

1 AN ACT in relation to the expungement and sealing of  
2 arrest and court records.

3 Be it enacted by the People of the State of Illinois,  
4 represented in the General Assembly:

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

7 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

8 Sec. 5. Arrest reports; expungement.

9 (a) All policing bodies of this State shall furnish to  
10 the Department, daily, in the form and detail the Department  
11 requires, fingerprints and descriptions of all persons who  
12 are arrested on charges of violating any penal statute of  
13 this State for offenses that are classified as felonies and  
14 Class A or B misdemeanors and of all minors of the age of 10  
15 and over who have been arrested for an offense which would be  
16 a felony if committed by an adult, and may forward such  
17 fingerprints and descriptions for minors arrested for Class A  
18 or B misdemeanors. Moving or nonmoving traffic violations  
19 under the Illinois Vehicle Code shall not be reported except  
20 for violations of Chapter 4, Section 11-204.1, or Section  
21 11-501 of that Code. In addition, conservation offenses, as  
22 defined in the Supreme Court Rule 501(c), that are classified  
23 as Class B misdemeanors shall not be reported.

24 Whenever an adult or minor prosecuted as an adult, not  
25 having previously been convicted of any criminal offense or  
26 municipal ordinance violation, charged with a violation of a  
27 municipal ordinance or a felony or misdemeanor, is acquitted  
28 or released without being convicted, whether the acquittal or  
29 release occurred before, on, or after the effective date of  
30 this amendatory Act of 1991, the Chief Judge of the circuit  
31 wherein the charge was brought, any judge of that circuit

1 designated by the Chief Judge, or in counties of less than  
2 3,000,000 inhabitants, the presiding trial judge at the  
3 defendant's trial may upon verified petition of the defendant  
4 order the record of arrest expunged from the official records  
5 of the arresting authority and the Department and order that  
6 the records of the clerk of the circuit court be sealed until  
7 further order of the court upon good cause shown and the name  
8 of the defendant obliterated on the official index required  
9 to be kept by the circuit court clerk under Section 16 of the  
10 Clerks of Courts Act, but the order shall not affect any  
11 index issued by the circuit court clerk before the entry of  
12 the order. The Department may charge the petitioner a fee  
13 equivalent to the cost of processing any order to expunge or  
14 seal the records, and the fee shall be deposited into the  
15 State Police Services Fund. The records of those arrests,  
16 however, that result in a disposition of supervision for any  
17 offense must ~~shall not~~ be expunged from the records of the  
18 arresting authority or the Department and ~~nor~~ impounded by  
19 the court immediately ~~until~~ ~~--2--~~ years after discharge and  
20 termination ~~dismissal~~ of supervision. ~~These--records--that~~  
21 ~~result--from--a--supervision--for--a--violation--of--Section--3-707,~~  
22 ~~3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code~~  
23 ~~or--a--similar--provision--of--a--local--ordinance, or for a~~  
24 ~~violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal~~  
25 ~~Code of 1961, or probation under Section 10 of the Cannabis~~  
26 ~~Control Act, Section 410 of the Illinois Controlled~~  
27 ~~Substances Act, Section 12-4.3(b)(1) and (2) of the Criminal~~  
28 ~~Code of 1961 (as these provisions existed before their~~  
29 ~~deletion by Public Act 89-313), Section 10-102 of the~~  
30 ~~Illinois Alcoholism and Other Drug Dependency Act when the~~  
31 ~~judgment of conviction has been vacated, Section 40-10 of the~~  
32 ~~Alcoholism and Other Drug Abuse and Dependency Act when the~~  
33 ~~judgment of conviction has been vacated, or Section 10 of the~~  
34 ~~Steroid Control Act shall not be expunged from the records of~~

