



Sen. Jacqueline Y. Collins

Filed: 5/26/2016

09900HB6328sam001

LRB099 19187 RLC 49252 a

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 (1.5) When a petitioner seeks to have a record of
26 arrest expunged under this Section, and the offender has

1 been convicted of a criminal offense, the State's Attorney
2 may object to the expungement on the grounds that the
3 records contain specific relevant information aside from
4 the mere fact of the arrest.

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

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

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

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

26 (i-5) Those arrests or charges that resulted

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

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

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

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

26 (4) Whenever a person has been arrested for or

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

1 used.

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

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

26 (7) Nothing in this Section shall prevent the

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

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

21 (c) Sealing.

22 (1) Applicability. Notwithstanding any other provision
23 of this Act to the contrary, and cumulative with any rights
24 to expungement of criminal records, this subsection
25 authorizes the sealing of criminal records of adults and of
26 minors prosecuted as adults.

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 for the following

1 offenses:

2 (i) Class 4 felony convictions for:

3 Prostitution under Section 11-14 of the
4 Criminal Code of 1961 or the Criminal Code of
5 2012.

6 Possession of cannabis under Section 4 of
7 the Cannabis Control Act.

8 Possession of a controlled substance under
9 Section 402 of the Illinois Controlled
10 Substances Act.

11 Offenses under the Methamphetamine
12 Precursor Control Act.

13 Offenses under the Steroid Control Act.

14 Theft under Section 16-1 of the Criminal
15 Code of 1961 or the Criminal Code of 2012.

16 Retail theft under Section 16A-3 or
17 paragraph (a) of 16-25 of the Criminal Code of
18 1961 or the Criminal Code of 2012.

19 Deceptive practices under Section 17-1 of
20 the Criminal Code of 1961 or the Criminal Code
21 of 2012.

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

24 Possession of burglary tools under Section
25 19-2 of the Criminal Code of 1961 or the
26 Criminal Code of 2012.

1 (ii) Class 3 felony convictions for:

2 Theft under Section 16-1 of the Criminal
3 Code of 1961 or the Criminal Code of 2012.

4 Retail theft under Section 16A-3 or
5 paragraph (a) of 16-25 of the Criminal Code of
6 1961 or the Criminal Code of 2012.

7 Deceptive practices under Section 17-1 of
8 the Criminal Code of 1961 or the Criminal Code
9 of 2012.

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

12 Possession with intent to manufacture or
13 deliver a controlled substance under Section
14 401 of the Illinois Controlled Substances Act.

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

18 (A) Records identified as eligible under
19 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
20 time.

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

26 (C) Except as otherwise provided in subparagraph

1 (E) of this paragraph (3), records identified as
2 eligible under subsections (c)(2)(D), (c)(2)(E), and
3 (c)(2)(F) may be sealed 3 years after the termination
4 of the petitioner's last sentence (as defined in
5 subsection (a)(1)(F)).

6 (D) Records identified in subsection
7 (a)(3)(A)(iii) may be sealed after the petitioner has
8 reached the age of 25 years.

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

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

9 (5) Notice of eligibility for sealing. Upon entry of a
10 disposition for an eligible record under this subsection
11 (c), the petitioner shall be informed by the court of the
12 right to have the records sealed and the procedures for the
13 sealing of the records.

14 (d) Procedure. The following procedures apply to
15 expungement under subsections (b), (e), and (e-6) and sealing
16 under subsections (c) and (e-5):

17 (1) Filing the petition. Upon becoming eligible to
18 petition for the expungement or sealing of records under
19 this Section, the petitioner shall file a petition
20 requesting the expungement or sealing of records with the
21 clerk of the court where the arrests occurred or the
22 charges were brought, or both. If arrests occurred or
23 charges were brought in multiple jurisdictions, a petition
24 must be filed in each such jurisdiction. The petitioner
25 shall pay the applicable fee, except no fee shall be
26 required if the petitioner has obtained a court order

1 waiving fees under Supreme Court Rule 298 or it is
2 otherwise waived ~~if not waived.~~

3 (1.5) County fee waiver pilot program. In a county of
4 3,000,000 or more inhabitants, no fee shall be required to
5 be paid by a petitioner if the records sought to be
6 expunged or sealed were arrests resulting in release
7 without charging or arrests or charges not initiated by
8 arrest resulting in acquittal, dismissal, or conviction
9 when the conviction was reversed or vacated, unless
10 excluded by subsection (a) (3) (B). The provisions of this
11 paragraph (1.5), other than this sentence, are inoperative
12 on and after January 1, 2018 or one year after the
13 effective date of this amendatory Act of the 99th General
14 Assembly, whichever is later.

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

1 Corrections, the certificate shall be attached to the
2 petition.

3 (3) Drug test. The petitioner must attach to the
4 petition proof that the petitioner has passed a test taken
5 within 30 days before the filing of the petition showing
6 the absence within his or her body of all illegal
7 substances as defined by the Illinois Controlled
8 Substances Act, the Methamphetamine Control and Community
9 Protection Act, and the Cannabis Control Act if he or she
10 is petitioning to:

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

12 (B) seal felony records for a violation of the
13 Illinois Controlled Substances Act, the
14 Methamphetamine Control and Community Protection Act,
15 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

26 (5) Objections.

