

# SB1781



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1781

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

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Extends the inoperative clause date for a pilot program in Cook County waiving the fee to be paid for a petition to expunge or seal records of arrests resulting in release without charging or arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated. Extends inoperative date to on and after January 1, 2019 (rather than on and after January 1, 2018). Effective immediately.

LRB100 05449 SLF 15460 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) Expungement.

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

15 (1.5) When a petitioner seeks to have a record of  
16 arrest expunged under this Section, and the offender has  
17 been convicted of a criminal offense, the State's Attorney  
18 may object to the expungement on the grounds that the  
19 records contain specific relevant information aside from  
20 the mere fact of the arrest.

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

22 (A) When the arrest or charge not initiated by  
23 arrest sought to be expunged resulted in an acquittal,  
24 dismissal, the petitioner's release without charging,  
25 or the reversal or vacation of a conviction, there is  
26 no waiting period to petition for the expungement of

1 such records.

2 (B) When the arrest or charge not initiated by  
3 arrest sought to be expunged resulted in an order of  
4 supervision, successfully completed by the petitioner,  
5 the following time frames will apply:

6 (i) Those arrests or charges that resulted in  
7 orders of supervision under Section 3-707, 3-708,  
8 3-710, or 5-401.3 of the Illinois Vehicle Code or a  
9 similar provision of a local ordinance, or under  
10 Section 11-1.50, 12-3.2, or 12-15 of the Criminal  
11 Code of 1961 or the Criminal Code of 2012, or a  
12 similar provision of a local ordinance, shall not  
13 be eligible for expungement until 5 years have  
14 passed following the satisfactory termination of  
15 the supervision.

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

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

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

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

16           (4) Whenever a person has been arrested for or  
17 convicted of any offense, in the name of a person whose  
18 identity he or she has stolen or otherwise come into  
19 possession of, the aggrieved person from whom the identity  
20 was stolen or otherwise obtained without authorization,  
21 upon learning of the person having been arrested using his  
22 or her identity, may, upon verified petition to the chief  
23 judge of the circuit wherein the arrest was made, have a  
24 court order entered nunc pro tunc by the Chief Judge to  
25 correct the arrest record, conviction record, if any, and  
26 all official records of the arresting authority, the

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

18 (5) Whenever a person has been convicted of criminal  
19 sexual assault, aggravated criminal sexual assault,  
20 predatory criminal sexual assault of a child, criminal  
21 sexual abuse, or aggravated criminal sexual abuse, the  
22 victim of that offense may request that the State's  
23 Attorney of the county in which the conviction occurred  
24 file a verified petition with the presiding trial judge at  
25 the petitioner's trial to have a court order entered to  
26 seal the records of the circuit court clerk in connection

1 with the proceedings of the trial court concerning that  
2 offense. However, the records of the arresting authority  
3 and the Department of State Police concerning the offense  
4 shall not be sealed. The court, upon good cause shown,  
5 shall make the records of the circuit court clerk in  
6 connection with the proceedings of the trial court  
7 concerning the offense available for public inspection.

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

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

1 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
2 the Alcoholism and Other Drug Abuse and Dependency Act, or  
3 Section 10 of the Steroid Control Act.

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

11 (c) Sealing.

12 (1) Applicability. Notwithstanding any other provision  
13 of this Act to the contrary, and cumulative with any rights  
14 to expungement of criminal records, this subsection  
15 authorizes the sealing of criminal records of adults and of  
16 minors prosecuted as adults.

17 (2) Eligible Records. The following records may be  
18 sealed:

19 (A) All arrests resulting in release without  
20 charging;

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

25 (C) Arrests or charges not initiated by arrest  
26 resulting in orders of supervision, including orders



1 of supervision for municipal ordinance violations,  
2 successfully completed by the petitioner, unless  
3 excluded by subsection (a) (3);

4 (D) Arrests or charges not initiated by arrest  
5 resulting in convictions, including convictions on  
6 municipal ordinance violations, unless excluded by  
7 subsection (a) (3);

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

15 (F) Arrests or charges not initiated by arrest  
16 resulting in felony convictions for the following  
17 offenses:

18 (i) Class 4 felony convictions for:

19 Prostitution under Section 11-14 of the  
20 Criminal Code of 1961 or the Criminal Code of  
21 2012.

22 Possession of cannabis under Section 4 of  
23 the Cannabis Control Act.

24 Possession of a controlled substance under  
25 Section 402 of the Illinois Controlled  
26 Substances Act.

1                   Offenses under the Methamphetamine  
2                   Precursor Control Act.

3                   Offenses under the Steroid Control Act.

4                   Theft under Section 16-1 of the Criminal  
5                   Code of 1961 or the Criminal Code of 2012.

6                   Retail theft under Section 16A-3 or  
7                   paragraph (a) of 16-25 of the Criminal Code of  
8                   1961 or the Criminal Code of 2012.

9                   Deceptive practices under Section 17-1 of  
10                  the Criminal Code of 1961 or the Criminal Code  
11                  of 2012.

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

14                  Possession of burglary tools under Section  
15                  19-2 of the Criminal Code of 1961 or the  
16                  Criminal Code of 2012.

17                  (ii) Class 3 felony convictions for:

18                         Theft under Section 16-1 of the Criminal  
19                         Code of 1961 or the Criminal Code of 2012.

