



Sen. Jacqueline Y. Collins

**Filed: 3/10/2017**

10000SB1782sam001

LRB100 10957 SLF 22505 a

1 AMENDMENT TO SENATE BILL 1782

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1782 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

1 (iii) Court (730 ILCS 5/5-1-6),  
2 (iv) Defendant (730 ILCS 5/5-1-7),  
3 (v) Felony (730 ILCS 5/5-1-9),  
4 (vi) Imprisonment (730 ILCS 5/5-1-10),  
5 (vii) Judgment (730 ILCS 5/5-1-12),  
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),  
7 (ix) Offense (730 ILCS 5/5-1-15),  
8 (x) Parole (730 ILCS 5/5-1-16),  
9 (xi) Petty Offense (730 ILCS 5/5-1-17),  
10 (xii) Probation (730 ILCS 5/5-1-18),  
11 (xiii) Sentence (730 ILCS 5/5-1-19),  
12 (xiv) Supervision (730 ILCS 5/5-1-21), and  
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated  
15 by arrest" means a charge (as defined by 730 ILCS  
16 5/5-1-3) brought against a defendant where the  
17 defendant is not arrested prior to or as a direct  
18 result of the charge.

19 (C) "Conviction" means a judgment of conviction or  
20 sentence entered upon a plea of guilty or upon a  
21 verdict or finding of guilty of an offense, rendered by  
22 a legally constituted jury or by a court of competent  
23 jurisdiction authorized to try the case without a jury.  
24 An order of supervision successfully completed by the  
25 petitioner is not a conviction. An order of qualified  
26 probation (as defined in subsection (a)(1)(J))

1           successfully completed by the petitioner is not a  
2 conviction. An order of supervision or an order of  
3 qualified probation that is terminated  
4 unsatisfactorily is a conviction, unless the  
5 unsatisfactory termination is reversed, vacated, or  
6 modified and the judgment of conviction, if any, is  
7 reversed or vacated.

8           (D) "Criminal offense" means a petty offense,  
9 business offense, misdemeanor, felony, or municipal  
10 ordinance violation (as defined in subsection  
11 (a)(1)(H)). As used in this Section, a minor traffic  
12 offense (as defined in subsection (a)(1)(G)) shall not  
13 be considered a criminal offense.

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

23           (F) As used in this Section, "last sentence" means  
24 the sentence, order of supervision, or order of  
25 qualified probation (as defined by subsection  
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in  
2 any jurisdiction, regardless of whether the petitioner  
3 has included the criminal offense for which the  
4 sentence or order of supervision or qualified  
5 probation was imposed in his or her petition. If  
6 multiple sentences, orders of supervision, or orders  
7 of qualified probation terminate on the same day and  
8 are last in time, they shall be collectively considered  
9 the "last sentence" regardless of whether they were  
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,  
12 business offense, or Class C misdemeanor under the  
13 Illinois Vehicle Code or a similar provision of a  
14 municipal or local ordinance.

15 (H) "Municipal ordinance violation" means an  
16 offense defined by a municipal or local ordinance that  
17 is criminal in nature and with which the petitioner was  
18 charged or for which the petitioner was arrested and  
19 released without charging.

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

23 (J) "Qualified probation" means an order of  
24 probation under Section 10 of the Cannabis Control Act,  
25 Section 410 of the Illinois Controlled Substances Act,  
26 Section 70 of the Methamphetamine Control and

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

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

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

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

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

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

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

1 enforcement agency issuing the citation. Commencing 180  
2 days after July 29, 2016 (the effective date of Public Act  
3 99-697) ~~this amendatory Act of the 99th General Assembly,~~  
4 the clerk of the circuit court shall expunge, upon order of  
5 the court, or in the absence of a court order on or before  
6 January 1 and July 1 of each year, the court records of a  
7 person found in the circuit court to have committed a civil  
8 law violation of subsection (a) of Section 4 of the  
9 Cannabis Control Act or subsection (c) of Section 3.5 of  
10 the Drug Paraphernalia Control Act in the clerk's  
11 possession or control and which contains the final  
12 satisfactory disposition which pertain to the person  
13 issued a citation for any of those offenses.

