



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0200

Introduced 1/30/2019, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2
720 ILCS 5/1-6
720 ILCS 5/17-56

from Ch. 38, par. 1-6
was 720 ILCS 5/16-1.3

Amends the Criminal Identification Act. Provides that the court shall not order the sealing of the records of arrests or charges not initiated by arrest which result in an order of supervision or a conviction for the following offenses: abuse or criminal neglect of a long term care facility resident; criminal abuse or neglect of an elderly person or person with a disability; aggravated financial exploitation of an elderly person or a person with a disability; and aggravated identity theft against a person 60 years of age or older or a person with a disability. Amends the Criminal Code of 2012. Provides that a person who commits financial exploitation of an elderly person or a person with a disability may be tried in any one of the following counties in which: (1) any part of the offense occurred; or (2) the victim or one of the victims reside. Provides that consent shall not be a defense to financial exploitation of an elderly person or person with a disability if the accused knew or had reason to know that the elderly person or person with a disability lacked capacity to consent. Makes technical changes.

LRB101 06627 SLF 51654 b

1 AN ACT concerning criminal law.

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

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement, sealing, and immediate 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 Substance Use Disorder Act, or Section 10

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

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

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

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

1 outstanding financial legal obligation.

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

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

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

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

23 (B) the sealing or expungement of records of minor
24 traffic offenses (as defined in subsection (a) (1) (G)),
25 unless the petitioner was arrested and released
26 without charging.

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

5 (i) offenses included in Article 11 of the
6 Criminal Code of 1961 or the Criminal Code of 2012
7 or a similar provision of a local ordinance, except
8 Section 11-14 and a misdemeanor violation of
9 Section 11-30 of the Criminal Code of 1961 or the
10 Criminal Code of 2012, or a similar provision of a
11 local ordinance;

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

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

21 (iv) Class A misdemeanors or felony offenses
22 under the Humane Care for Animals Act; ~~or~~

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

26 (vi) Section 12-21, 12-4.4a, 16-1.3, 16G-20,

1 17-56, or paragraph (1) of subsection (a) of
2 Section 16-30 of the Criminal Code of 1961 or the
3 Criminal Code of 2012, or a similar provision of a
4 local ordinance.

5 (D) (blank).

6 (b) Expungement.

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

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 Substance Use Disorder Act, or Section 10 of the
8 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. Subsection (g) of this Section
22 provides for immediate sealing of certain records.

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

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

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

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

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

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

21 (F) Arrests or charges not initiated by arrest
22 resulting in felony convictions unless otherwise
23 excluded by subsection (a) paragraph (3) of this
24 Section.

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

1 sealed as follows:

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

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

10 (C) Except as otherwise provided in subparagraph
11 (E) of this paragraph (3), records identified as
12 eligible under subsections (c) (2) (D), (c) (2) (E), and
13 (c) (2) (F) may be sealed 3 years after the termination
14 of the petitioner's last sentence (as defined in
15 subsection (a) (1) (F)). Convictions requiring public
16 registration under the Arsonist Registration Act, the
17 Sex Offender Registration Act, or the Murderer and
18 Violent Offender Against Youth Registration Act may
19 not be sealed until the petitioner is no longer
20 required to register under that relevant Act.

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

24 (E) Records identified as eligible under
25 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
26 (c) (2) (F) may be sealed upon termination of the

1 petitioner's last sentence if the petitioner earned a
2 high school diploma, associate's degree, career
3 certificate, vocational technical certification, or
4 bachelor's degree, or passed the high school level Test
5 of General Educational Development, during the period
6 of his or her sentence, aftercare release, or mandatory
7 supervised release. This subparagraph shall apply only
8 to a petitioner who has not completed the same
9 educational goal prior to the period of his or her
10 sentence, aftercare release, or mandatory supervised
11 release. If a petition for sealing eligible records
12 filed under this subparagraph is denied by the court,
13 the time periods under subparagraph (B) or (C) shall
14 apply to any subsequent petition for sealing filed by
15 the petitioner.

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

24 (5) Notice of eligibility for sealing. Upon entry of a
25 disposition for an eligible record under this subsection
26 (c), the petitioner shall be informed by the court of the

1 right to have the records sealed and the procedures for the
2 sealing of the records.

