, or Section 5-6-3.3 of the Unified Code of  
18 Corrections; and

19 (F) Arrests or charges not initiated by arrest  
20 resulting in felony convictions for the following  
21 offenses:

22 (i) Class 4 felony convictions for:

23 Prostitution under Section 11-14 of the  
24 Criminal Code of 1961 or the Criminal Code of  
25 2012.

26 Possession of cannabis under Section 4 of

1 the Cannabis Control Act.

2 Possession of a controlled substance under  
3 Section 402 of the Illinois Controlled  
4 Substances Act.

5 Offenses under the Methamphetamine  
6 Precursor Control Act.

7 Offenses under the Steroid Control Act.

8 Theft under Section 16-1 of the Criminal  
9 Code of 1961 or the Criminal Code of 2012.

10 Retail theft under Section 16A-3 or  
11 paragraph (a) of 16-25 of the Criminal Code of  
12 1961 or the Criminal Code of 2012.

13 Deceptive practices under Section 17-1 of  
14 the Criminal Code of 1961 or the Criminal Code  
15 of 2012.

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

18 Possession of burglary tools under Section  
19 19-2 of the Criminal Code of 1961 or the  
20 Criminal Code of 2012.

21 (ii) Class 3 felony convictions for:

22 Theft under Section 16-1 of the Criminal  
23 Code of 1961 or the Criminal Code of 2012.

24 Retail theft under Section 16A-3 or  
25 paragraph (a) of 16-25 of the Criminal Code of  
26 1961 or the Criminal Code of 2012.



1                   Deceptive practices under Section 17-1 of  
2                   the Criminal Code of 1961 or the Criminal Code  
3                   of 2012.

4                   Forgery under Section 17-3 of the Criminal  
5                   Code of 1961 or the Criminal Code of 2012.

6                   Possession with intent to manufacture or  
7                   deliver a controlled substance under Section  
8                   401 of the Illinois Controlled Substances Act.

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

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

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

20                  (C) Except as otherwise provided in subparagraph  
21                  (E) of this paragraph (3), records identified as  
22                  eligible under subsections (c)(2)(D), (c)(2)(E), and  
23                  (c)(2)(F) may be sealed 3 years after the termination  
24                  of the petitioner's last sentence (as defined in  
25                  subsection (a)(1)(F)).

26                  (D) Records identified in subsection

1 (a) (3) (A) (iii) may be sealed after the petitioner has  
2 reached the age of 25 years.

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

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

1 offense, order the unsealing of prior felony conviction  
2 records previously ordered sealed by the court.

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

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

11 (1) Filing the petition. Upon becoming eligible to  
12 petition for the expungement or sealing of records under  
13 this Section, the petitioner shall file a petition  
14 requesting the expungement or sealing of records with the  
15 clerk of the court where the arrests occurred or the  
16 charges were brought, or both. If arrests occurred or  
17 charges were brought in multiple jurisdictions, a petition  
18 must be filed in each such jurisdiction. The petitioner  
19 shall pay the applicable fee, if not waived, except no fee  
20 shall be required if the records sought to be expunged or  
21 sealed were arrests resulting in release without charging  
22 or arrests or charges not initiated by arrest resulting in  
23 acquittal, dismissal, or conviction when the conviction  
24 was reversed or vacated, except as excluded by subsection  
25 (a) (3) (B).

26 (2) Contents of petition. The petition shall be

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

14 (3) Drug test. The petitioner must attach to the  
15 petition proof that the petitioner has passed a test taken  
16 within 30 days before the filing of the petition showing  
17 the absence within his or her body of all illegal  
18 substances as defined by the Illinois Controlled  
19 Substances Act, the Methamphetamine Control and Community  
20 Protection Act, and the Cannabis Control Act if he or she  
21 is petitioning to:

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

23 (B) seal felony records for a violation of the  
24 Illinois Controlled Substances Act, the  
25 Methamphetamine Control and Community Protection Act,  
26 or the Cannabis Control Act under clause (c) (2) (F);

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

2 (D) expunge felony records of a qualified  
3 probation under clause (b) (1) ~~(B)~~ (iv).

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

11 (5) Objections.

12 (A) Any party entitled to notice of the petition  
13 may file an objection to the petition. All objections  
14 shall be in writing, shall be filed with the circuit  
15 court clerk, and shall state with specificity the basis  
16 of the objection. Whenever a person who has been  
17 convicted of an offense is granted a pardon by the  
18 Governor which specifically authorizes expungement, an  
19 objection to the petition may not be filed.

20 (B) Objections to a petition to expunge or seal  
21 must be filed within 60 days of the date of service of  
22 the petition.