1 ~~the--arresting--authority--nor--impounded--by--the--court--until--5~~  
2 ~~years--after--termination--of--probation--or--supervision.~~ Those  
3 records that result from a supervision for a violation of  
4 Section 11-501 of the Illinois Vehicle Code or a similar  
5 provision of a local ordinance, shall not be expunged. All  
6 records set out above must ~~may~~ be ordered by the court to be  
7 expunged from the records of the arresting authority and  
8 immediately ~~impounded~~ by the court and ~~after--5--years,~~ but  
9 ~~shall--not--be~~ expunged by the Department and, ~~but--shall,~~ on  
10 ~~court--order--be~~ sealed by the Department and may be  
11 disseminated by the Department only as required by law or to  
12 the arresting authority, the State's Attorney, and the court  
13 upon a later arrest for the same or a similar offense or for  
14 the purpose of sentencing for any subsequent felony. Upon  
15 conviction for any offense, the Department of Corrections  
16 shall have access to all sealed records of the Department  
17 pertaining to that individual.

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

22 (b) Whenever a person has been convicted of a crime or  
23 of the violation of a municipal ordinance, in the name of a  
24 person whose identity he has stolen or otherwise come into  
25 possession of, the aggrieved person from whom the identity  
26 was stolen or otherwise obtained without authorization, upon  
27 learning of the person having been arrested using his  
28 identity, may, upon verified petition to the chief judge of  
29 the circuit wherein the arrest was made, have a court order  
30 entered nunc pro tunc by the chief judge to correct the  
31 arrest record, conviction record, if any, and all official  
32 records of the arresting authority, the Department, other  
33 criminal justice agencies, the prosecutor, and the trial  
34 court concerning such arrest, if any, by removing his name

1 from all such records in connection with the arrest and  
2 conviction, if any, and by inserting in the records the name  
3 of the offender, if known or ascertainable, in lieu of the  
4 aggrieved's has name. The records of the clerk of the  
5 circuit court clerk shall be sealed until further order of  
6 the court upon good cause shown and the name of the aggrieved  
7 person obliterated on the official index required to be kept  
8 by the circuit court clerk under Section 16 of the Clerks of  
9 Courts Act, but the order shall not affect any index issued  
10 by the circuit court clerk before the entry of the order.  
11 Nothing in this Section shall limit the Department of State  
12 Police or other criminal justice agencies or prosecutors from  
13 listing under an offender's name the false names he or she  
14 has used. For purposes of this Section, convictions for  
15 moving and nonmoving traffic violations other than  
16 convictions for violations of Chapter 4, Section 11-204.1 or  
17 Section 11-501 of the Illinois Vehicle Code shall not be a  
18 bar to expunging the record of arrest and court records for  
19 violation of a misdemeanor or municipal ordinance.

20 (c) Whenever a person who has been convicted of an  
21 offense is granted a pardon by the Governor which  
22 specifically authorizes expungement, he may, upon verified  
23 petition to the chief judge of the circuit where the person  
24 had been convicted, any judge of the circuit designated by  
25 the Chief Judge, or in counties of less than 3,000,000  
26 inhabitants, the presiding trial judge at the defendant's  
27 trial, may have a court order entered expunging the record of  
28 arrest from the official records of the arresting authority  
29 and order that the records of the clerk of the circuit court  
30 and the Department be sealed until further order of the court  
31 upon good cause shown or as otherwise provided herein, and  
32 the name of the defendant obliterated from the official index  
33 requested to be kept by the circuit court clerk under Section  
34 16 of the Clerks of Courts Act in connection with the arrest

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

14 (c-5) Whenever a person has been convicted of criminal  
15 sexual assault, aggravated criminal sexual assault, predatory  
16 criminal sexual assault of a child, criminal sexual abuse, or  
17 aggravated criminal sexual abuse, the victim of that offense  
18 may request that the State's Attorney of the county in which  
19 the conviction occurred file a verified petition with the  
20 presiding trial judge at the defendant's trial to have a  
21 court order entered to seal the records of the clerk of the  
22 circuit court in connection with the proceedings of the trial  
23 court concerning that offense. However, the records of the  
24 arresting authority and the Department of State Police  
25 concerning the offense shall not be sealed. The court, upon  
26 good cause shown, shall make the records of the clerk of the  
27 circuit court in connection with the proceedings of the trial  
28 court concerning the offense available for public inspection.

