

# HB3028



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3028

by Rep. John M. Cabello

### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that various records eligible for sealing upon completion of various educational goals must be for an arrest or charge not initiated by arrest and convictions for non-violent offenses and the petitioner must not have had one or more criminal convictions for at least 5 years between the charge or conviction eligible for sealing and the filing of the petition for relief. Defines "non-violent offense."

LRB100 08850 SLF 18992 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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),

17 (iii) Court (730 ILCS 5/5-1-6),

18 (iv) Defendant (730 ILCS 5/5-1-7),

19 (v) Felony (730 ILCS 5/5-1-9),

20 (vi) Imprisonment (730 ILCS 5/5-1-10),

21 (vii) Judgment (730 ILCS 5/5-1-12),

22 (viii) Misdemeanor (730 ILCS 5/5-1-14),

23 (ix) Offense (730 ILCS 5/5-1-15),

- 1 (x) Parole (730 ILCS 5/5-1-16),  
2 (xi) Petty Offense (730 ILCS 5/5-1-17),  
3 (xii) Probation (730 ILCS 5/5-1-18),  
4 (xiii) Sentence (730 ILCS 5/5-1-19),  
5 (xiv) Supervision (730 ILCS 5/5-1-21), and  
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated  
8 by arrest" means a charge (as defined by 730 ILCS  
9 5/5-1-3) brought against a defendant where the  
10 defendant is not arrested prior to or as a direct  
11 result of the charge.

12 (C) "Conviction" means a judgment of conviction or  
13 sentence entered upon a plea of guilty or upon a  
14 verdict or finding of guilty of an offense, rendered by  
15 a legally constituted jury or by a court of competent  
16 jurisdiction authorized to try the case without a jury.  
17 An order of supervision successfully completed by the  
18 petitioner is not a conviction. An order of qualified  
19 probation (as defined in subsection (a)(1)(J))  
20 successfully completed by the petitioner is not a  
21 conviction. An order of supervision or an order of  
22 qualified probation that is terminated  
23 unsatisfactorily is a conviction, unless the  
24 unsatisfactory termination is reversed, vacated, or  
25 modified and the judgment of conviction, if any, is  
26 reversed or vacated.

1           (D) "Criminal offense" means a petty offense,  
2 business offense, misdemeanor, felony, or municipal  
3 ordinance violation (as defined in subsection  
4 (a)(1)(H)). As used in this Section, a minor traffic  
5 offense (as defined in subsection (a)(1)(G)) shall not  
6 be considered a criminal offense.

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

16           (F) As used in this Section, "last sentence" means  
17 the sentence, order of supervision, or order of  
18 qualified probation (as defined by subsection  
19 (a)(1)(J)), for a criminal offense (as defined by  
20 subsection (a)(1)(D)) that terminates last in time in  
21 any jurisdiction, regardless of whether the petitioner  
22 has included the criminal offense for which the  
23 sentence or order of supervision or qualified  
24 probation was imposed in his or her petition. If  
25 multiple sentences, orders of supervision, or orders  
26 of qualified probation terminate on the same day and

1 are last in time, they shall be collectively considered  
2 the "last sentence" regardless of whether they were  
3 ordered to run concurrently.

4 (G) "Minor traffic offense" means a petty offense,  
5 business offense, or Class C misdemeanor under the  
6 Illinois Vehicle Code or a similar provision of a  
7 municipal or local ordinance.

8 (H) "Municipal ordinance violation" means an  
9 offense defined by a municipal or local ordinance that  
10 is criminal in nature and with which the petitioner was  
11 charged or for which the petitioner was arrested and  
12 released without charging.

13 (H-5) "Non-violent offense" means a criminal  
14 offense that is not a violent crime as defined in  
15 subsection (c) of Section 3 of the Rights of Crime  
16 Victims and Witnesses Act.

17 (I) "Petitioner" means an adult or a minor  
18 prosecuted as an adult who has applied for relief under  
19 this Section.

20 (J) "Qualified probation" means an order of  
21 probation under Section 10 of the Cannabis Control Act,  
22 Section 410 of the Illinois Controlled Substances Act,  
23 Section 70 of the Methamphetamine Control and  
24 Community Protection Act, Section 5-6-3.3 or 5-6-3.4  
25 of the Unified Code of Corrections, Section  
26 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as

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

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

23 (L) "Sexual offense committed against a minor"  
24 includes but is not limited to the offenses of indecent  
25 solicitation of a child or criminal sexual abuse when  
26 the victim of such offense is under 18 years of age.

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

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

10 (2.5) Commencing 180 days after July 29, 2016 (the  
11 effective date of Public Act 99-697) ~~this amendatory Act of~~  
12 ~~the 99th General Assembly~~, the law enforcement agency  
13 issuing the citation shall automatically expunge, on or  
14 before January 1 and July 1 of each year, the law  
15 enforcement records of a person found to have committed a  
16 civil law violation of subsection (a) of Section 4 of the  
17 Cannabis Control Act or subsection (c) of Section 3.5 of  
18 the Drug Paraphernalia Control Act in the law enforcement  
19 agency's possession or control and which contains the final  
20 satisfactory disposition which pertain to the person  
21 issued a citation for that offense. The law enforcement  
22 agency shall provide by rule the process for access,  
23 review, and to confirm the automatic expungement by the law  
24 enforcement agency issuing the citation. Commencing 180  
25 days after July 29, 2016 (the effective date of Public Act  
26 99-697) ~~this amendatory Act of the 99th General Assembly~~,

1 the clerk of the circuit court shall expunge, upon order of  
2 the court, or in the absence of a court order on or before  
3 January 1 and July 1 of each year, the court records of a  
4 person found in the circuit court to have committed a civil  
5 law violation of subsection (a) of Section 4 of the  
6 Cannabis Control Act or subsection (c) of Section 3.5 of  
7 the Drug Paraphernalia Control Act in the clerk's  
8 possession or control and which contains the final  
9 satisfactory disposition which pertain to the person  
10 issued a citation for any of those offenses.