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

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

18 (1.5) County fee waiver pilot program. In a county of
19 3,000,000 or more inhabitants, no fee shall be required to
20 be paid by a petitioner if the records sought to be
21 expunged or sealed were arrests resulting in release
22 without charging or arrests or charges not initiated by
23 arrest resulting in acquittal, dismissal, or conviction
24 when the conviction was reversed or vacated, unless
25 excluded by subsection (a) (3) (B). The provisions of this
26 paragraph (1.5), other than this sentence, are inoperative

1 on and after January 1, 2019.

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

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

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

25 (B) seal felony records for a violation of the
26 Illinois Controlled Substances Act, the

1 Methamphetamine Control and Community Protection Act,
2 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

13 (5) Objections.

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

22 (B) Objections to a petition to expunge or seal
23 must be filed within 60 days of the date of service of
24 the petition.

25 (6) Entry of order.

26 (A) The Chief Judge of the circuit wherein the

1 charge was brought, any judge of that circuit
2 designated by the Chief Judge, or in counties of less
3 than 3,000,000 inhabitants, the presiding trial judge
4 at the petitioner's trial, if any, shall rule on the
5 petition to expunge or seal as set forth in this
6 subsection (d) (6).

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

13 (C) Notwithstanding any other provision of law,
14 the court shall not deny a petition for sealing under
15 this Section because the petitioner has not satisfied
16 an outstanding legal financial obligation established,
17 imposed, or originated by a court, law enforcement
18 agency, or a municipal, State, county, or other unit of
19 local government, including, but not limited to, any
20 cost, assessment, fine, or fee. An outstanding legal
21 financial obligation does not include any court
22 ordered restitution to a victim under Section 5-5-6 of
23 the Unified Code of Corrections, unless the
24 restitution has been converted to a civil judgment.
25 Nothing in this subparagraph (C) waives, rescinds, or
26 abrogates a legal financial obligation or otherwise

1 eliminates or affects the right of the holder of any
2 financial obligation to pursue collection under
3 applicable federal, State, or local law.

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

16 (A) the strength of the evidence supporting the
17 defendant's conviction;

18 (B) the reasons for retention of the conviction
19 records by the State;

20 (C) the petitioner's age, criminal record history,
21 and employment history;

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

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

1 (8) Service of order. After entering an order to
2 expunge or seal records, the court must provide copies of
3 the order to the Department, in a form and manner
4 prescribed by the Department, to the petitioner, to the
5 State's Attorney or prosecutor charged with the duty of
6 prosecuting the offense, to the arresting agency, to the
7 chief legal officer of the unit of local government
8 effecting the arrest, and to such other criminal justice
9 agencies as may be ordered by the court.

10 (9) Implementation of order.

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

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

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

1 circuit court clerk before the entry of the order;
2 and

3 (iii) in response to an inquiry for expunged
4 records, the court, the Department, or the agency
5 receiving such inquiry, shall reply as it does in
6 response to inquiries when no records ever
7 existed.

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

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

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

25 (iii) the records shall be impounded by the
26 Department within 60 days of the date of service of

1 the order as ordered by the court, unless a motion
2 to vacate, modify, or reconsider the order is filed
3 pursuant to paragraph (12) of subsection (d) of
4 this Section;

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

13 (v) in response to an inquiry for such records
14 from anyone not authorized by law to access such
15 records, the court, the Department, or the agency
16 receiving such inquiry shall reply as it does in
17 response to inquiries when no records ever
18 existed.

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

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

1 subsection (d) of this Section;

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

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

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

24 (v) in response to an inquiry for these records
25 from anyone not authorized by law to access the
26 records, the court, the Department, or the agency

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

4 (C) Upon entry of an order to seal records under
5 subsection (c), the arresting agency, any other agency
6 as ordered by the court, the Department, and the court
7 shall seal the records (as defined in subsection
8 (a) (1) (K)). 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 existed.

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

1 discretionary appellate review, is pending.