1 (A) Any party entitled to notice of the petition
2 may file an objection to the petition. All objections
3 shall be in writing, shall be filed with the circuit
4 court clerk, and shall state with specificity the basis
5 of the objection. Whenever a person who has been
6 convicted of an offense is granted a pardon by the
7 Governor which specifically authorizes expungement, an
8 objection to the petition may not be filed.

9 (B) Objections to a petition to expunge or seal
10 must be filed within 60 days of the date of service of
11 the petition.

12 (6) Entry of order.

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

20 (B) Unless the State's Attorney or prosecutor, the
21 Department of State Police, the arresting agency, or
22 the chief legal officer files an objection to the
23 petition to expunge or seal within 60 days from the
24 date of service of the petition, the court shall enter
25 an order granting or denying the petition.

26 (7) Hearings. If an objection is filed, the court shall

1 set a date for a hearing and notify the petitioner and all
2 parties entitled to notice of the petition of the hearing
3 date at least 30 days prior to the hearing. Prior to the
4 hearing, the State's Attorney shall consult with the
5 Department as to the appropriateness of the relief sought
6 in the petition to expunge or seal. At the hearing, the
7 court shall hear evidence on whether the petition should or
8 should not be granted, and shall grant or deny the petition
9 to expunge or seal the records based on the evidence
10 presented at the hearing. The court may consider the
11 following:

12 (A) the strength of the evidence supporting the
13 defendant's conviction;

14 (B) the reasons for retention of the conviction
15 records by the State;

16 (C) the petitioner's age, criminal record history,
17 and employment history;

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

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

23 (8) Service of order. After entering an order to
24 expunge or seal records, the court must provide copies of
25 the order to the Department, in a form and manner
26 prescribed by the Department, to the petitioner, to the

1 State's Attorney or prosecutor charged with the duty of
2 prosecuting the offense, to the arresting agency, to the
3 chief legal officer of the unit of local government
4 effecting the arrest, and to such other criminal justice
5 agencies as may be ordered by the court.

6 (9) Implementation of order.

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

9 (i) the records shall be expunged (as defined
10 in subsection (a) (1) (E)) by the arresting agency,
11 the Department, and any other agency as ordered by
12 the court, within 60 days of the date of service of
13 the order, unless a motion to vacate, modify, or
14 reconsider the order is filed pursuant to
15 paragraph (12) of subsection (d) of this Section;

16 (ii) the records of the circuit court clerk
17 shall be impounded until further order of the court
18 upon good cause shown and the name of the
19 petitioner obliterated on the official index
20 required to be kept by the circuit court clerk
21 under Section 16 of the Clerks of Courts Act, but
22 the order shall not affect any index issued by the
23 circuit court clerk before the entry of the order;
24 and

25 (iii) in response to an inquiry for expunged
26 records, the court, the Department, or the agency

1 receiving such inquiry, shall reply as it does in
2 response to inquiries when no records ever
3 existed.

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

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

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

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

1 (iv) records impounded by the Department may
2 be disseminated by the Department only as required
3 by law or to the arresting authority, the State's
4 Attorney, and the court upon a later arrest for the
5 same or a similar offense or for the purpose of
6 sentencing for any subsequent felony, and to the
7 Department of Corrections upon conviction for any
8 offense; and

9 (v) in response to an inquiry for such records
10 from anyone not authorized by law to access such
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-5) Upon entry of an order to expunge records
16 under subsection (e-6):

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 under 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 under paragraph (12) of subsection (d) of this
11 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 these records
21 from anyone not authorized by law to access the
22 records, the court, the Department, or the agency
23 receiving the inquiry shall reply as it does in
24 response to inquiries when no records ever
25 existed.

26 (C) Upon entry of an order to seal records under

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

9 (D) The Department shall send written notice to the
10 petitioner of its compliance with each order to expunge
11 or seal records within 60 days of the date of service
12 of that order or, if a motion to vacate, modify, or
13 reconsider is filed, within 60 days of service of the
14 order resolving the motion, if that order requires the
15 Department to expunge or seal records. In the event of
16 an appeal from the circuit court order, the Department
17 shall send written notice to the petitioner of its
18 compliance with an Appellate Court or Supreme Court
19 judgment to expunge or seal records within 60 days of
20 the issuance of the court's mandate. The notice is not
21 required while any motion to vacate, modify, or
22 reconsider, or any appeal or petition for
23 discretionary appellate review, is pending.

24 (10) Fees. The Department may charge the petitioner a
25 fee equivalent to the cost of processing any order to
26 expunge or seal records. Notwithstanding any provision of

1 the Clerks of Courts Act to the contrary, the circuit court
2 clerk may charge a fee equivalent to the cost associated
3 with the sealing or expungement of records by the circuit
4 court clerk. From the total filing fee collected for the
5 petition to seal or expunge, the circuit court clerk shall
6 deposit \$10 into the Circuit Court Clerk Operation and
7 Administrative Fund, to be used to offset the costs
8 incurred by the circuit court clerk in performing the
9 additional duties required to serve the petition to seal or
10 expunge on all parties. The circuit court clerk shall
11 collect and forward the Department of State Police portion
12 of the fee to the Department and it shall be deposited in
13 the State Police Services Fund.

14 (11) Final Order. No court order issued under the
15 expungement or sealing provisions of this Section shall
16 become final for purposes of appeal until 30 days after
17 service of the order on the petitioner and all parties
18 entitled to notice of the petition.

