



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB1488**

Introduced 2/21/2007, by Rep. Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5

from Ch. 38, par. 206-5

730 ILCS 5/5-5.5-20

Amends the Criminal Identification Act. Permits the court to order the sealing of the criminal records of adults and of minors prosecuted as adults which cannot be sealed pursuant to other provisions of law when the offender has obtained a certificate of good conduct from the Prisoner Review Board and has demonstrated rehabilitation. Permits the sealing of the records of persons who have been convicted of Class 2, 3, or 4 felony violations relating to the manufacture or delivery of cannabis, a controlled substance, or a look-alike substance, or the delivery of methamphetamine. Amends the Unified Code of Corrections. Provides that in determining whether an applicant for a certificate of good conduct has been rehabilitated, the Board shall apply the same criteria used to determine whether a recommendation for executive clemency should be issued, and shall grant the certificate only if the applicant meets those standards. Effective June 1, 2007.

LRB095 10054 RLC 31573 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

7 Sec. 5. Arrest reports; expungement.

8 (a) All policing bodies of this State shall furnish to the  
9 Department, daily, in the form and detail the Department  
10 requires, fingerprints and descriptions of all persons who are  
11 arrested on charges of violating any penal statute of this  
12 State for offenses that are classified as felonies and Class A  
13 or B misdemeanors and of all minors of the age of 10 and over  
14 who have been arrested for an offense which would be a felony  
15 if committed by an adult, and may forward such fingerprints and  
16 descriptions for minors arrested for Class A or B misdemeanors.  
17 Moving or nonmoving traffic violations under the Illinois  
18 Vehicle Code shall not be reported except for violations of  
19 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In  
20 addition, conservation offenses, as defined in the Supreme  
21 Court Rule 501(c), that are classified as Class B misdemeanors  
22 shall not be reported.

23 Whenever an adult or minor prosecuted as an adult, not

1 having previously been convicted of any criminal offense or  
2 municipal ordinance violation, charged with a violation of a  
3 municipal ordinance or a felony or misdemeanor, is acquitted or  
4 released without being convicted, whether the acquittal or  
5 release occurred before, on, or after the effective date of  
6 this amendatory Act of 1991, the Chief Judge of the circuit  
7 wherein the charge was brought, any judge of that circuit  
8 designated by the Chief Judge, or in counties of less than  
9 3,000,000 inhabitants, the presiding trial judge at the  
10 defendant's trial may upon verified petition of the defendant  
11 order the record of arrest expunged from the official records  
12 of the arresting authority and the Department and order that  
13 the records of the clerk of the circuit court be sealed until  
14 further order of the court upon good cause shown and the name  
15 of the defendant obliterated on the official index required to  
16 be kept by the circuit court clerk under Section 16 of the  
17 Clerks of Courts Act, but the order shall not affect any index  
18 issued by the circuit court clerk before the entry of the  
19 order. The Department may charge the petitioner a fee  
20 equivalent to the cost of processing any order to expunge or  
21 seal the records, and the fee shall be deposited into the State  
22 Police Services Fund. The records of those arrests, however,  
23 that result in a disposition of supervision for any offense  
24 shall not be expunged from the records of the arresting  
25 authority or the Department nor impounded by the court until 2  
26 years after discharge and dismissal of supervision. Those

1 records that result from a supervision for a violation of  
2 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois  
3 Vehicle Code or a similar provision of a local ordinance, or  
4 for a violation of Section 12-3.2, 12-15 or 16A-3 of the  
5 Criminal Code of 1961, or probation under Section 10 of the  
6 Cannabis Control Act, Section 410 of the Illinois Controlled  
7 Substances Act, Section 70 of the Methamphetamine Control and  
8 Community Protection Act, Section 12-4.3(b)(1) and (2) of the  
9 Criminal Code of 1961 (as those provisions existed before their  
10 deletion by Public Act 89-313), Section 10-102 of the Illinois  
11 Alcoholism and Other Drug Dependency Act when the judgment of  
12 conviction has been vacated, Section 40-10 of the Alcoholism  
13 and Other Drug Abuse and Dependency Act when the judgment of  
14 conviction has been vacated, or Section 10 of the Steroid  
15 Control Act shall not be expunged from the records of the  
16 arresting authority nor impounded by the court until 5 years  
17 after termination of probation or supervision. Those records  
18 that result from a supervision for a violation of Section  
19 11-501 of the Illinois Vehicle Code or a similar provision of a  
20 local ordinance, shall not be expunged. All records set out  
21 above may be ordered by the court to be expunged from the  
22 records of the arresting authority and impounded by the court  
23 after 5 years, but shall not be expunged by the Department, but  
24 shall, on court order be sealed by the Department and may be  
25 disseminated by the Department only as required by law or to  
26 the arresting authority, the State's Attorney, and the court

1 upon a later arrest for the same or a similar offense or for  
2 the purpose of sentencing for any subsequent felony. Upon  
3 conviction for any offense, the Department of Corrections shall  
4 have access to all sealed records of the Department pertaining  
5 to that individual.

