

SB1782



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1782

Introduced 2/9/2017, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that the State's Attorney shall petition the circuit court when the arrest or charge not initiated by arrest sought to be expunged is for retail theft of property the full retail value of which does not exceed \$300; criminal trespass to real property; criminal trespass to State supported land; a traffic offense, except for any offense involving fleeing or attempting to elude a peace officer or aggravated fleeing or attempting to elude a peace officer, driving under the influence, or any offense that results in bodily harm; or a Class 4 felony violation of the Illinois Controlled Substances Act which results in acquittal, dismissal, or the reversal or vacation of a conviction immediately upon the State's Attorney not to charge or upon entry of acquittal, dismissal, reversal, or vacation. Provides that the circuit court shall promptly enter an order within 90 days upon the filing of a petition under this provision.

LRB100 10957 SLF 21194 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
21 of the Unified Code of Corrections, Section
22 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
23 those provisions existed before their deletion by
24 Public Act 89-313), Section 10-102 of the Illinois
25 Alcoholism and Other Drug Dependency Act, Section
26 40-10 of the Alcoholism and Other Drug Abuse and

1 Dependency Act, or Section 10 of the Steroid Control
2 Act. For the purpose of this Section, "successful
3 completion" of an order of qualified probation under
4 Section 10-102 of the Illinois Alcoholism and Other
5 Drug Dependency Act and Section 40-10 of the Alcoholism
6 and Other Drug Abuse and Dependency Act means that the
7 probation was terminated satisfactorily and the
8 judgment of conviction was vacated.

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

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

23 (M) "Terminate" as it relates to a sentence or
24 order of supervision or qualified probation includes
25 either satisfactory or unsatisfactory termination of
26 the sentence, unless otherwise specified in this

1 Section.

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

6 (2.5) Commencing 180 days after July 29, 2016 (the
7 effective date of Public Act 99-697) ~~this amendatory Act of~~
8 ~~the 99th General Assembly~~, the law enforcement agency
9 issuing the citation shall automatically expunge, on or
10 before January 1 and July 1 of each year, the law
11 enforcement records of a person found to have committed a
12 civil law violation of subsection (a) of Section 4 of the
13 Cannabis Control Act or subsection (c) of Section 3.5 of
14 the Drug Paraphernalia Control Act in the law enforcement
15 agency's possession or control and which contains the final
16 satisfactory disposition which pertain to the person
17 issued a citation for that offense. The law enforcement
18 agency shall provide by rule the process for access,
19 review, and to confirm the automatic expungement by the law
20 enforcement agency issuing the citation. Commencing 180
21 days after July 29, 2016 (the effective date of Public Act
22 99-697) ~~this amendatory Act of the 99th General Assembly~~,
23 the clerk of the circuit court shall expunge, upon order of
24 the court, or in the absence of a court order on or before
25 January 1 and July 1 of each year, the court records of a
26 person found in the circuit court to have committed a civil

1 law violation of subsection (a) of Section 4 of the
2 Cannabis Control Act or subsection (c) of Section 3.5 of
3 the Drug Paraphernalia Control Act in the clerk's
4 possession or control and which contains the final
5 satisfactory disposition which pertain to the person
6 issued a citation for any of those offenses.

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

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

25 (B) the sealing or expungement of records of minor
26 traffic offenses (as defined in subsection (a) (1) (G)),

1 unless the petitioner was arrested and released
2 without charging.

3 (C) the sealing of the records of arrests or
4 charges not initiated by arrest which result in an
5 order of supervision or a conviction for the following
6 offenses:

7 (i) offenses included in Article 11 of the
8 Criminal Code of 1961 or the Criminal Code of 2012
9 or a similar provision of a local ordinance, except
10 Section 11-14 of the Criminal Code of 1961 or the
11 Criminal Code of 2012, or a similar provision of a
12 local ordinance;

13 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
14 26-5, or 48-1 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or a similar provision of a
16 local ordinance;

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

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

24 (v) any offense or attempted offense that
25 would subject a person to registration under the
26 Sex Offender Registration Act.