19 (12) Motion to Vacate, Modify, or Reconsider. Under
20 Section 2-1203 of the Code of Civil Procedure, the
21 petitioner or any party entitled to notice may file a
22 motion to vacate, modify, or reconsider the order granting
23 or denying the petition to expunge or seal within 60 days
24 of service of the order. If filed more than 60 days after
25 service of the order, a petition to vacate, modify, or
26 reconsider shall comply with subsection (c) of Section

1 2-1401 of the Code of Civil Procedure. Upon filing of a
2 motion to vacate, modify, or reconsider, notice of the
3 motion shall be served upon the petitioner and all parties
4 entitled to notice of the petition.

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

14 (14) Compliance with Order Granting Petition to Seal
15 Records. Unless a court has entered a stay of an order
16 granting a petition to seal, all parties entitled to notice
17 of the petition must fully comply with the terms of the
18 order within 60 days of service of the order even if a
19 party is seeking relief from the order through a motion
20 filed under paragraph (12) of this subsection (d) or is
21 appealing the order.

22 (15) Compliance with Order Granting Petition to
23 Expunge Records. While a party is seeking relief from the
24 order granting the petition to expunge through a motion
25 filed under paragraph (12) of this subsection (d) or is
26 appealing the order, and unless a court has entered a stay

1 of that order, the parties entitled to notice of the
2 petition must seal, but need not expunge, the records until
3 there is a final order on the motion for relief or, in the
4 case of an appeal, the issuance of that court's mandate.

5 (16) The changes to this subsection (d) made by Public
6 Act 98-163 apply to all petitions pending on August 5, 2013
7 (the effective date of Public Act 98-163) and to all orders
8 ruling on a petition to expunge or seal on or after August
9 5, 2013 (the effective date of Public Act 98-163).

10 (e) Whenever a person who has been convicted of an offense
11 is granted a pardon by the Governor which specifically
12 authorizes expungement, he or she may, upon verified petition
13 to the Chief Judge of the circuit where the person had been
14 convicted, any judge of the circuit designated by the Chief
15 Judge, or in counties of less than 3,000,000 inhabitants, the
16 presiding trial judge at the defendant's trial, have a court
17 order entered expunging the record of arrest from the official
18 records of the arresting authority and order that the records
19 of the circuit court clerk and the Department be sealed until
20 further order of the court upon good cause shown or as
21 otherwise provided herein, and the name of the defendant
22 obliterated from the official index requested to be kept by the
23 circuit court clerk under Section 16 of the Clerks of Courts
24 Act in connection with the arrest and conviction for the
25 offense for which he or she had been pardoned but the order
26 shall not affect any index issued by the circuit court clerk

1 before the entry of the order. All records sealed by the
2 Department may be disseminated by the Department only to the
3 arresting authority, the State's Attorney, and the court upon a
4 later arrest for the same or similar offense or for the purpose
5 of sentencing for any subsequent felony. Upon conviction for
6 any subsequent offense, the Department of Corrections shall
7 have access to all sealed records of the Department pertaining
8 to that individual. Upon entry of the order of expungement, the
9 circuit court clerk shall promptly mail a copy of the order to
10 the person who was pardoned.

11 (e-5) Whenever a person who has been convicted of an
12 offense is granted a certificate of eligibility for sealing by
13 the Prisoner Review Board which specifically authorizes
14 sealing, he or she may, upon verified petition to the Chief
15 Judge of the circuit where the person had been convicted, any
16 judge of the circuit designated by the Chief Judge, or in
17 counties of less than 3,000,000 inhabitants, the presiding
18 trial judge at the petitioner's trial, have a court order
19 entered sealing the record of arrest from the official records
20 of the arresting authority and order that the records of the
21 circuit court clerk and the Department be sealed until further
22 order of the court upon good cause shown or as otherwise
23 provided herein, and the name of the petitioner obliterated
24 from the official index requested to be kept by the circuit
25 court clerk under Section 16 of the Clerks of Courts Act in
26 connection with the arrest and conviction for the offense for

1 which he or she had been granted the certificate 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 this Act or to the arresting authority, a law
6 enforcement agency, the State's Attorney, and the court upon a
7 later arrest for the same or similar offense or for the purpose
8 of sentencing for any subsequent felony. Upon conviction for
9 any subsequent offense, the Department of Corrections shall
10 have access to all sealed records of the Department pertaining
11 to that individual. Upon entry of the order of sealing, the
12 circuit court clerk shall promptly mail a copy of the order to
13 the person who was granted the certificate of eligibility for
14 sealing.

15 (e-6) Whenever a person who has been convicted of an
16 offense is granted a certificate of eligibility for expungement
17 by the Prisoner Review Board which specifically authorizes
18 expungement, he or she may, upon verified petition to the Chief
19 Judge of the circuit where the person had been convicted, any
20 judge of the circuit designated by the Chief Judge, or in
21 counties of less than 3,000,000 inhabitants, the presiding
22 trial judge at the petitioner's trial, have a court order
23 entered expunging the record of arrest from the official
24 records of the arresting authority and order that the records
25 of the circuit court clerk and the Department be sealed until
26 further order of the court upon good cause shown or as

1 otherwise provided herein, and the name of the petitioner
2 obliterated from the official index requested to be kept by the
3 circuit court clerk under Section 16 of the Clerks of Courts
4 Act in connection with the arrest and conviction for the
5 offense for which he or she had been granted the certificate
6 but the order shall not affect any index issued by the circuit
7 court clerk before the entry of the order. All records sealed
8 by the Department may be disseminated by the Department only as
9 required by this Act or to the arresting authority, a law
10 enforcement agency, 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 expunged records of the Department
15 pertaining to that individual. Upon entry of the order of
16 expungement, the circuit court clerk shall promptly mail a copy
17 of the order to the person who was granted the certificate of
18 eligibility for expungement.