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

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

1 person obliterated on the official index required to be kept by  
2 the circuit court clerk under Section 16 of the Clerks of  
3 Courts Act, but the order shall not affect any index issued by  
4 the circuit court clerk before the entry of the order. Nothing  
5 in this Section shall limit the Department of State Police or  
6 other criminal justice agencies or prosecutors from listing  
7 under an offender's name the false names he or she has used.  
8 For purposes of this Section, convictions for moving and  
9 nonmoving traffic violations other than convictions for  
10 violations of Chapter 4, Section 11-204.1 or Section 11-501 of  
11 the Illinois Vehicle Code shall not be a bar to expunging the  
12 record of arrest and court records for violation of a  
13 misdemeanor or municipal ordinance.

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

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

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

1 offense shall not be sealed. The court, upon good cause shown,  
2 shall make the records of the clerk of the circuit court in  
3 connection with the proceedings of the trial court concerning  
4 the offense available for public inspection.

5 (c-6) If a conviction has been set aside on direct review  
6 or on collateral attack and the court determines by clear and  
7 convincing evidence that the defendant was factually innocent  
8 of the charge, the court shall enter an expungement order as  
9 provided in subsection (b) of Section 5-5-4 of the Unified Code  
10 of Corrections.

11 (d) Notice of the petition for subsections (a), (b), and  
12 (c) shall be served upon the State's Attorney or prosecutor  
13 charged with the duty of prosecuting the offense, the  
14 Department of State Police, the arresting agency and the chief  
15 legal officer of the unit of local government affecting the  
16 arrest. Unless the State's Attorney or prosecutor, the  
17 Department of State Police, the arresting agency or such chief  
18 legal officer objects to the petition within 30 days from the  
19 date of the notice, the court shall enter an order granting or  
20 denying the petition. The clerk of the court shall promptly  
21 mail a copy of the order to the person, the arresting agency,  
22 the prosecutor, the Department of State Police and such other  
23 criminal justice agencies as may be ordered by the judge.

24 (e) Nothing herein shall prevent the Department of State  
25 Police from maintaining all records of any person who is  
26 admitted to probation upon terms and conditions and who



1 fulfills those terms and conditions pursuant to Section 10 of  
2 the Cannabis Control Act, Section 410 of the Illinois  
3 Controlled Substances Act, Section 70 of the Methamphetamine  
4 Control and Community Protection Act, Section 12-4.3 of the  
5 Criminal Code of 1961, Section 10-102 of the Illinois  
6 Alcoholism and Other Drug Dependency Act, Section 40-10 of the  
7 Alcoholism and Other Drug Abuse and Dependency Act, or Section  
8 10 of the Steroid Control Act.

9 (f) No court order issued under the expungement provisions  
10 of this Section shall become final for purposes of appeal until  
11 30 days after notice is received by the Department. Any court  
12 order contrary to the provisions of this Section is void.

13 (g) Except as otherwise provided in subsection (c-5) of  
14 this Section, the court shall not order the sealing or  
15 expungement of the arrest records and records of the circuit  
16 court clerk of any person granted supervision for or convicted  
17 of any sexual offense committed against a minor under 18 years  
18 of age. For the purposes of this Section, "sexual offense  
19 committed against a minor" includes but is not limited to the  
20 offenses of indecent solicitation of a child or criminal sexual  
21 abuse when the victim of such offense is under 18 years of age.

22 (h) (1) Applicability. Notwithstanding any other provision  
23 of this Act to the contrary and cumulative with any rights to  
24 expungement of criminal records, this subsection authorizes  
25 the sealing of criminal records of adults and of minors  
26 prosecuted as adults.

1           (2) Sealable offenses. The following offenses may be  
2 sealed:

3           (A) All municipal ordinance violations and  
4 misdemeanors, with the exception of the following:

5                 (i) violations of Section 11-501 of the Illinois  
6 Vehicle Code or a similar provision of a local  
7 ordinance;

8                 (ii) violations of Article 11 of the Criminal Code  
9 of 1961 or a similar provision of a local ordinance,  
10 except Section 11-14 of the Criminal Code of 1961 as  
11 provided in clause B(i) of this subsection (h);

12                 (iii) violations of Section 12-15, 12-30, or 26-5  
13 of the Criminal Code of 1961 or a similar provision of  
14 a local ordinance;

15                 (iv) violations that are a crime of violence as  
16 defined in Section 2 of the Crime Victims Compensation  
17 Act or a similar provision of a local ordinance;

18                 (v) Class A misdemeanor violations of the Humane  
19 Care for Animals Act; and

20                 (vi) any offense or attempted offense that would  
21 subject a person to registration under the Sex Offender  
22 Registration Act.