29 (d) Notice of the order of expungement and sealing of  
30 records in relation to supervision and a petition for  
31 petition-for subsections (a), (b), and (c) shall be served  
32 upon the State's Attorney or prosecutor charged with the duty  
33 of prosecuting the offense, the Department of State Police,  
34 the arresting agency and the chief legal officer of the unit

1 of local government affecting the arrest. Unless the State's  
2 Attorney or prosecutor, the Department of State Police, the  
3 arresting agency or such chief legal officer objects to the  
4 petition within 30 days from the date of the notice, the  
5 court shall enter an order granting or denying the petition.  
6 The clerk of the court shall promptly mail a copy of the  
7 order to the person, the arresting agency, the prosecutor,  
8 the Department of State Police and such other criminal  
9 justice agencies as may be ordered by the judge.

10 (e) Nothing herein shall prevent the Department of State  
11 Police from maintaining all records of any person who is  
12 admitted to probation upon terms and conditions and who  
13 fulfills those terms and conditions pursuant to Section 10 of  
14 the Cannabis Control Act, Section 410 of the Illinois  
15 Controlled Substances Act, Section 12-4.3 of the Criminal  
16 Code of 1961, Section 10-102 of the Illinois Alcoholism and  
17 Other Drug Dependency Act, Section 40-10 of the Alcoholism  
18 and Other Drug Abuse and Dependency Act, or Section 10 of the  
19 Steroid Control Act.

20 (f) No court order issued pursuant to the expungement  
21 provisions of this Section shall become final for purposes of  
22 appeal until 30 days after notice is received by the  
23 Department. Any court order contrary to the provisions of  
24 this Section is void.

25 (g) Except as otherwise provided in subsection (c-5) of  
26 this Section, the court shall not order the sealing or  
27 expungement of the arrest records and records of the circuit  
28 court clerk of any person granted supervision for or  
29 convicted of any sexual offense committed against a minor  
30 under 18 years of age. For the purposes of this Section,  
31 "sexual offense committed against a minor" includes but is  
32 not limited to the offenses of indecent solicitation of a  
33 child or criminal sexual abuse when the victim of such  
34 offense is under 18 years of age.

1 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;  
2 91-357, eff. 7-29-99; revised 12-3-01.)

3 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

4 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

5 (a) When a defendant is placed on supervision, the court  
6 shall enter an order for supervision specifying the period of  
7 such supervision, and shall defer further proceedings in the  
8 case until the conclusion of the period.

9 (b) The period of supervision shall be reasonable under  
10 all of the circumstances of the case, but may not be longer  
11 than 2 years, unless the defendant has failed to pay the  
12 assessment required by Section 10.3 of the Cannabis Control  
13 Act or Section 411.2 of the Illinois Controlled Substances  
14 Act, in which case the court may extend supervision beyond 2  
15 years. Additionally, the court shall order the defendant to  
16 perform no less than 30 hours of community service and not  
17 more than 120 hours of community service, if community  
18 service is available in the jurisdiction and is funded and  
19 approved by the county board where the offense was committed,  
20 when the offense (1) was related to or in furtherance of the  
21 criminal activities of an organized gang or was motivated by  
22 the defendant's membership in or allegiance to an organized  
23 gang; or (2) is a violation of any Section of Article 24 of  
24 the Criminal Code of 1961 where a disposition of supervision  
25 is not prohibited by Section 5-6-1 of this Code. The  
26 community service shall include, but not be limited to, the  
27 cleanup and repair of any damage caused by violation of  
28 Section 21-1.3 of the Criminal Code of 1961 and similar  
29 damages to property located within the municipality or county  
30 in which the violation occurred. Where possible and  
31 reasonable, the community service should be performed in the  
32 offender's neighborhood.