19 (f) Subject to available funding, the Illinois Department
20 of Corrections shall conduct a study of the impact of sealing,
21 especially on employment and recidivism rates, utilizing a
22 random sample of those who apply for the sealing of their
23 criminal records under Public Act 93-211. At the request of the
24 Illinois Department of Corrections, records of the Illinois
25 Department of Employment Security shall be utilized as
26 appropriate to assist in the study. The study shall not

1 disclose any data in a manner that would allow the
2 identification of any particular individual or employing unit.
3 The study shall be made available to the General Assembly no
4 later than September 1, 2010.

5 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
6 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
7 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
8 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;
9 99-385, eff. 1-1-16; revised 10-15-15.)

10 Section 10. The Juvenile Court Act of 1987 is amended by
11 changing Section 5-915 as follows:

12 (705 ILCS 405/5-915)

13 Sec. 5-915. Expungement of juvenile law enforcement and
14 court records.

15 (0.05) For purposes of this Section and Section 5-622:

16 "Expunge" means to physically destroy the records and
17 to obliterate the minor's name from any official index or
18 public record, or both. Nothing in this Act shall require
19 the physical destruction of the internal office records,
20 files, or databases maintained by a State's Attorney's
21 Office or other prosecutor.

22 "Law enforcement record" includes but is not limited to
23 records of arrest, station adjustments, fingerprints,
24 probation adjustments, the issuance of a notice to appear,

1 or any other records maintained by a law enforcement agency
2 relating to a minor suspected of committing an offense.

3 (1) Whenever any person has attained the age of 18 or
4 whenever all juvenile court proceedings relating to that person
5 have been terminated, whichever is later, the person may
6 petition the court to expunge law enforcement records relating
7 to incidents occurring before his or her 18th birthday or his
8 or her juvenile court records, or both, but only in the
9 following circumstances:

10 (a) the minor was arrested and no petition for
11 delinquency was filed with the clerk of the circuit court;
12 or

13 (b) the minor was charged with an offense and was found
14 not delinquent of that offense; or

15 (c) the minor was placed under supervision pursuant to
16 Section 5-615, and the order of supervision has since been
17 successfully terminated; or

18 (d) the minor was adjudicated for an offense which
19 would be a Class B misdemeanor, Class C misdemeanor, or a
20 petty or business offense if committed by an adult.

21 (1.5) Commencing 180 days after the effective date of this
22 amendatory Act of the 98th General Assembly, the Department of
23 State Police shall automatically expunge, on or before January
24 1 of each year, a person's law enforcement records relating to
25 incidents occurring before his or her 18th birthday in the
26 Department's possession or control and which contains the final

1 disposition which pertain to the person when arrested as a
2 minor if:

3 (a) the minor was arrested for an eligible offense and
4 no petition for delinquency was filed with the clerk of the
5 circuit court; and

6 (b) the person attained the age of 18 years during the
7 last calendar year; and

8 (c) since the date of the minor's most recent arrest,
9 at least 6 months have elapsed without an additional
10 arrest, filing of a petition for delinquency whether
11 related or not to a previous arrest, or filing of charges
12 not initiated by arrest.

13 The Department of State Police shall allow a person to use
14 the Access and Review process, established in the Department of
15 State Police, for verifying that his or her law enforcement
16 records relating to incidents occurring before his or her 18th
17 birthday eligible under this subsection have been expunged as
18 provided in this subsection.

19 The Department of State Police shall provide by rule the
20 process for access, review, and automatic expungement.

21 (1.6) Commencing on the effective date of this amendatory
22 Act of the 98th General Assembly, a person whose law
23 enforcement records are not subject to subsection (1.5) of this
24 Section and who has attained the age of 18 years may use the
25 Access and Review process, established in the Department of
26 State Police, for verifying his or her law enforcement records

1 relating to incidents occurring before his or her 18th birthday
2 in the Department's possession or control which pertain to the
3 person when arrested as a minor, if the incident occurred no
4 earlier than 30 years before the effective date of this
5 amendatory Act of the 98th General Assembly. If the person
6 identifies a law enforcement record of an eligible offense that
7 meets the requirements of this subsection, paragraphs (a) and
8 (c) of subsection (1.5) of this Section, and all juvenile court
9 proceedings related to the person have been terminated, the
10 person may file a Request for Expungement of Juvenile Law
11 Enforcement Records, in the form and manner prescribed by the
12 Department of State Police, with the Department and the
13 Department shall consider expungement of the record as
14 otherwise provided for automatic expungement under subsection
15 (1.5) of this Section. The person shall provide notice and a
16 copy of the Request for Expungement of Juvenile Law Enforcement
17 Records to the arresting agency, prosecutor charged with the
18 prosecution of the minor, or the State's Attorney of the county
19 that prosecuted the minor. The Department of State Police shall
20 provide by rule the process for access, review, and Request for
21 Expungement of Juvenile Law Enforcement Records.