23           (B) Misdemeanor and Class 4 felony violations of:

24                 (i) Section 11-14 of the Criminal Code of 1961;

25                 (ii) Section 4 of the Cannabis Control Act;

26                 (iii) Section 402 of the Illinois Controlled

1 Substances Act; and

2 (iv) Section 60 of the Methamphetamine Control and  
3 Community Protection Act.

4 However, for purposes of this subsection (h), a  
5 sentence of first offender probation under Section 10 of  
6 the Cannabis Control Act, Section 410 of the Illinois  
7 Controlled Substances Act, or Section 70 of the  
8 Methamphetamine Control and Community Protection Act shall  
9 be treated as a Class 4 felony conviction.

10 (3) Requirements for sealing. Records identified as  
11 sealable under clause (h) (2) may be sealed when the individual  
12 was:

13 (A) Acquitted of the offense or offenses or released  
14 without being convicted.

15 (B) Convicted of the offense or offenses and the  
16 conviction or convictions were reversed.

17 (C) Placed on misdemeanor supervision for an offense or  
18 offenses; and

19 (i) at least 3 years have elapsed since the  
20 completion of the term of supervision, or terms of  
21 supervision, if more than one term has been ordered;  
22 and

23 (ii) the individual has not been convicted of a  
24 felony or misdemeanor or placed on supervision for a  
25 misdemeanor or felony during the period specified in  
26 clause (i).

1 (D) Convicted of an offense or offenses; and  
2 (i) at least 4 years have elapsed since the last  
3 such conviction or term of any sentence, probation,  
4 parole, or supervision, if any, whichever is last in  
5 time; and

6 (ii) the individual has not been convicted of a  
7 felony or misdemeanor or placed on supervision for a  
8 misdemeanor or felony during the period specified in  
9 clause (i).

10 (4) Requirements for sealing of records when more than one  
11 charge and disposition have been filed. When multiple offenses  
12 are petitioned to be sealed under this subsection (h), the  
13 requirements of the relevant provisions of clauses (h) (3) (A)  
14 through (D) each apply. In instances in which more than one  
15 waiting period is applicable under clauses (h) (C) (i) and (ii)  
16 and (h) (D) (i) and (ii), the longer applicable period applies,  
17 and the requirements of clause (h) (3) shall be considered met  
18 when the petition is filed after the passage of the longer  
19 applicable waiting period. That period commences on the date of  
20 the completion of the last sentence or the end of supervision,  
21 probation, or parole, whichever is last in time.

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

1           (6) Notice of eligibility for sealing. Upon acquittal,  
2 release without conviction, or being placed on supervision for  
3 a sealable offense, or upon conviction of a sealable offense,  
4 the person shall be informed by the court of the right to have  
5 the records sealed and the procedures for the sealing of the  
6 records.

7           (7) Procedure. Upon becoming eligible for the sealing of  
8 records under this subsection (h), the person who seeks the  
9 sealing of his or her records shall file a petition requesting  
10 the sealing of records with the clerk of the court where the  
11 charge or charges were brought. The records may be sealed by  
12 the Chief Judge of the circuit wherein the charge was brought,  
13 any judge of that circuit designated by the Chief Judge, or in  
14 counties of less than 3,000,000 inhabitants, the presiding  
15 trial judge at the defendant's trial, if any. If charges were  
16 brought in multiple jurisdictions, a petition must be filed in  
17 each such jurisdiction. The petitioner shall pay the applicable  
18 fee, if not waived.

19           (A) Contents of petition. The petition shall contain  
20 the petitioner's name, date of birth, current address, each  
21 charge, each case number, the date of each charge, the  
22 identity of the arresting authority, and such other  
23 information as the court may require. During the pendency  
24 of the proceeding, the petitioner shall promptly notify the  
25 clerk of the court of any change of address.

26           (B) Drug test. A person filing a petition to have his

1 or her records sealed for a Class 4 felony violation of  
2 Section 4 of the Cannabis Control Act or for a Class 4  
3 felony violation of Section 402 of the Illinois Controlled  
4 Substances Act must attach to the petition proof that the  
5 petitioner has passed a test taken within the previous 30  
6 days before the filing of the petition showing the absence  
7 within his or her body of all illegal substances in  
8 violation of either the Illinois Controlled Substances Act  
9 or the Cannabis Control Act.

10 (C) Service of petition. The clerk shall promptly serve  
11 a copy of the petition on the State's Attorney or  
12 prosecutor charged with the duty of prosecuting the  
13 offense, the Department of State Police, the arresting  
14 agency and the chief legal officer of the unit of local  
15 government effecting the arrest.