2 (E) Upon motion, the court may order that a sealed
3 judgment or other court record necessary to
4 demonstrate the amount of any legal financial
5 obligation due and owing be made available for the
6 limited purpose of collecting any legal financial
7 obligations owed by the petitioner that were
8 established, imposed, or originated in the criminal
9 proceeding for which those records have been sealed.
10 The records made available under this subparagraph (E)
11 shall not be entered into the official index required
12 to be kept by the circuit court clerk under Section 16
13 of the Clerks of Courts Act and shall be immediately
14 re-impounded upon the collection of the outstanding
15 financial obligations.

16 (F) Notwithstanding any other provision of this
17 Section, a circuit court clerk may access a sealed
18 record for the limited purpose of collecting payment
19 for any legal financial obligations that were
20 established, imposed, or originated in the criminal
21 proceedings for which those records have been sealed.

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

1 with the sealing or expungement of records by the circuit
2 court clerk. From the total filing fee collected for the
3 petition to seal or expunge, the circuit court clerk shall
4 deposit \$10 into the Circuit Court Clerk Operation and
5 Administrative Fund, to be used to offset the costs
6 incurred by the circuit court clerk in performing the
7 additional duties required to serve the petition to seal or
8 expunge on all parties. The circuit court clerk shall
9 collect and forward the Department of State Police portion
10 of the fee to the Department and it shall be deposited in
11 the State Police Services Fund. If the record brought under
12 an expungement petition was previously sealed under this
13 Section, the fee for the expungement petition for that same
14 record shall be waived.

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

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

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

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

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

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

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

6 (16) The changes to this subsection (d) made by Public
7 Act 98-163 apply to all petitions pending on August 5, 2013
8 (the effective date of Public Act 98-163) and to all orders
9 ruling on a petition to expunge or seal on or after August
10 5, 2013 (the effective date of Public Act 98-163).

11 (e) Whenever a person who has been convicted of an offense
12 is granted a pardon by the Governor which specifically
13 authorizes expungement, he or she may, upon verified petition
14 to the Chief Judge of the circuit where the person had been
15 convicted, any judge of the circuit designated by the Chief
16 Judge, or in counties of less than 3,000,000 inhabitants, the
17 presiding trial judge at the defendant's trial, have a court
18 order entered expunging the record of arrest from the official
19 records of the arresting authority and order that the records
20 of the circuit court clerk and the Department be sealed until
21 further order of the court upon good cause shown or as
22 otherwise provided herein, and the name of the defendant
23 obliterated from the official index requested to be kept by the
24 circuit court clerk under Section 16 of the Clerks of Courts
25 Act in connection with the arrest and conviction for the
26 offense for which he or she had been pardoned 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 to the
4 arresting authority, the State's Attorney, and the court upon a
5 later arrest for the same or similar offense or for the purpose
6 of sentencing for any subsequent felony. Upon conviction for
7 any subsequent offense, the Department of Corrections shall
8 have access to all sealed records of the Department pertaining
9 to that individual. Upon entry of the order of expungement, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was pardoned.

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

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

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

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

20 (f) Subject to available funding, the Illinois Department
21 of Corrections shall conduct a study of the impact of sealing,
22 especially on employment and recidivism rates, utilizing a
23 random sample of those who apply for the sealing of their
24 criminal records under Public Act 93-211. At the request of the
25 Illinois Department of Corrections, records of the Illinois
26 Department of Employment Security shall be utilized as

1 appropriate to assist in the study. The study shall not
2 disclose any data in a manner that would allow the
3 identification of any particular individual or employing unit.
4 The study shall be made available to the General Assembly no
5 later than September 1, 2010.

6 (g) Immediate Sealing.

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

12 (2) Eligible Records. Arrests or charges not initiated
13 by arrest resulting in acquittal or dismissal with
14 prejudice, except as excluded by subsection (a)(3)(B),
15 that occur on or after January 1, 2018 (the effective date
16 of Public Act 100-282), may be sealed immediately if the
17 petition is filed with the circuit court clerk on the same
18 day and during the same hearing in which the case is
19 disposed.

20 (3) When Records are Eligible to be Immediately Sealed.
21 Eligible records under paragraph (2) of this subsection (g)
22 may be sealed immediately after entry of the final
23 disposition of a case, notwithstanding the disposition of
24 other charges in the same case.

25 (4) Notice of Eligibility for Immediate Sealing. Upon
26 entry of a disposition for an eligible record under this

1 subsection (g), the defendant shall be informed by the
2 court of his or her right to have eligible records
3 immediately sealed and the procedure for the immediate
4 sealing of these records.