22 (1.7) Nothing in subsections (1.5) and (1.6) of this
23 Section precludes a person from filing a petition under
24 subsection (1) for expungement of records subject to automatic
25 expungement under subsection (1.5) or (1.6) of this Section.

26 (1.8) For the purposes of subsections (1.5) and (1.6) of

1 this Section, "eligible offense" means records relating to an
2 arrest or incident occurring before the person's 18th birthday
3 that if committed by an adult is not an offense classified as a
4 Class 2 felony or higher offense, an offense under Article 11
5 of the Criminal Code of 1961 or the Criminal Code of 2012, or
6 an offense under Section 12-13, 12-14, 12-14.1, 12-15, or 12-16
7 of the Criminal Code of 1961.

8 (2) Any person may petition the court to expunge all law
9 enforcement records relating to any incidents occurring before
10 his or her 18th birthday which did not result in proceedings in
11 criminal court and all juvenile court records with respect to
12 any adjudications except those based upon first degree murder
13 and sex offenses which would be felonies if committed by an
14 adult, if the person for whom expungement is sought has had no
15 convictions for any crime since his or her 18th birthday and:

16 (a) has attained the age of 21 years; or

17 (b) 5 years have elapsed since all juvenile court
18 proceedings relating to him or her have been terminated or
19 his or her commitment to the Department of Juvenile Justice
20 pursuant to this Act has been terminated;

21 whichever is later of (a) or (b). Nothing in this Section 5-915
22 precludes a minor from obtaining expungement under Section
23 5-622.

24 (2.5) If a minor is arrested and no petition for
25 delinquency is filed with the clerk of the circuit court as
26 provided in paragraph (a) of subsection (1) at the time the

1 minor is released from custody, the youth officer, if
2 applicable, or other designated person from the arresting
3 agency, shall notify verbally and in writing to the minor or
4 the minor's parents or guardians that if the State's Attorney
5 does not file a petition for delinquency, the minor has a right
6 to petition to have his or her arrest record expunged when the
7 minor attains the age of 18 or when all juvenile court
8 proceedings relating to that minor have been terminated and
9 that unless a petition to expunge is filed, the minor shall
10 have an arrest record and shall provide the minor and the
11 minor's parents or guardians with an expungement information
12 packet, including a petition to expunge juvenile records
13 obtained from the clerk of the circuit court.

14 (2.6) If a minor is charged with an offense and is found
15 not delinquent of that offense; or if a minor is placed under
16 supervision under Section 5-615, and the order of supervision
17 is successfully terminated; or if a minor is adjudicated for an
18 offense that would be a Class B misdemeanor, a Class C
19 misdemeanor, or a business or petty offense if committed by an
20 adult; or if a minor has incidents occurring before his or her
21 18th birthday that have not resulted in proceedings in criminal
22 court, or resulted in proceedings in juvenile court, and the
23 adjudications were not based upon first degree murder or sex
24 offenses that would be felonies if committed by an adult; then
25 at the time of sentencing or dismissal of the case, the judge
26 shall inform the delinquent minor of his or her right to

1 petition for expungement as provided by law, and the clerk of
2 the circuit court shall provide an expungement information
3 packet to the delinquent minor, written in plain language,
4 including a petition for expungement, a sample of a completed
5 petition, expungement instructions that shall include
6 information informing the minor that (i) once the case is
7 expunged, it shall be treated as if it never occurred, (ii) he
8 or she may apply to have petition fees waived, (iii) once he or
9 she obtains an expungement, he or she may not be required to
10 disclose that he or she had a juvenile record, and (iv) he or
11 she may file the petition on his or her own or with the
12 assistance of an attorney. The failure of the judge to inform
13 the delinquent minor of his or her right to petition for
14 expungement as provided by law does not create a substantive
15 right, nor is that failure grounds for: (i) a reversal of an
16 adjudication of delinquency, (ii) a new trial; or (iii) an
17 appeal.

18 (2.7) For counties with a population over 3,000,000, the
19 clerk of the circuit court shall send a "Notification of a
20 Possible Right to Expungement" post card to the minor at the
21 address last received by the clerk of the circuit court on the
22 date that the minor attains the age of 18 based on the
23 birthdate provided to the court by the minor or his or her
24 guardian in cases under paragraphs (b), (c), and (d) of
25 subsection (1); and when the minor attains the age of 21 based
26 on the birthdate provided to the court by the minor or his or

1 her guardian in cases under subsection (2).

2 (2.8) The petition for expungement for subsection (1) may
3 include multiple offenses on the same petition and shall be
4 substantially in the following form:

5 IN THE CIRCUIT COURT OF, ILLINOIS
6 JUDICIAL CIRCUIT

7 IN THE INTEREST OF) NO.
8)
9)
10)
11 (Name of Petitioner)

12 PETITION TO EXPUNGE JUVENILE RECORDS
13 (705 ILCS 405/5-915 (SUBSECTION 1))

14 Now comes, petitioner, and respectfully requests
15 that this Honorable Court enter an order expunging all juvenile
16 law enforcement and court records of petitioner and in support
17 thereof states that: Petitioner has attained the age of 18,
18 his/her birth date being, or all Juvenile Court
19 proceedings terminated as of, whichever occurred later.
20 Petitioner was arrested on by the Police
21 Department for the offense or offenses of, and:

22 (Check All That Apply:)

23 () a. no petition or petitions were filed with the Clerk of
24 the Circuit Court.