33 For the purposes of this Section, "organized gang" has

1 the meaning ascribed to it in Section 10 of the Illinois  
2 Streetgang Terrorism Omnibus Prevention Act.

3 (c) The court may in addition to other reasonable  
4 conditions relating to the nature of the offense or the  
5 rehabilitation of the defendant as determined for each  
6 defendant in the proper discretion of the court require that  
7 the person:

8 (1) make a report to and appear in person before or  
9 participate with the court or such courts, person, or  
10 social service agency as directed by the court in the  
11 order of supervision;

12 (2) pay a fine and costs;

13 (3) work or pursue a course of study or vocational  
14 training;

15 (4) undergo medical, psychological or psychiatric  
16 treatment; or treatment for drug addiction or alcoholism;

17 (5) attend or reside in a facility established for  
18 the instruction or residence of defendants on probation;

19 (6) support his dependents;

20 (7) refrain from possessing a firearm or other  
21 dangerous weapon;

22 (8) and in addition, if a minor:

23 (i) reside with his parents or in a foster  
24 home;

25 (ii) attend school;

26 (iii) attend a non-residential program for  
27 youth;

28 (iv) contribute to his own support at home or  
29 in a foster home; or

30 (v) with the consent of the superintendent of  
31 the facility, attend an educational program at a  
32 facility other than the school in which the offense  
33 was committed if he or she is placed on supervision  
34 for a crime of violence as defined in Section 2 of



1           the Crime Victims Compensation Act committed in a  
2           school, on the real property comprising a school, or  
3           within 1,000 feet of the real property comprising a  
4           school;

5           (9) make restitution or reparation in an amount not  
6           to exceed actual loss or damage to property and pecuniary  
7           loss or make restitution under Section 5-5-6 to a  
8           domestic violence shelter. The court shall determine the  
9           amount and conditions of payment;

10           (10) perform some reasonable public or community  
11           service;

12           (11) comply with the terms and conditions of an  
13           order of protection issued by the court pursuant to the  
14           Illinois Domestic Violence Act of 1986 or an order of  
15           protection issued by the court of another state, tribe,  
16           or United States territory. If the court has ordered the  
17           defendant to make a report and appear in person under  
18           paragraph (1) of this subsection, a copy of the order of  
19           protection shall be transmitted to the person or agency  
20           so designated by the court;

21           (12) reimburse any "local anti-crime program" as  
22           defined in Section 7 of the Anti-Crime Advisory Council  
23           Act for any reasonable expenses incurred by the program  
24           on the offender's case, not to exceed the maximum amount  
25           of the fine authorized for the offense for which the  
26           defendant was sentenced;

27           (13) contribute a reasonable sum of money, not to  
28           exceed the maximum amount of the fine authorized for the  
29           offense for which the defendant was sentenced, to a  
30           "local anti-crime program", as defined in Section 7 of  
31           the Anti-Crime Advisory Council Act;

32           (14) refrain from entering into a designated  
33           geographic area except upon such terms as the court finds  
34           appropriate. Such terms may include consideration of the

1 purpose of the entry, the time of day, other persons  
2 accompanying the defendant, and advance approval by a  
3 probation officer;

4 (15) refrain from having any contact, directly or  
5 indirectly, with certain specified persons or particular  
6 types of person, including but not limited to members of  
7 street gangs and drug users or dealers;

8 (16) refrain from having in his or her body the  
9 presence of any illicit drug prohibited by the Cannabis  
10 Control Act or the Illinois Controlled Substances Act,  
11 unless prescribed by a physician, and submit samples of  
12 his or her blood or urine or both for tests to determine  
13 the presence of any illicit drug;

14 (17) refrain from operating any motor vehicle not  
15 equipped with an ignition interlock device as defined in  
16 Section 1-129.1 of the Illinois Vehicle Code. Under this  
17 condition the court may allow a defendant who is not  
18 self-employed to operate a vehicle owned by the  
19 defendant's employer that is not equipped with an  
20 ignition interlock device in the course and scope of the  
21 defendant's employment.