5 (5) Procedure. The following procedures apply to
6 immediate sealing under this subsection (g).

7 (A) Filing the Petition. Upon entry of the final
8 disposition of the case, the defendant's attorney may
9 immediately petition the court, on behalf of the
10 defendant, for immediate sealing of eligible records
11 under paragraph (2) of this subsection (g) that are
12 entered on or after January 1, 2018 (the effective date
13 of Public Act 100-282). The immediate sealing petition
14 may be filed with the circuit court clerk during the
15 hearing in which the final disposition of the case is
16 entered. If the defendant's attorney does not file the
17 petition for immediate sealing during the hearing, the
18 defendant may file a petition for sealing at any time
19 as authorized under subsection (c) (3) (A).

20 (B) Contents of Petition. The immediate sealing
21 petition shall be verified and shall contain the
22 petitioner's name, date of birth, current address, and
23 for each eligible record, the case number, the date of
24 arrest if applicable, the identity of the arresting
25 authority if applicable, and other information as the
26 court may require.

1 (C) Drug Test. The petitioner shall not be required
2 to attach proof that he or she has passed a drug test.

3 (D) Service of Petition. A copy of the petition
4 shall be served on the State's Attorney in open court.
5 The petitioner shall not be required to serve a copy of
6 the petition on any other agency.

7 (E) Entry of Order. The presiding trial judge shall
8 enter an order granting or denying the petition for
9 immediate sealing during the hearing in which it is
10 filed. Petitions for immediate sealing shall be ruled
11 on in the same hearing in which the final disposition
12 of the case is entered.

13 (F) Hearings. The court shall hear the petition for
14 immediate sealing on the same day and during the same
15 hearing in which the disposition is rendered.

16 (G) Service of Order. An order to immediately seal
17 eligible records shall be served in conformance with
18 subsection (d) (8).

19 (H) Implementation of Order. An order to
20 immediately seal records shall be implemented in
21 conformance with subsections (d) (9) (C) and (d) (9) (D).

22 (I) Fees. The fee imposed by the circuit court
23 clerk and the Department of State Police shall comply
24 with paragraph (1) of subsection (d) of this Section.

25 (J) Final Order. No court order issued under this
26 subsection (g) shall become final for purposes of

1 appeal until 30 days after service of the order on the
2 petitioner and all parties entitled to service of the
3 order in conformance with subsection (d) (8).

4 (K) Motion to Vacate, Modify, or Reconsider. Under
5 Section 2-1203 of the Code of Civil Procedure, the
6 petitioner, State's Attorney, or the Department of
7 State Police may file a motion to vacate, modify, or
8 reconsider the order denying the petition to
9 immediately seal within 60 days of service of the
10 order. If filed more than 60 days after service of the
11 order, a petition to vacate, modify, or reconsider
12 shall comply with subsection (c) of Section 2-1401 of
13 the Code of Civil Procedure.

14 (L) Effect of Order. An order granting an immediate
15 sealing petition shall not be considered void because
16 it fails to comply with the provisions of this Section
17 or because of an error asserted in a motion to vacate,
18 modify, or reconsider. The circuit court retains
19 jurisdiction to determine whether the order is
20 voidable, and to vacate, modify, or reconsider its
21 terms based on a motion filed under subparagraph (L) of
22 this subsection (g).

23 (M) Compliance with Order Granting Petition to
24 Seal Records. Unless a court has entered a stay of an
25 order granting a petition to immediately seal, all
26 parties entitled to service of the order must fully

1 comply with the terms of the order within 60 days of
2 service of the order.

3 (h) Sealing; trafficking victims.

4 (1) A trafficking victim as defined by paragraph (10)
5 of subsection (a) of Section 10-9 of the Criminal Code of
6 2012 shall be eligible to petition for immediate sealing of
7 his or her criminal record upon the completion of his or
8 her last sentence if his or her participation in the
9 underlying offense was a direct result of human trafficking
10 under Section 10-9 of the Criminal Code of 2012 or a severe
11 form of trafficking under the federal Trafficking Victims
12 Protection Act.