1 () b. was charged with and was found not delinquent of
2 the offense or offenses.

3 () c. a petition or petitions were filed and the petition or
4 petitions were dismissed without a finding of delinquency on
5

6 () d. on placed under supervision pursuant to Section
7 5-615 of the Juvenile Court Act of 1987 and such order of
8 supervision successfully terminated on

9 () e. was adjudicated for the offense or offenses, which would
10 have been a Class B misdemeanor, a Class C misdemeanor, or a
11 petty offense or business offense if committed by an adult.

12 Petitioner has has not been arrested on charges in
13 this or any county other than the charges listed above. If
14 petitioner has been arrested on additional charges, please list
15 the charges below:

16 Charge(s):

17 Arresting Agency or Agencies:

18 Disposition/Result: (choose from a. through e., above):

19 WHEREFORE, the petitioner respectfully requests this Honorable
20 Court to (1) order all law enforcement agencies to expunge all
21 records of petitioner to this incident or incidents, and (2) to
22 order the Clerk of the Court to expunge all records concerning
23 the petitioner regarding this incident or incidents.

24

25 Petitioner (Signature)

1
2

Petitioner's Street Address

3
4

City, State, Zip Code

5
6

Petitioner's Telephone Number

7 Pursuant to the penalties of perjury under the Code of Civil
8 Procedure, 735 ILCS 5/1-109, I hereby certify that the
9 statements in this petition are true and correct, or on
10 information and belief I believe the same to be true.

11
12

Petitioner (Signature)

13 The Petition for Expungement for subsection (2) shall be
14 substantially in the following form:

15 IN THE CIRCUIT COURT OF, ILLINOIS

16 JUDICIAL CIRCUIT

17 IN THE INTEREST OF) NO.

18)

19)

1)

2 (Name of Petitioner)

3 PETITION TO EXPUNGE JUVENILE RECORDS

4 (705 ILCS 405/5-915 (SUBSECTION 2))

5 (Please prepare a separate petition for each offense)

6 Now comes, petitioner, and respectfully requests
7 that this Honorable Court enter an order expunging all Juvenile
8 Law Enforcement and Court records of petitioner and in support
9 thereof states that:

10 The incident for which the Petitioner seeks expungement
11 occurred before the Petitioner's 18th birthday and did not
12 result in proceedings in criminal court and the Petitioner has
13 not had any convictions for any crime since his/her 18th
14 birthday; and

15 The incident for which the Petitioner seeks expungement
16 occurred before the Petitioner's 18th birthday and the
17 adjudication was not based upon first-degree murder or sex
18 offenses which would be felonies if committed by an adult, and
19 the Petitioner has not had any convictions for any crime since
20 his/her 18th birthday.

21 Petitioner was arrested on by the Police
22 Department for the offense of, and:

23 (Check whichever one occurred the latest:)

24 () a. The Petitioner has attained the age of 21 years, his/her
25 birthday being; or

1 () b. 5 years have elapsed since all juvenile court
 2 proceedings relating to the Petitioner have been terminated; or
 3 the Petitioner's commitment to the Department of Juvenile
 4 Justice pursuant to the expungement of juvenile law enforcement
 5 and court records provisions of the Juvenile Court Act of 1987
 6 has been terminated. Petitioner ...has ...has not been arrested
 7 on charges in this or any other county other than the charge
 8 listed above. If petitioner has been arrested on additional
 9 charges, please list the charges below:

10 Charge(s):

11 Arresting Agency or Agencies:

12 Disposition/Result: (choose from a or b, above):

13 WHEREFORE, the petitioner respectfully requests this Honorable
 14 Court to (1) order all law enforcement agencies to expunge all
 15 records of petitioner related to this incident, and (2) to
 16 order the Clerk of the Court to expunge all records concerning
 17 the petitioner regarding this incident.

18
 19 Petitioner (Signature)

20
 21 Petitioner's Street Address

22
 23 City, State, Zip Code

1
2

2 Petitioner's Telephone Number

3 Pursuant to the penalties of perjury under the Code of Civil
4 Procedure, 735 ILCS 5/1-109, I hereby certify that the
5 statements in this petition are true and correct, or on
6 information and belief I believe the same to be true.

7
8

8 Petitioner (Signature)

9 (3) The chief judge of the circuit in which an arrest was
10 made or a charge was brought or any judge of that circuit
11 designated by the chief judge may, upon verified petition of a
12 person who is the subject of an arrest or a juvenile court
13 proceeding under subsection (1) or (2) of this Section, order
14 the law enforcement records or official court file, or both, to
15 be expunged from the official records of the arresting
16 authority, the clerk of the circuit court and the Department of
17 State Police. The person whose records are to be expunged shall
18 petition the court using the appropriate form containing his or
19 her current address and shall promptly notify the clerk of the
20 circuit court of any change of address. Notice of the petition
21 shall be served upon the State's Attorney or prosecutor charged
22 with the duty of prosecuting the offense, the Department of
23 State Police, and the arresting agency or agencies by the clerk
24 of the circuit court. If an objection is filed within 45 days
25 of the notice of the petition, the clerk of the circuit court