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

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



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

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

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

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

17 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
18 26-5, or 48-1 of the Criminal Code of 1961 or the  
19 Criminal Code of 2012, or a similar provision of a  
20 local ordinance;

21 (iii) Sections 12-3.1 or 12-3.2 of the  
22 Criminal Code of 1961 or the Criminal Code of 2012,  
23 or Section 125 of the Stalking No Contact Order  
24 Act, or Section 219 of the Civil No Contact Order  
25 Act, or a similar provision of a local ordinance;

26 (iv) offenses which are Class A misdemeanors

1 under the Humane Care for Animals Act; or

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

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

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

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

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

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

26 (v) the charge results in acquittal,

1 dismissal, or the petitioner's release without  
2 conviction; or

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

5 (b) Expungement.

6 (1) A petitioner may petition the circuit court to  
7 expunge the records of his or her arrests and charges not  
8 initiated by arrest when each arrest or charge not  
9 initiated by arrest sought to be expunged resulted in: (i)  
10 acquittal, dismissal, or the petitioner's release without  
11 charging, unless excluded by subsection (a)(3)(B); (ii) a  
12 conviction which was vacated or reversed, unless excluded  
13 by subsection (a)(3)(B); (iii) an order of supervision and  
14 such supervision was successfully completed by the  
15 petitioner, unless excluded by subsection (a)(3)(A) or  
16 (a)(3)(B); or (iv) an order of qualified probation (as  
17 defined in subsection (a)(1)(J)) and such probation was  
18 successfully completed by the petitioner.

19 (1.5) When a petitioner seeks to have a record of  
20 arrest expunged under this Section, and the offender has  
21 been convicted of a criminal offense, the State's Attorney  
22 may object to the expungement on the grounds that the  
23 records contain specific relevant information aside from  
24 the mere fact of the arrest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) Sealing.

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

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

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

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



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

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

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

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

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

23 (i) Class 4 felony convictions for:

24 Prostitution under Section 11-14 of the  
25 Criminal Code of 1961 or the Criminal Code of  
26 2012.

1 Possession of cannabis under Section 4 of  
2 the Cannabis Control Act.

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

6 Offenses under the Methamphetamine  
7 Precursor Control Act.

8 Offenses under the Steroid Control Act.

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

11 Retail theft under Section 16A-3 or  
12 paragraph (a) of 16-25 of the Criminal Code of  
13 1961 or the Criminal Code of 2012.

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

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

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

22 (ii) Class 3 felony convictions for:

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

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

1 1961 or the Criminal Code of 2012.

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

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

7 Possession with intent to manufacture or  
8 deliver a controlled substance under Section  
9 401 of the Illinois Controlled Substances Act.

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

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

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

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

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

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

26 (4) Subsequent felony convictions. A person may not

1 have subsequent felony conviction records sealed as  
2 provided in this subsection (c) if he or she is convicted  
3 of any felony offense after the date of the sealing of  
4 prior felony convictions as provided in this subsection  
5 (c). The court may, upon conviction for a subsequent felony  
6 offense, order the unsealing of prior felony conviction  
7 records previously ordered sealed by the court.

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

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

16 (1) Filing the petition. Upon becoming eligible to  
17 petition for the expungement or sealing of records under  
18 this Section, the petitioner shall file a petition  
19 requesting the expungement or sealing of records with the  
20 clerk of the court where the arrests occurred or the  
21 charges were brought, or both. If arrests occurred or  
22 charges were brought in multiple jurisdictions, a petition  
23 must be filed in each such jurisdiction. The petitioner  
24 shall pay the applicable fee, except no fee shall be  
25 required if the petitioner has obtained a court order  
26 waiving fees under Supreme Court Rule 298 or it is

1 otherwise waived.

2 (1.5) County fee waiver pilot program. In a county of  
3 3,000,000 or more inhabitants, no fee shall be required to  
4 be paid by a petitioner if the records sought to be  
5 expunged or sealed were arrests resulting in release  
6 without charging or arrests or charges not initiated by  
7 arrest resulting in acquittal, dismissal, or conviction  
8 when the conviction was reversed or vacated, unless  
9 excluded by subsection (a) (3) (B). The provisions of this  
10 paragraph (1.5), other than this sentence, are inoperative  
11 on and after January 1, 2018 or one year after January 1,  
12 2017 (the effective date of Public Act 99-881) ~~this~~  
13 ~~amendatory Act of the 99th General Assembly~~, whichever is  
14 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) (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; 99-642, eff. 7-28-16; 99-697, eff.  
10 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)