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

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

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

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

19 (iv) the charge is for a felony offense listed
20 in subsection (c) (2) (F) or the charge is amended to
21 a felony offense listed in subsection (c) (2) (F);

22 (v) the charge results in acquittal,
23 dismissal, or the petitioner's release without
24 conviction; or

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

1 (b) Expungement.

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

15 (1.3) The State's Attorney shall petition the circuit
16 court when the arrest or charge not initiated by arrest
17 sought to be expunged for retail theft of property the full
18 retail value of which does not exceed \$300 under Section
19 16-25 of the Criminal Code of 2012; criminal trespass to
20 real property under Section 21-3 of the Criminal Code of
21 2012; criminal trespass to State supported land under
22 Section 21-5 of the Criminal Code of 2012; a traffic
23 offense, except for any offense involving fleeing or
24 attempting to elude a peace officer or aggravated fleeing
25 or attempting to elude a peace officer under Section 11-204
26 or 11-204.1 of the Illinois Vehicle Code, driving under the

1 influence under Section 11-501 of the Illinois Vehicle
2 Code, or any offense that results in bodily harm; or a
3 Class 4 felony violation of the Illinois Controlled
4 Substances Act which results in acquittal, dismissal, or
5 the reversal or vacation of a conviction immediately upon
6 the State's Attorney not to charge or upon entry of
7 acquittal, dismissal, reversal, or vacation.

8 (1.5) When a petitioner seeks to have a record of
9 arrest expunged under this Section, and the offender has
10 been convicted of a criminal offense, the State's Attorney
11 may object to the expungement on the grounds that the
12 records contain specific relevant information aside from
13 the mere fact of the arrest.

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

15 (A) When the arrest or charge not initiated by
16 arrest sought to be expunged resulted in an acquittal,
17 dismissal, the petitioner's release without charging,
18 or the reversal or vacation of a conviction, there is
19 no waiting period to petition for the expungement of
20 such records.

21 (B) When the arrest or charge not initiated by
22 arrest sought to be expunged resulted in an order of
23 supervision, successfully completed by the petitioner,
24 the following time frames will apply:

25 (i) Those arrests or charges that resulted in
26 orders of supervision under Section 3-707, 3-708,

1 3-710, or 5-401.3 of the Illinois Vehicle Code or a
2 similar provision of a local ordinance, or under
3 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
4 Code of 1961 or the Criminal Code of 2012, or a
5 similar provision of a local ordinance, shall not
6 be eligible for expungement until 5 years have
7 passed following the satisfactory termination of
8 the supervision.

9 (i-5) Those arrests or charges that resulted
10 in orders of supervision for a misdemeanor
11 violation of subsection (a) of Section 11-503 of
12 the Illinois Vehicle Code or a similar provision of
13 a local ordinance, that occurred prior to the
14 offender reaching the age of 25 years and the
15 offender has no other conviction for violating
16 Section 11-501 or 11-503 of the Illinois Vehicle
17 Code or a similar provision of a local ordinance
18 shall not be eligible for expungement until the
19 petitioner has reached the age of 25 years.

20 (ii) Those arrests or charges that resulted in
21 orders of supervision for any other offenses shall
22 not be eligible for expungement until 2 years have
23 passed following the satisfactory termination of
24 the supervision.

25 (C) When the arrest or charge not initiated by
26 arrest sought to be expunged resulted in an order of

1 qualified probation, successfully completed by the
2 petitioner, such records shall not be eligible for
3 expungement until 5 years have passed following the
4 satisfactory termination of the probation.

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

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

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

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

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

9 (7) Nothing in this Section shall prevent the
10 Department of State Police from maintaining all records of
11 any person who is admitted to probation upon terms and
12 conditions and who fulfills those terms and conditions
13 pursuant to Section 10 of the Cannabis Control Act, Section
14 410 of the Illinois Controlled Substances Act, Section 70
15 of the Methamphetamine Control and Community Protection
16 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
17 Corrections, Section 12-4.3 or subdivision (b)(1) of
18 Section 12-3.05 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, Section 10-102 of the Illinois
20 Alcoholism and Other Drug Dependency Act, Section 40-10 of
21 the Alcoholism and Other Drug Abuse and Dependency Act, or
22 Section 10 of the Steroid Control Act.