1 shall set a date for hearing after the 45 day objection period.
 2 At the hearing the court shall hear evidence on whether the
 3 expungement should or should not be granted. Unless the State's
 4 Attorney or prosecutor, the Department of State Police, or an
 5 arresting agency objects to the expungement within 45 days of
 6 the notice, the court may enter an order granting expungement.
 7 ~~The person whose records are to be expunged shall pay the clerk~~
 8 ~~of the circuit court a fee equivalent to the cost associated~~
 9 ~~with expungement of records by the clerk and the Department of~~
 10 ~~State Police.~~ The clerk shall forward a certified copy of the
 11 order to the Department of State Police, ~~the appropriate~~
 12 ~~portion of the fee to the Department of State Police for~~
 13 ~~processing,~~ and deliver a certified copy of the order to the
 14 arresting agency.

15 (3.1) The Notice of Expungement shall be in substantially
 16 the following form:

17 IN THE CIRCUIT COURT OF, ILLINOIS
 18 JUDICIAL CIRCUIT

19 IN THE INTEREST OF) NO.
 20)
 21)
 22)
 23 (Name of Petitioner)

1 TO: State's Attorney

2 TO: Arresting Agency

3

4

5

6

7

8

9 TO: Illinois State Police

10

11

12

13

14 ATTENTION: Expungement

15 You are hereby notified that on, at, in courtroom
16 ..., located at ..., before the Honorable ..., Judge, or any
17 judge sitting in his/her stead, I shall then and there present
18 a Petition to Expunge Juvenile records in the above-entitled
19 matter, at which time and place you may appear.

20

21 Petitioner's Signature

22

23 Petitioner's Street Address

24

25 City, State, Zip Code

26

1 Petitioner's Telephone Number

2 PROOF OF SERVICE

3 On the day of, 20..., I on oath state that I
4 served this notice and true and correct copies of the
5 above-checked documents by:

6 (Check One:)

7 delivering copies personally to each entity to whom they are
8 directed;

9 or

10 by mailing copies to each entity to whom they are directed by
11 depositing the same in the U.S. Mail, proper postage fully
12 prepaid, before the hour of 5:00 p.m., at the United States
13 Postal Depository located at

14

15

16 Signature

17 Clerk of the Circuit Court or Deputy Clerk

18 Printed Name of Delinquent Minor/Petitioner:

19 Address:

20 Telephone Number:

21 (3.2) The Order of Expungement shall be in substantially
22 the following form:

23 IN THE CIRCUIT COURT OF, ILLINOIS

24 JUDICIAL CIRCUIT

25 IN THE INTEREST OF) NO.

1)
 2)
 3)
 4 (Name of Petitioner)

5 DOB

6 Arresting Agency/Agencies

7 ORDER OF EXPUNGEMENT

8 (705 ILCS 405/5-915 (SUBSECTION 3))

9 This matter having been heard on the petitioner's motion and
 10 the court being fully advised in the premises does find that
 11 the petitioner is indigent or has presented reasonable cause to
 12 waive all costs in this matter, IT IS HEREBY ORDERED that:

13 () 1. Clerk of Court and Department of State Police costs
 14 are hereby waived in this matter.

15 () 2. The Illinois State Police Bureau of Identification
 16 and the following law enforcement agencies expunge all records
 17 of petitioner relating to an arrest dated for the
 18 offense of

19 Law Enforcement Agencies:

20

21

22 () 3. IT IS FURTHER ORDERED that the Clerk of the Circuit
 23 Court expunge all records regarding the above-captioned case.

24 ENTER:

25

1 JUDGE

2 DATED:

3 Name:

4 Attorney for:

5 Address: City/State/Zip:

6 Attorney Number:

7 (3.3) The Notice of Objection shall be in substantially the
8 following form:

9 IN THE CIRCUIT COURT OF, ILLINOIS

10 JUDICIAL CIRCUIT

11 IN THE INTEREST OF) NO.

12)

13)

14)

15 (Name of Petitioner)

16 NOTICE OF OBJECTION

17 TO: (Attorney, Public Defender, Minor)

18

19

20 TO: (Illinois State Police)

21

22

23 TO: (Clerk of the Court)

24

1

2 TO: (Judge)

3

4

5 TO: (Arresting Agency/Agencies)

6

7

8 ATTENTION: You are hereby notified that an objection has been
9 filed by the following entity regarding the above-named minor's
10 petition for expungement of juvenile records:

- 11 () State's Attorney's Office;
- 12 () Prosecutor (other than State's Attorney's Office) charged
13 with the duty of prosecuting the offense sought to be expunged;
- 14 () Department of Illinois State Police; or
- 15 () Arresting Agency or Agencies.

16 The agency checked above respectfully requests that this case
17 be continued and set for hearing on whether the expungement
18 should or should not be granted.

19 DATED:

20 Name:

21 Attorney For:

22 Address:

23 City/State/Zip:

24 Telephone:

25 Attorney No.:

1 This matter has been set for hearing on the foregoing
2 objection, on in room, located at, before the
3 Honorable, Judge, or any judge sitting in his/her stead.
4 (Only one hearing shall be set, regardless of the number of
5 Notices of Objection received on the same case).