13 (2) A petitioner under this subsection (h), in addition
14 to the requirements provided under paragraph (4) of
15 subsection (d) of this Section, shall include in his or her
16 petition a clear and concise statement that: (A) he or she
17 was a victim of human trafficking at the time of the
18 offense; and (B) that his or her participation in the
19 offense was a direct result of human trafficking under
20 Section 10-9 of the Criminal Code of 2012 or a severe form
21 of trafficking under the federal Trafficking Victims
22 Protection Act.

23 (3) If an objection is filed alleging that the
24 petitioner is not entitled to immediate sealing under this
25 subsection (h), the court shall conduct a hearing under
26 paragraph (7) of subsection (d) of this Section and the

1 court shall determine whether the petitioner is entitled to
2 immediate sealing under this subsection (h). A petitioner
3 is eligible for immediate relief under this subsection (h)
4 if he or she shows, by a preponderance of the evidence,
5 that: (A) he or she was a victim of human trafficking at
6 the time of the offense; and (B) that his or her
7 participation in the offense was a direct result of human
8 trafficking under Section 10-9 of the Criminal Code of 2012
9 or a severe form of trafficking under the federal
10 Trafficking Victims Protection Act.

11 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
12 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;
13 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
14 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692,
15 eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18;
16 100-863, eff. 8-14-18; revised 8-30-18.)

17 Section 10. The Criminal Code of 2012 is amended by
18 changing Sections 17-56 and 1-6 as follows:

19 (720 ILCS 5/1-6) (from Ch. 38, par. 1-6)

20 Sec. 1-6. Place of trial.

21 (a) Generally.

22 Criminal actions shall be tried in the county where the
23 offense was committed, except as otherwise provided by law. The
24 State is not required to prove during trial that the alleged

1 offense occurred in any particular county in this State. When a
2 defendant contests the place of trial under this Section, all
3 proceedings regarding this issue shall be conducted under
4 Section 114-1 of the Code of Criminal Procedure of 1963. All
5 objections of improper place of trial are waived by a defendant
6 unless made before trial.

7 (b) Assailant and Victim in Different Counties.

8 If a person committing an offense upon the person of
9 another is located in one county and his victim is located in
10 another county at the time of the commission of the offense,
11 trial may be had in either of said counties.

12 (c) Death and Cause of Death in Different Places or
13 Undetermined.

14 If cause of death is inflicted in one county and death
15 ensues in another county, the offender may be tried in either
16 county. If neither the county in which the cause of death was
17 inflicted nor the county in which death ensued are known before
18 trial, the offender may be tried in the county where the body
19 was found.

20 (d) Offense Commenced Outside the State.

21 If the commission of an offense commenced outside the State
22 is consummated within this State, the offender shall be tried
23 in the county where the offense is consummated.

24 (e) Offenses Committed in Bordering Navigable Waters.

25 If an offense is committed on any of the navigable waters
26 bordering on this State, the offender may be tried in any

1 county adjacent to such navigable water.

2 (f) Offenses Committed while in Transit.

3 If an offense is committed upon any railroad car, vehicle,
4 watercraft or aircraft passing within this State, and it cannot
5 readily be determined in which county the offense was
6 committed, the offender may be tried in any county through
7 which such railroad car, vehicle, watercraft or aircraft has
8 passed.

9 (g) Theft.

10 A person who commits theft of property may be tried in any
11 county in which he or she exerted control over such property.

12 (h) Bigamy.

13 A person who commits the offense of bigamy may be tried in
14 any county where the bigamous marriage or bigamous cohabitation
15 has occurred.

16 (i) Kidnaping.

17 A person who commits the offense of kidnaping may be tried
18 in any county in which his or her victim has traveled or has
19 been confined during the course of the offense.

20 (j) Pandering.

21 A person who commits the offense of pandering as set forth
22 in subdivision (a) (2) (A) or (a) (2) (B) of Section 11-14.3 may be
23 tried in any county in which the prostitution was practiced or
24 in any county in which any act in furtherance of the offense
25 shall have been committed.

26 (k) Treason.

1 A person who commits the offense of treason may be tried in
2 any county.

3 (1) Criminal Defamation.

4 If criminal defamation is spoken, printed or written in one
5 county and is received or circulated in another or other
6 counties, the offender shall be tried in the county where the
7 defamation is spoken, printed or written. If the defamation is
8 spoken, printed or written outside this state, or the offender
9 resides outside this state, the offender may be tried in any
10 county in this state in which the defamation was circulated or
11 received.