20                         Retail theft under Section 16A-3 or  
21                         paragraph (a) of 16-25 of the Criminal Code of  
22                         1961 or the Criminal Code of 2012.

23                         Deceptive practices under Section 17-1 of  
24                         the Criminal Code of 1961 or the Criminal Code  
25                         of 2012.

26                         Forgery under Section 17-3 of the Criminal

1 Code of 1961 or the Criminal Code of 2012.

2 Possession with intent to manufacture or  
3 deliver a controlled substance under Section  
4 401 of the Illinois Controlled Substances Act.

5 (3) When Records Are Eligible to Be Sealed. Records  
6 identified as eligible under subsection (c)(2) may be  
7 sealed as follows:

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

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

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

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

25 (E) Records identified as eligible under  
26 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or

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

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

25 (5) Notice of eligibility for sealing. Upon entry of a  
26 disposition for an eligible record under this subsection

1 (c), the petitioner shall be informed by the court of the  
2 right to have the records sealed and the procedures for the  
3 sealing of the records.

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

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

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

1 paragraph (1.5), other than this sentence, are inoperative  
2 on and after January 1, 2019 ~~January 1, 2018~~ or one year  
3 after January 1, 2017 (the effective date of Public Act  
4 99-881) ~~this amendatory Act of the 99th General Assembly,~~  
5 whichever is later.

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

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

1 is petitioning to:

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

3 (B) seal felony records for a violation of the  
4 Illinois Controlled Substances Act, the  
5 Methamphetamine Control and Community Protection Act,  
6 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

17 (5) Objections.

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

26 (B) Objections to a petition to expunge or seal

1 must be filed within 60 days of the date of service of  
2 the petition.

3 (6) Entry of order.

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

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

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



1 presented at the hearing. The court may consider the  
2 following:

3 (A) the strength of the evidence supporting the  
4 defendant's conviction;

5 (B) the reasons for retention of the conviction  
6 records by the State;

7 (C) the petitioner's age, criminal record history,  
8 and employment history;

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

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

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

23 (9) Implementation of order.

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

26 (i) the records shall be expunged (as defined

1 in subsection (a)(1)(E)) by the arresting agency,  
2 the Department, and any other agency as ordered by  
3 the court, within 60 days of the date of service of  
4 the order, unless a motion to vacate, modify, or  
5 reconsider the order is filed pursuant to  
6 paragraph (12) of subsection (d) of this Section;

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

16 (iii) in response to an inquiry for expunged  
17 records, the court, the Department, or the agency  
18 receiving such inquiry, shall reply as it does in  
19 response to inquiries when no records ever  
20 existed.

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

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

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

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

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

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

26 (v) in response to an inquiry for such records

1 from anyone not authorized by law to access such  
2 records, the court, the Department, or the agency  
3 receiving such inquiry shall reply as it does in  
4 response to inquiries when no records ever  
5 existed.

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

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

1 under paragraph (12) of subsection (d) of this  
2 Section;

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

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

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

26 (D) The Department shall send written notice to the

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

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

1 expunge on all parties. The circuit court clerk shall  
2 collect and forward the Department of State Police portion  
3 of the fee to the Department and it shall be deposited in  
4 the State Police Services Fund.

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

10 (12) Motion to Vacate, Modify, or Reconsider. Under  
11 Section 2-1203 of the Code of Civil Procedure, the  
12 petitioner or any party entitled to notice may file a  
13 motion to vacate, modify, or reconsider the order granting  
14 or denying the petition to expunge or seal within 60 days  
15 of service of the order. If filed more than 60 days after  
16 service of the order, a petition to vacate, modify, or  
17 reconsider shall comply with subsection (c) of Section  
18 2-1401 of the Code of Civil Procedure. Upon filing of a  
19 motion to vacate, modify, or reconsider, notice of the  
20 motion shall be served upon the petitioner and all parties  
21 entitled to notice of the petition.

22 (13) Effect of Order. An order granting a petition  
23 under the expungement or sealing provisions of this Section  
24 shall not be considered void because it fails to comply  
25 with the provisions of this Section or because of any error  
26 asserted in a motion to vacate, modify, or reconsider. The

1 circuit court retains jurisdiction to determine whether  
2 the order is voidable and to vacate, modify, or reconsider  
3 its terms based on a motion filed under paragraph (12) of  
4 this subsection (d).

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

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

22 (16) The changes to this subsection (d) made by Public  
23 Act 98-163 apply to all petitions pending on August 5, 2013  
24 (the effective date of Public Act 98-163) and to all orders  
25 ruling on a petition to expunge or seal on or after August  
26 5, 2013 (the effective date of Public Act 98-163).



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

1 the person who was pardoned.

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

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

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

1 enforcement agency, the State's Attorney, and the court upon a  
2 later arrest for the same or similar offense or for the purpose  
3 of sentencing for any subsequent felony. Upon conviction for  
4 any subsequent offense, the Department of Corrections shall  
5 have access to all expunged records of the Department  
6 pertaining to that individual. Upon entry of the order of  
7 expungement, the circuit court clerk shall promptly mail a copy  
8 of the order to the person who was granted the certificate of  
9 eligibility for expungement.

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

22 (Source: P.A. 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,  
23 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,  
24 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;  
25 98-1009, eff. 1-1-15; 99-78, eff. 7-20-15; 99-378, eff. 1-1-16;  
26 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff.

1 7-29-16; 99-881, eff. 1-1-17; revised 9-2-16.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.