6 A copy of this completed Notice of Objection containing the
7 court date, time, and location, has been sent via regular U.S.
8 Mail to the following entities. (If more than one Notice of
9 Objection is received on the same case, each one must be
10 completed with the court date, time and location and mailed to
11 the following entities):

- 12 () Attorney, Public Defender or Minor;
13 () State's Attorney's Office;
14 () Prosecutor (other than State's Attorney's Office) charged
15 with the duty of prosecuting the offense sought to be expunged;
16 () Department of Illinois State Police; and
17 () Arresting agency or agencies.

18 Date:

19 Initials of Clerk completing this section:

20 (4) Upon entry of an order expunging records or files, the
21 offense, which the records or files concern shall be treated as
22 if it never occurred. Law enforcement officers and other public
23 offices and agencies shall properly reply on inquiry that no
24 record or file exists with respect to the person.

25 (5) Records which have not been expunged are sealed, and
26 may be obtained only under the provisions of Sections 5-901,

1 5-905 and 5-915.

2 (6) Nothing in this Section shall be construed to prohibit
3 the maintenance of information relating to an offense after
4 records or files concerning the offense have been expunged if
5 the information is kept in a manner that does not enable
6 identification of the offender. This information may only be
7 used for statistical and bona fide research purposes.

8 (6.5) The Department of State Police or any employee of the
9 Department shall be immune from civil or criminal liability for
10 failure to expunge any records of arrest that are subject to
11 expungement under subsection (1.5) or (1.6) of this Section
12 because of inability to verify a record. Nothing in subsection
13 (1.5) or (1.6) of this Section shall create Department of State
14 Police liability or responsibility for the expungement of law
15 enforcement records it does not possess.

16 (7) (a) The State Appellate Defender shall establish,
17 maintain, and carry out, by December 31, 2004, a juvenile
18 expungement program to provide information and assistance to
19 minors eligible to have their juvenile records expunged.

20 (b) The State Appellate Defender shall develop brochures,
21 pamphlets, and other materials in printed form and through the
22 agency's World Wide Web site. The pamphlets and other materials
23 shall include at a minimum the following information:

24 (i) An explanation of the State's juvenile expungement
25 process;

26 (ii) The circumstances under which juvenile

1 expungement may occur;

2 (iii) The juvenile offenses that may be expunged;

3 (iv) The steps necessary to initiate and complete the
4 juvenile expungement process; and

5 (v) Directions on how to contact the State Appellate
6 Defender.

7 (c) The State Appellate Defender shall establish and
8 maintain a statewide toll-free telephone number that a person
9 may use to receive information or assistance concerning the
10 expungement of juvenile records. The State Appellate Defender
11 shall advertise the toll-free telephone number statewide. The
12 State Appellate Defender shall develop an expungement
13 information packet that may be sent to eligible persons seeking
14 expungement of their juvenile records, which may include, but
15 is not limited to, a pre-printed expungement petition with
16 instructions on how to complete the petition and a pamphlet
17 containing information that would assist individuals through
18 the juvenile expungement process.

19 (d) The State Appellate Defender shall compile a statewide
20 list of volunteer attorneys willing to assist eligible
21 individuals through the juvenile expungement process.

22 (e) This Section shall be implemented from funds
23 appropriated by the General Assembly to the State Appellate
24 Defender for this purpose. The State Appellate Defender shall
25 employ the necessary staff and adopt the necessary rules for
26 implementation of this Section.

1 (8) (a) Except with respect to law enforcement agencies, the
2 Department of Corrections, State's Attorneys, or other
3 prosecutors, an expunged juvenile record may not be considered
4 by any private or public entity in employment matters,
5 certification, licensing, revocation of certification or
6 licensure, or registration. Applications for employment must
7 contain specific language that states that the applicant is not
8 obligated to disclose expunged juvenile records of conviction
9 or arrest. Employers may not ask if an applicant has had a
10 juvenile record expunged. Effective January 1, 2005, the
11 Department of Labor shall develop a link on the Department's
12 website to inform employers that employers may not ask if an
13 applicant had a juvenile record expunged and that application
14 for employment must contain specific language that states that
15 the applicant is not obligated to disclose expunged juvenile
16 records of arrest or conviction.

17 (b) A person whose juvenile records have been expunged is
18 not entitled to remission of any fines, costs, or other money
19 paid as a consequence of expungement. This amendatory Act of
20 the 93rd General Assembly does not affect the right of the
21 victim of a crime to prosecute or defend a civil action for
22 damages.

23 (c) The expungement of juvenile records under Section 5-622
24 shall be funded by the additional fine imposed under Section
25 5-9-1.17 of the Unified Code of Corrections and additional
26 appropriations made by the General Assembly for such purpose.

1 (9) The changes made to this Section by Public Act 98-61
2 apply to law enforcement records of a minor who has been
3 arrested or taken into custody on or after January 1, 2014 (the
4 effective date of Public Act 98-61).

5 (10) The changes made in subsection (1.5) of this Section
6 by this amendatory Act of the 98th General Assembly apply to
7 law enforcement records of a minor who has been arrested or
8 taken into custody on or after January 1, 2015. The changes
9 made in subsection (1.6) of this Section by this amendatory Act
10 of the 98th General Assembly apply to law enforcement records
11 of a minor who has been arrested or taken into custody before
12 January 1, 2015.

13 (Source: P.A. 98-61, eff. 1-1-14; 98-637, eff. 1-1-15; 98-756,
14 eff. 7-16-14.)".