23 (8) If the petitioner has been granted a certificate of
24 innocence under Section 2-702 of the Code of Civil
25 Procedure, the court that grants the certificate of
26 innocence shall also enter an order expunging the

1 conviction for which the petitioner has been determined to
2 be innocent as provided in subsection (h) of Section 2-702
3 of the Code of Civil Procedure.

4 (c) Sealing.

5 (1) Applicability. Notwithstanding any other provision
6 of this Act to the contrary, and cumulative with any rights
7 to expungement of criminal records, this subsection
8 authorizes the sealing of criminal records of adults and of
9 minors prosecuted as adults.

10 (2) Eligible Records. The following records may be
11 sealed:

12 (A) All arrests resulting in release without
13 charging;

14 (B) Arrests or charges not initiated by arrest
15 resulting in acquittal, dismissal, or conviction when
16 the conviction was reversed or vacated, except as
17 excluded by subsection (a) (3) (B);

18 (C) Arrests or charges not initiated by arrest
19 resulting in orders of supervision, including orders
20 of supervision for municipal ordinance violations,
21 successfully completed by the petitioner, unless
22 excluded by subsection (a) (3);

23 (D) Arrests or charges not initiated by arrest
24 resulting in convictions, including convictions on
25 municipal ordinance violations, unless excluded by
26 subsection (a) (3);

1 (E) Arrests or charges not initiated by arrest
2 resulting in orders of first offender probation under
3 Section 10 of the Cannabis Control Act, Section 410 of
4 the Illinois Controlled Substances Act, Section 70 of
5 the Methamphetamine Control and Community Protection
6 Act, or Section 5-6-3.3 of the Unified Code of
7 Corrections; and

8 (F) Arrests or charges not initiated by arrest
9 resulting in felony convictions for the following
10 offenses:

11 (i) Class 4 felony convictions for:

12 Prostitution under Section 11-14 of the
13 Criminal Code of 1961 or the Criminal Code of
14 2012.

15 Possession of cannabis under Section 4 of
16 the Cannabis Control Act.

17 Possession of a controlled substance under
18 Section 402 of the Illinois Controlled
19 Substances Act.

20 Offenses under the Methamphetamine
21 Precursor Control Act.

22 Offenses under the Steroid Control Act.

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 of burglary tools under Section
8 19-2 of the Criminal Code of 1961 or the
9 Criminal Code of 2012.

10 (ii) Class 3 felony convictions for:

11 Theft under Section 16-1 of the Criminal
12 Code of 1961 or the Criminal Code of 2012.

13 Retail theft under Section 16A-3 or
14 paragraph (a) of 16-25 of the Criminal Code of
15 1961 or the Criminal Code of 2012.

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

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

21 Possession with intent to manufacture or
22 deliver a controlled substance under Section
23 401 of the Illinois Controlled Substances Act.

24 (3) When Records Are Eligible to Be Sealed. Records
25 identified as eligible under subsection (c)(2) may be
26 sealed as follows:

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

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

9 (C) Except as otherwise provided in subparagraph
10 (E) of this paragraph (3), records identified as
11 eligible under subsections (c) (2) (D), (c) (2) (E), and
12 (c) (2) (F) may be sealed 3 years after the termination
13 of the petitioner's last sentence (as defined in
14 subsection (a) (1) (F)).

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

18 (E) Records identified as eligible under
19 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
20 (c) (2) (F) may be sealed upon termination of the
21 petitioner's last sentence if the petitioner earned a
22 high school diploma, associate's degree, career
23 certificate, vocational technical certification, or
24 bachelor's degree, or passed the high school level Test
25 of General Educational Development, during the period
26 of his or her sentence, aftercare release, or mandatory

1 supervised release. This subparagraph shall apply only
2 to a petitioner who has not completed the same
3 educational goal prior to the period of his or her
4 sentence, aftercare release, or mandatory supervised
5 release. If a petition for sealing eligible records
6 filed under this subparagraph is denied by the court,
7 the time periods under subparagraph (B) or (C) shall
8 apply to any subsequent petition for sealing filed by
9 the petitioner.