12 (m) Inchoate Offenses.

13 A person who commits an inchoate offense may be tried in
14 any county in which any act which is an element of the offense,
15 including the agreement in conspiracy, is committed.

16 (n) Accountability for Conduct of Another.

17 Where a person in one county solicits, aids, abets, agrees,
18 or attempts to aid another in the planning or commission of an
19 offense in another county, he or she may be tried for the
20 offense in either county.

21 (o) Child Abduction.

22 A person who commits the offense of child abduction may be
23 tried in any county in which his or her victim has traveled,
24 been detained, concealed or removed to during the course of the
25 offense. Notwithstanding the foregoing, unless for good cause
26 shown, the preferred place of trial shall be the county of the

1 residence of the lawful custodian.

2 (p) A person who commits the offense of narcotics
3 racketeering may be tried in any county where cannabis or a
4 controlled substance which is the basis for the charge of
5 narcotics racketeering was used; acquired; transferred or
6 distributed to, from or through; or any county where any act
7 was performed to further the use; acquisition, transfer or
8 distribution of said cannabis or controlled substance; any
9 money, property, property interest, or any other asset
10 generated by narcotics activities was acquired, used, sold,
11 transferred or distributed to, from or through; or, any
12 enterprise interest obtained as a result of narcotics
13 racketeering was acquired, used, transferred or distributed
14 to, from or through, or where any activity was conducted by the
15 enterprise or any conduct to further the interests of such an
16 enterprise.

17 (q) A person who commits the offense of money laundering
18 may be tried in any county where any part of a financial
19 transaction in criminally derived property took place or in any
20 county where any money or monetary instrument which is the
21 basis for the offense was acquired, used, sold, transferred or
22 distributed to, from or through.

23 (r) A person who commits the offense of cannabis
24 trafficking or controlled substance trafficking may be tried in
25 any county.

26 (s) A person who commits the offense of online sale of

1 stolen property, online theft by deception, or electronic
2 fencing may be tried in any county where any one or more
3 elements of the offense took place, regardless of whether the
4 element of the offense was the result of acts by the accused,
5 the victim or by another person, and regardless of whether the
6 defendant was ever physically present within the boundaries of
7 the county.

8 (t) A person who commits the offense of identity theft or
9 aggravated identity theft may be tried in any one of the
10 following counties in which: (1) the offense occurred; (2) the
11 information used to commit the offense was illegally used; or
12 (3) the victim resides.

13 (u) A person who commits financial exploitation of an
14 elderly person or a person with a disability may be tried in
15 any one of the following counties in which: (1) any part of the
16 offense occurred; or (2) the victim or one of the victims
17 reside.

18 If a person is charged with more than one violation of
19 identity theft or aggravated identity theft and those
20 violations may be tried in more than one county, any of those
21 counties is a proper venue for all of the violations.

22 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

23 (720 ILCS 5/17-56) (was 720 ILCS 5/16-1.3)

24 Sec. 17-56. Financial exploitation of an elderly person or
25 a person with a disability.

1 (a) A person commits financial exploitation of an elderly
2 person or a person with a disability when he or she stands in a
3 position of trust or confidence with the elderly person or a
4 person with a disability and he or she knowingly: ~~and~~

5 (1) by deception or intimidation obtains control over
6 the property of an elderly person or a person with a
7 disability; or

8 (2) illegally uses the assets or resources of an
9 elderly person or a person with a disability.

10 (b) Sentence. Financial exploitation of an elderly person
11 or a person with a disability is: (1) a Class 4 felony if the
12 value of the property is \$300 or less, (2) a Class 3 felony if
13 the value of the property is more than \$300 but less than
14 \$5,000, (3) a Class 2 felony if the value of the property is
15 \$5,000 or more but less than \$50,000, and (4) a Class 1 felony
16 if the value of the property is \$50,000 or more or if the
17 elderly person is over 70 years of age and the value of the
18 property is \$15,000 or more or if the elderly person is 80
19 years of age or older and the value of the property is \$5,000
20 or more.

21 (c) For purposes of this Section:

22 (1) "Elderly person" means a person 60 years of age or
23 older.