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

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

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

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

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

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

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

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



1 Act, or Section 219 of the Civil No Contact Order  
2 Act, or a similar provision of a local ordinance;

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

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

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

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

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

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

26 (iv) the charge is for a felony offense listed

1 in subsection (c) (2) (F) or the charge is amended to  
2 a felony offense listed in subsection (c) (2) (F);

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

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

8 (b) Expungement.

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

22 (1.3) The Public Defender shall petition the circuit  
23 court when the arrest or charge not initiated by arrest  
24 sought to be expunged is: (i) retail theft of property the  
25 full retail value of which does not exceed \$300 under  
26 Section 16-25 of the Criminal Code of 2012; (ii) criminal

1       trespass to real property under Section 21-3 of the  
2       Criminal Code of 2012; (iii) criminal trespass to State  
3       supported land under Section 21-5 of the Criminal Code of  
4       2012; (iv) a traffic offense, except for any offense  
5       involving fleeing or attempting to elude a peace officer or  
6       aggravated fleeing or attempting to elude a peace officer  
7       under Section 11-204 or 11-204.1 of the Illinois Vehicle  
8       Code, driving under the influence under Section 11-501 of  
9       the Illinois Vehicle Code or any offense that results in  
10       bodily harm; or (v) a Class 4 felony violation of the  
11       Illinois Controlled Substances Act which results in  
12       acquittal, dismissal, or the final reversal or vacation of  
13       a conviction, upon the decision of the State's Attorney not  
14       to charge or upon the acquittal, dismissal, or final  
15       reversal or vacation. A petition under this paragraph (1.3)  
16       shall be filed with the applicable fee under paragraph (1)  
17       of subsection (d) of this Section. A copy of the petition  
18       shall be served upon the State's Attorney, the arresting  
19       agency, and the Department of State Police.

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

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

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

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

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

21           (i-5) Those arrests or charges that resulted  
22 in orders of supervision for a misdemeanor  
23 violation of subsection (a) of Section 11-503 of  
24 the Illinois Vehicle Code or a similar provision of  
25 a local ordinance, that occurred prior to the  
26 offender reaching the age of 25 years and the

1           offender has no other conviction for violating  
2           Section 11-501 or 11-503 of the Illinois Vehicle  
3           Code or a similar provision of a local ordinance  
4           shall not be eligible for expungement until the  
5           petitioner has reached the age of 25 years.

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

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

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

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

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

23 (5) Whenever a person has been convicted of criminal  
24 sexual assault, aggravated criminal sexual assault,  
25 predatory criminal sexual assault of a child, criminal  
26 sexual abuse, or aggravated criminal sexual abuse, the

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

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

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

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

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

16 (c) Sealing.

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

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

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

26 (B) Arrests or charges not initiated by arrest



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

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

9 (D) Arrests or charges not initiated by arrest  
10 resulting in convictions, including convictions on  
11 municipal ordinance violations, unless excluded by  
12 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 shall apply only  
14       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.

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

1 (c). The court may, upon conviction for a subsequent felony  
2 offense, order the unsealing of prior felony conviction  
3 records previously ordered sealed by the court.

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

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

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

24 (1.5) County fee waiver pilot program. In a county of  
25 3,000,000 or more inhabitants, no fee shall be required to  
26 be paid by a petitioner if the records sought to be

1 expunged or sealed were arrests resulting in release  
2 without charging or arrests or charges not initiated by  
3 arrest resulting in acquittal, dismissal, or conviction  
4 when the conviction was reversed or vacated, unless  
5 excluded by subsection (a) (3) (B). The provisions of this  
6 paragraph (1.5), other than this sentence, are inoperative  
7 on and after January 1, 2018 or one year after January 1,  
8 2017 (the effective date of Public Act 99-881) ~~this~~  
9 ~~amendatory Act of the 99th General Assembly~~, whichever is  
10 later.

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

25 (3) Drug test. The petitioner must attach to the  
26 petition proof that the petitioner has passed a test taken

1 within 30 days before the filing of the petition showing  
2 the absence within his or her body of all illegal  
3 substances as defined by the Illinois Controlled  
4 Substances Act, the Methamphetamine Control and Community  
5 Protection Act, and the Cannabis Control Act if he or she  
6 is petitioning to:

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

8 (B) seal felony records for a violation of the  
9 Illinois Controlled Substances Act, the  
10 Methamphetamine Control and Community Protection Act,  
11 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

22 (5) Objections.