22 (d) The court shall defer entering any judgment on the  
23 charges until the conclusion of the supervision.

24 (e) At the conclusion of the period of supervision, if  
25 the court determines that the defendant has successfully  
26 complied with all of the conditions of supervision, the court  
27 shall discharge the defendant and enter a judgment dismissing  
28 the charges.

29 (f) Discharge and dismissal upon a successful conclusion  
30 of a disposition of supervision shall be deemed without  
31 adjudication of guilt and shall not be termed a conviction  
32 for purposes of disqualification or disabilities imposed by  
33 law upon conviction of a crime. The expungement and sealing  
34 of arrest and court records of a person who has successfully

1 concluded a disposition of supervision is governed by Section  
2 5 of the Criminal Identification Act. Two--years--after--the  
3 discharge--and--dismissal--under--this--Section,--unless--the  
4 disposition--of--supervision--was--for--a--violation--of--Sections  
5 3-707, 3-708, 3-710, 5-401.3, or 11-503--of--the--Illinois  
6 Vehicle--Code--or--a--similar--provision--of--a--local--ordinance,--or  
7 for--a--violation--of--Sections--12-3.2--or--16A-3--of--the--Criminal  
8 Code--of--1961,--in--which--case--it--shall--be--5--years--after  
9 discharge--and--dismissal,--a--person--may--have--his--record--of  
10 arrest--sealed--or--expunged--as--may--be--provided--by--law.  
11 However,--any--defendant--placed--on--supervision--before--January  
12 1, 1980,--may--move--for--sealing--or--expungement--of--his--arrest  
13 record,--as--provided--by--law,--at--any--time--after--discharge--and  
14 dismissal--under--this--Section. A--person--placed--on--supervision  
15 for--a--sexual--offense--committed--against--a--minor--as--defined--in  
16 subsection--(g)--of--Section--5--of--the--Criminal--Identification  
17 Act--or--for--a--violation--of--Section--11-501--of--the--Illinois  
18 Vehicle--Code--or--a--similar--provision--of--a--local--ordinance  
19 shall--not--have--his--or--her--record--of--arrest--sealed--or  
20 expunged.

21 (g) A defendant placed on supervision and who during the  
22 period of supervision undergoes mandatory drug or alcohol  
23 testing, or both, or is assigned to be placed on an approved  
24 electronic monitoring device, shall be ordered to pay the  
25 costs incidental to such mandatory drug or alcohol testing,  
26 or both, and costs incidental to such approved electronic  
27 monitoring in accordance with the defendant's ability to pay  
28 those costs. The county board with the concurrence of the  
29 Chief Judge of the judicial circuit in which the county is  
30 located shall establish reasonable fees for the cost of  
31 maintenance, testing, and incidental expenses related to the  
32 mandatory drug or alcohol testing, or both, and all costs  
33 incidental to approved electronic monitoring, of all  
34 defendants placed on supervision. The concurrence of the

1 Chief Judge shall be in the form of an administrative order.  
2 The fees shall be collected by the clerk of the circuit  
3 court. The clerk of the circuit court shall pay all moneys  
4 collected from these fees to the county treasurer who shall  
5 use the moneys collected to defray the costs of drug testing,  
6 alcohol testing, and electronic monitoring. The county  
7 treasurer shall deposit the fees collected in the county  
8 working cash fund under Section 6-27001 or Section 6-29002 of  
9 the Counties Code, as the case may be.

10 (h) A disposition of supervision is a final order for  
11 the purposes of appeal.