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

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

23 (d) Procedure. The following procedures apply to
24 expungement under subsections (b), (e), and (e-6) and sealing
25 under subsections (c) and (e-5):

26 (1) Filing the petition. Upon becoming eligible to

1 petition for the expungement or sealing of records under
2 this Section, the petitioner shall file a petition
3 requesting the expungement or sealing of records with the
4 clerk of the court where the arrests occurred or the
5 charges were brought, or both. If arrests occurred or
6 charges were brought in multiple jurisdictions, a petition
7 must be filed in each such jurisdiction. The petitioner
8 shall pay the applicable fee, except no fee shall be
9 required if the petitioner has obtained a court order
10 waiving fees under Supreme Court Rule 298 or it is
11 otherwise waived.

12 (1.5) County fee waiver pilot program. In a county of
13 3,000,000 or more inhabitants, no fee shall be required to
14 be paid by a petitioner if the records sought to be
15 expunged or sealed were arrests resulting in release
16 without charging or arrests or charges not initiated by
17 arrest resulting in acquittal, dismissal, or conviction
18 when the conviction was reversed or vacated, unless
19 excluded by subsection (a) (3) (B). The provisions of this
20 paragraph (1.5), other than this sentence, are inoperative
21 on and after January 1, 2018 or one year after January 1,
22 2017 (the effective date of Public Act 99-881) ~~this~~
23 ~~amendatory Act of the 99th General Assembly~~, whichever is
24 later.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

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

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

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

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

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

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

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

10 (5) Objections.

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

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

22 (6) Entry of order.

23 (A) The Chief Judge of the circuit wherein the
24 charge was brought, any judge of that circuit
25 designated by the Chief Judge, or in counties of less
26 than 3,000,000 inhabitants, the presiding trial judge

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

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

10 (C) The circuit court shall promptly enter an order
11 within 90 days upon the filing of a petition under
12 paragraph (1.3) of subsection (b) of this Section.

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

25 (A) the strength of the evidence supporting the
26 defendant's conviction;

1 (B) the reasons for retention of the conviction
2 records by the State;

3 (C) the petitioner's age, criminal record history,
4 and employment history;

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

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

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

19 (9) Implementation of order.

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

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

1 reconsider the order is filed pursuant to
2 paragraph (12) of subsection (d) of this Section;

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

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

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

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

26 (ii) the records of the circuit court clerk

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

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

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

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

1 existed.

2 (B-5) Upon entry of an order to expunge records
3 under subsection (e-6):

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

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

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

25 (iv) records impounded by the Department may
26 be disseminated by the Department only as required

1 by law or to the arresting authority, the State's
2 Attorney, and the court upon a later arrest for the
3 same or a similar offense or for the purpose of
4 sentencing for any subsequent felony, and to the
5 Department of Corrections upon conviction for any
6 offense; and

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

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

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

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

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

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

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

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

1 (14) Compliance with Order Granting Petition to Seal
2 Records. Unless a court has entered a stay of an order
3 granting a petition to seal, all parties entitled to notice
4 of the petition must fully comply with the terms of the
5 order within 60 days of service of the order even if a
6 party is seeking relief from the order through a motion
7 filed under paragraph (12) of this subsection (d) or is
8 appealing the order.

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

18 (16) The changes to this subsection (d) made by Public
19 Act 98-163 apply to all petitions pending on August 5, 2013
20 (the effective date of Public Act 98-163) and to all orders
21 ruling on a petition to expunge or seal on or after August
22 5, 2013 (the effective date of Public Act 98-163).

23 (e) Whenever a person who has been convicted of an offense
24 is granted a pardon by the Governor which specifically
25 authorizes expungement, he or she may, upon verified petition
26 to the Chief Judge of the circuit where the person had been

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

24 (e-5) Whenever a person who has been convicted of an
25 offense is granted a certificate of eligibility for sealing by
26 the Prisoner Review Board which specifically authorizes

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

1 sealing.

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

1 have access to all expunged records of the Department
2 pertaining to that individual. Upon entry of the order of
3 expungement, the circuit court clerk shall promptly mail a copy
4 of the order to the person who was granted the certificate of
5 eligibility for expungement.

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

18 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
19 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
20 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
21 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;
22 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff.
23 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)