23 (A) Any party entitled to notice of the petition  
24 may file an objection to the petition. All objections  
25 shall be in writing, shall be filed with the circuit  
26 court clerk, and shall state with specificity the basis

1 of the objection. Whenever a person who has been  
2 convicted of an offense is granted a pardon by the  
3 Governor which specifically authorizes expungement, an  
4 objection to the petition may not be filed.

5 (B) Objections to a petition to expunge or seal  
6 must be filed within 60 days of the date of service of  
7 the petition.

8 (6) Entry of order.

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

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

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

25 (7) Hearings. If an objection is filed, the court shall  
26 set a date for a hearing and notify the petitioner and all



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

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

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

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

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

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

22 (8) Service of order. After entering an order to  
23 expunge or seal records, the court must provide copies of  
24 the order to the Department, in a form and manner  
25 prescribed by the Department, to the petitioner, to the  
26 State's Attorney or prosecutor charged with the duty of

1 prosecuting the offense, to the arresting agency, to the  
2 chief legal officer of the unit of local government  
3 effecting the arrest, and to such other criminal justice  
4 agencies as may be ordered by the court.

5 (9) Implementation of order.

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

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

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

24 (iii) in response to an inquiry for expunged  
25 records, the court, the Department, or the agency  
26 receiving such inquiry, shall reply as it does in

1 response to inquiries when no records ever  
2 existed.

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

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

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

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

26 (iv) records impounded by the Department may

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

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

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

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

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

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

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

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

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

25 (C) Upon entry of an order to seal records under  
26 subsection (c), the arresting agency, any other agency

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

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

23 (10) Fees. The Department may charge the petitioner a  
24 fee equivalent to the cost of processing any order to  
25 expunge or seal records. Notwithstanding any provision of  
26 the Clerks of Courts Act to the contrary, the circuit court

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

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

18 (12) Motion to Vacate, Modify, or Reconsider. Under  
19 Section 2-1203 of the Code of Civil Procedure, the  
20 petitioner or any party entitled to notice may file a  
21 motion to vacate, modify, or reconsider the order granting  
22 or denying the petition to expunge or seal within 60 days  
23 of service of the order. If filed more than 60 days after  
24 service of the order, a petition to vacate, modify, or  
25 reconsider shall comply with subsection (c) of Section  
26 2-1401 of the Code of Civil Procedure. Upon filing of a

1 motion to vacate, modify, or reconsider, notice of the  
2 motion shall be served upon the petitioner and all parties  
3 entitled to notice of the petition.

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

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

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



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

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

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

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

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

1 shall not affect any index issued by the circuit court clerk  
2 before the entry of the order. All records sealed by the  
3 Department may be disseminated by the Department only as  
4 required by this Act or to the arresting authority, a law  
5 enforcement agency, the State's Attorney, and the court upon a  
6 later arrest for the same or similar offense or for the purpose  
7 of sentencing for any subsequent felony. Upon conviction for  
8 any subsequent offense, the Department of Corrections shall  
9 have access to all sealed records of the Department pertaining  
10 to that individual. Upon entry of the order of sealing, the  
11 circuit court clerk shall promptly mail a copy of the order to  
12 the person who was granted the certificate of eligibility for  
13 sealing.

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

1 obliterated from the official index requested to be kept by the  
2 circuit court clerk under Section 16 of the Clerks of Courts  
3 Act in connection with the arrest and conviction for the  
4 offense for which he or she had been granted the certificate  
5 but the order shall not affect any index issued by the circuit  
6 court clerk before the entry of the order. All records sealed  
7 by the Department may be disseminated by the Department only as  
8 required by this Act or to the arresting authority, a law  
9 enforcement agency, the State's Attorney, and the court upon a  
10 later arrest for the same or similar offense or for the purpose  
11 of sentencing for any subsequent felony. Upon conviction for  
12 any subsequent offense, the Department of Corrections shall  
13 have access to all expunged records of the Department  
14 pertaining to that individual. Upon entry of the order of  
15 expungement, the circuit court clerk shall promptly mail a copy  
16 of the order to the person who was granted the certificate of  
17 eligibility for expungement.

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

1 identification of any particular individual or employing unit.  
2 The study shall be made available to the General Assembly no  
3 later than September 1, 2010.

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