12 (i) The court shall impose upon a defendant placed on  
13 supervision after January 1, 1992, as a condition of  
14 supervision, a fee of \$25 for each month of supervision  
15 ordered by the court, unless after determining the inability  
16 of the person placed on supervision to pay the fee, the court  
17 assesses a lesser fee. The court may not impose the fee on a  
18 minor who is made a ward of the State under the Juvenile  
19 Court Act of 1987 while the minor is in placement. The fee  
20 shall be imposed only upon a defendant who is actively  
21 supervised by the probation and court services department.  
22 The fee shall be collected by the clerk of the circuit court.  
23 The clerk of the circuit court shall pay all monies collected  
24 from this fee to the county treasurer for deposit in the  
25 probation and court services fund pursuant to Section 15.1 of  
26 the Probation and Probation Officers Act.

27 (j) All fines and costs imposed under this Section for  
28 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
29 Vehicle Code, or a similar provision of a local ordinance,  
30 and any violation of the Child Passenger Protection Act, or a  
31 similar provision of a local ordinance, shall be collected  
32 and disbursed by the circuit clerk as provided under Section  
33 27.5 of the Clerks of Courts Act.

34 (k) A defendant at least 17 years of age who is placed

1 on supervision for a misdemeanor in a county of 3,000,000 or  
2 more inhabitants and who has not been previously convicted of  
3 a misdemeanor or felony may as a condition of his or her  
4 supervision be required by the court to attend educational  
5 courses designed to prepare the defendant for a high school  
6 diploma and to work toward a high school diploma or to work  
7 toward passing the high school level Test of General  
8 Educational Development (GED) or to work toward completing a  
9 vocational training program approved by the court. The  
10 defendant placed on supervision must attend a public  
11 institution of education to obtain the educational or  
12 vocational training required by this subsection (k). The  
13 defendant placed on supervision shall be required to pay for  
14 the cost of the educational courses or GED test, if a fee is  
15 charged for those courses or test. The court shall revoke  
16 the supervision of a person who wilfully fails to comply with  
17 this subsection (k). The court shall resentence the  
18 defendant upon revocation of supervision as provided in  
19 Section 5-6-4. This subsection (k) does not apply to a  
20 defendant who has a high school diploma or has successfully  
21 passed the GED test. This subsection (k) does not apply to a  
22 defendant who is determined by the court to be  
23 developmentally disabled or otherwise mentally incapable of  
24 completing the educational or vocational program.

25 (1) The court shall require a defendant placed on  
26 supervision for possession of a substance prohibited by the  
27 Cannabis Control Act or Illinois Controlled Substances Act  
28 after a previous conviction or disposition of supervision for  
29 possession of a substance prohibited by the Cannabis Control  
30 Act or Illinois Controlled Substances Act or a sentence of  
31 probation under Section 10 of the Cannabis Control Act or  
32 Section 410 of the Illinois Controlled Substances Act and  
33 after a finding by the court that the person is addicted, to  
34 undergo treatment at a substance abuse program approved by

1 the court.

2 (m) The Secretary of State shall require anyone placed  
3 on court supervision for a violation of Section 3-707 of the  
4 Illinois Vehicle Code or a similar provision of a local  
5 ordinance to give proof of his or her financial  
6 responsibility as defined in Section 7-315 of the Illinois  
7 Vehicle Code. The proof shall be maintained by the  
8 individual in a manner satisfactory to the Secretary of State  
9 for a minimum period of one year after the date the proof is  
10 first filed. The proof shall be limited to a single action  
11 per arrest and may not be affected by any post-sentence  
12 disposition. The Secretary of State shall suspend the  
13 driver's license of any person determined by the Secretary to  
14 be in violation of this subsection.

15 (Source: P.A. 91-127, eff. 1-1-00; 91-696, eff. 4-13-00;  
16 91-903, eff. 1-1-01; 92-282, eff. 8-7-01; 92-458, eff.  
17 8-22-01; revised 10-11-01.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.