24 (2) "Person with a disability" means a person who
25 suffers from a physical or mental impairment resulting from
26 disease, injury, functional disorder or congenital

1 condition that impairs the individual's mental or physical
2 ability to independently manage his or her property or
3 financial resources, or both.

4 (3) "Intimidation" means the communication to an
5 elderly person or a person with a disability that he or she
6 shall be deprived of food and nutrition, shelter,
7 prescribed medication or medical care and treatment or
8 conduct as provided in Section 12-6 of this Code.

9 (4) "Deception" means, in addition to its meaning as
10 defined in Section 15-4 of this Code, a misrepresentation
11 or concealment of material fact relating to the terms of a
12 contract or agreement entered into with the elderly person
13 or person with a disability or to the existing or
14 pre-existing condition of any of the property involved in
15 such contract or agreement; or the use or employment of any
16 misrepresentation, false pretense or false promise in
17 order to induce, encourage or solicit the elderly person or
18 person with a disability to enter into a contract or
19 agreement.

20 The illegal use of the assets or resources of an elderly
21 person or a person with a disability includes, but is not
22 limited to, the misappropriation of those assets or resources
23 by undue influence, breach of a fiduciary relationship, fraud,
24 deception, extortion, or use of the assets or resources
25 contrary to law.

26 A person stands in a position of trust and confidence with

1 an elderly person or person with a disability when he or she
2 (i) is a parent, spouse, adult child or other relative by blood
3 or marriage of the elderly person or person with a disability,
4 (ii) is a joint tenant or tenant in common with the elderly
5 person or person with a disability, (iii) has a legal or
6 fiduciary relationship with the elderly person or person with a
7 disability, (iv) is a financial planning or investment
8 professional, or (v) is a paid or unpaid caregiver for the
9 elderly person or person with a disability.

10 (d) Limitations. Nothing in this Section shall be construed
11 to limit the remedies available to the victim under the
12 Illinois Domestic Violence Act of 1986.

13 (e) Good faith efforts. Nothing in this Section shall be
14 construed to impose criminal liability on a person who has made
15 a good faith effort to assist the elderly person or person with
16 a disability in the management of his or her property, but
17 through no fault of his or her own has been unable to provide
18 such assistance.

19 (f) Not a defense. It shall not be a defense to financial
20 exploitation of an elderly person or person with a disability
21 that the accused reasonably believed that the victim was not an
22 elderly person or person with a disability. Consent shall not
23 be a defense to financial exploitation of an elderly person or
24 person with a disability if the accused knew or had reason to
25 know that the elderly person or person with a disability lacked
26 capacity to consent.

1 (g) Civil Liability. A civil cause of action exists for
2 financial exploitation of an elderly person or a person with a
3 disability as described in subsection (a) of this Section. A
4 person against whom a civil judgment has been entered for
5 financial exploitation of an elderly person or person with a
6 disability shall be liable to the victim or to the estate of
7 the victim in damages of treble the amount of the value of the
8 property obtained, plus reasonable attorney fees and court
9 costs. In a civil action under this subsection, the burden of
10 proof that the defendant committed financial exploitation of an
11 elderly person or a person with a disability as described in
12 subsection (a) of this Section shall be by a preponderance of
13 the evidence. This subsection shall be operative whether or not
14 the defendant has been charged or convicted of the criminal
15 offense as described in subsection (a) of this Section. This
16 subsection (g) shall not limit or affect the right of any
17 person to bring any cause of action or seek any remedy
18 available under the common law, or other applicable law,
19 arising out of the financial exploitation of an elderly person
20 or a person with a disability.

21 (h) If a person is charged with financial exploitation of
22 an elderly person or a person with a disability that involves
23 the taking or loss of property valued at more than \$5,000, a
24 prosecuting attorney may file a petition with the circuit court
25 of the county in which the defendant has been charged to freeze
26 the assets of the defendant in an amount equal to but not

1 greater than the alleged value of lost or stolen property in
2 the defendant's pending criminal proceeding for purposes of
3 restitution to the victim. The burden of proof required to
4 freeze the defendant's assets shall be by a preponderance of
5 the evidence.

6 (Source: P.A. 99-272, eff. 1-1-16.)