23 (6) Entry of order.

24 (A) The Chief Judge of the circuit wherein the  
25 charge was brought, any judge of that circuit  
26 designated by the Chief Judge, or in counties of less

1           than 3,000,000 inhabitants, the presiding trial judge  
2           at the petitioner's trial, if any, shall rule on the  
3           petition to expunge or seal as set forth in this  
4           subsection (d) (6).

5           (B) Unless the State's Attorney or prosecutor, the  
6           Department of State Police, the arresting agency, or  
7           the chief legal officer files an objection to the  
8           petition to expunge or seal within 60 days from the  
9           date of service of the petition, the court shall enter  
10          an order granting or denying the petition.

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

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

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

1 (C) the petitioner's age, criminal record history,  
2 and employment history;

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

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

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

17 (9) Implementation of order.

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

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

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

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

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

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



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

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

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

20          (v) in response to an inquiry for such records  
21          from anyone not authorized by law to access such  
22          records, the court, the Department, or the agency  
23          receiving such inquiry shall reply as it does in  
24          response to inquiries when no records ever  
25          existed.

26          (B-5) Upon entry of an order to expunge records

1 under subsection (e-6):

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

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

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

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

1 same or a similar offense or for the purpose of  
2 sentencing for any subsequent felony, and to the  
3 Department of Corrections upon conviction for any  
4 offense; and

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

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

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

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

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

25          (11) Final Order. No court order issued under the  
26          expungement or sealing provisions of this Section shall

1           become final for purposes of appeal until 30 days after  
2           service of the order on the petitioner and all parties  
3           entitled to notice of the petition.

4           (12) Motion to Vacate, Modify, or Reconsider. Under  
5           Section 2-1203 of the Code of Civil Procedure, the  
6           petitioner or any party entitled to notice may file a  
7           motion to vacate, modify, or reconsider the order granting  
8           or denying the petition to expunge or seal within 60 days  
9           of service of the order. If filed more than 60 days after  
10          service of the order, a petition to vacate, modify, or  
11          reconsider shall comply with subsection (c) of Section  
12          2-1401 of the Code of Civil Procedure. Upon filing of a  
13          motion to vacate, modify, or reconsider, notice of the  
14          motion shall be served upon the petitioner and all parties  
15          entitled to notice of the petition.

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

25          (14) Compliance with Order Granting Petition to Seal  
26          Records. Unless a court has entered a stay of an order

1 granting a petition to seal, all parties entitled to notice  
2 of the petition must fully comply with the terms of the  
3 order within 60 days of service of the order even if a  
4 party is seeking relief from the order through a motion  
5 filed under paragraph (12) of this subsection (d) or is  
6 appealing the order.

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

16 (16) The changes to this subsection (d) made by Public  
17 Act 98-163 apply to all petitions pending on August 5, 2013  
18 (the effective date of Public Act 98-163) and to all orders  
19 ruling on a petition to expunge or seal on or after August  
20 5, 2013 (the effective date of Public Act 98-163).

21 (e) Whenever a person who has been convicted of an offense  
22 is granted a pardon by the Governor which specifically  
23 authorizes expungement, he or she may, upon verified petition  
24 to the Chief Judge of the circuit where the person had been  
25 convicted, any judge of the circuit designated by the Chief  
26 Judge, or in counties of less than 3,000,000 inhabitants, the

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

22 (e-5) Whenever a person who has been convicted of an  
23 offense is granted a certificate of eligibility for sealing by  
24 the Prisoner Review Board which specifically authorizes  
25 sealing, 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 sealing the record of arrest from the official records  
5 of the arresting authority and order that the records of the  
6 circuit court clerk and the Department be sealed until further  
7 order of the court upon good cause shown or as otherwise  
8 provided herein, and the name of the petitioner obliterated  
9 from the official index requested to be kept by the circuit  
10 court clerk under Section 16 of the Clerks of Courts Act in  
11 connection with the arrest and conviction for the offense for  
12 which he or she had been granted the certificate but the order  
13 shall not affect any index issued by the circuit court clerk  
14 before the entry of the order. All records sealed by the  
15 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 sealed records of the Department pertaining  
22 to that individual. Upon entry of the order of sealing, the  
23 circuit court clerk shall promptly mail a copy of the order to  
24 the person who was granted the certificate of eligibility for  
25 sealing.

26 (e-6) Whenever a person who has been convicted of an



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

1 expungement, the circuit court clerk shall promptly mail a copy  
2 of the order to the person who was granted the certificate of  
3 eligibility for expungement.

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

16 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,  
17 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,  
18 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;  
19 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;  
20 99-385, eff. 1-1-16; revised 10-15-15.)".