16 (D) Entry of order. Unless the State's Attorney or  
17 prosecutor, the Department of State Police, the arresting  
18 agency or such chief legal officer objects to sealing of  
19 the records within 90 days of notice the court shall enter  
20 an order sealing the defendant's records.

21 (E) Hearing upon objection. If an objection is filed,  
22 the court shall set a date for a hearing and notify the  
23 petitioner and the parties on whom the petition had been  
24 served, and shall hear evidence on whether the sealing of  
25 the records should or should not be granted, and shall make  
26 a determination on whether to issue an order to seal the

1 records based on the evidence presented at the hearing.

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

11 (8) Fees. Notwithstanding any provision of the Clerk of the  
12 Courts Act to the contrary, and subject to the approval of the  
13 county board, the clerk may charge a fee equivalent to the cost  
14 associated with the sealing of records by the clerk and the  
15 Department of State Police. The clerk shall forward the  
16 Department of State Police portion of the fee to the Department  
17 and it shall be deposited into the State Police Services Fund.

18 (h-1) (1) Applicability. Notwithstanding any other  
19 provision of this Act to the contrary and cumulative with any  
20 rights to expungement of criminal records, this subsection  
21 authorizes the sealing of criminal records of adults and of  
22 minors prosecuted as adults which cannot be sealed pursuant to  
23 subsection (h) when the offender has obtained a certificate of  
24 good conduct from the Prisoner Review Board and has  
25 demonstrated rehabilitation.

26 (2) Sealable offenses. The following offenses which cannot

1 be sealed pursuant to subsection (h) of this Section may be  
2 sealed:

3 Class 2, 3, and 4 felonies under:

4 (i) Section 5 of the Cannabis Control Act,

5 (ii) Sections 401 and 404 of the Illinois  
6 Controlled Substances Act, and

7 (iii) Section 55 of the Methamphetamine Control  
8 and Community Protection Act.

9 (2) Findings by the court. An order sealing records shall  
10 not be issued by the court unless the court finds that:

11 (A) the person to whom it is to be granted is an  
12 eligible offender, as defined in 5-5.5-5 of the Unified  
13 Code of Corrections;

14 (B) the sealing is consistent with the rehabilitation  
15 of the eligible offender;

16 (C) the sealing is consistent with the public interest;

17 (D) the offender has obtained a certificate of good  
18 conduct from the Prisoner Review Board, pursuant to Section  
19 5-5.5-30 of the Unified Code of Corrections which requires  
20 a minimum of 3 years good conduct by the individual to be  
21 measured either from the date of the payment of any fine  
22 imposed upon him or her, or from the date of his or her  
23 release from custody by parole, mandatory supervised  
24 release or commutation or termination of his or her  
25 sentence;

26 (E) at least one year has lapsed since the issuance of



1 the certificate;

2 (F) since the issuance of the certificate of good  
3 conduct, the applicant has not been convicted of any  
4 offense; and

5 (G) there are no criminal charges pending against the  
6 applicant and the applicant is not under parole or  
7 mandatory supervised release;

8 (H) the applicant's conduct subsequent to the issuance  
9 of the certificate demonstrates rehabilitation.

10 (3) Subsequent convictions. A person may not have  
11 subsequent felony conviction records sealed as provided in this  
12 subsection (h-1) if he or she is convicted of any felony  
13 offense after the date of the sealing of prior felony records  
14 as provided in this subsection (h-1).

15 (4) Notice of eligibility for sealing. Upon acquittal,  
16 release without conviction, or being placed on supervision for  
17 a sealable offense, or upon conviction of a sealable offense,  
18 the person shall be informed by the court of the right to have  
19 the records sealed and the procedures for the sealing of the  
20 records.

21 (5) Procedure. Upon becoming eligible for the sealing of  
22 records under this subsection (h-1), the person who seeks the  
23 sealing of his or her records shall file a petition requesting  
24 the sealing of records with the clerk of the court where the  
25 charge or charges were brought. The records may be sealed by  
26 the Chief Judge of the circuit wherein the charge was brought,

1 any judge of that circuit designated by the Chief Judge, or in  
2 counties of less than 3,000,000 inhabitants, the presiding  
3 trial judge at the defendant's trial, if any. If charges were  
4 brought in multiple jurisdictions, a petition must be filed in  
5 each such jurisdiction. The petitioner shall pay the applicable  
6 fee, if not waived.

7 (A) An order sealing records shall only be issued upon  
8 verified application to the court. The court may for the  
9 purpose of determining whether such order shall be issued,  
10 request its probation service to conduct an investigation  
11 of the applicant. Any probation officer requested to make  
12 an investigation pursuant to this Section shall prepare and  
13 submit to the court a written report in accordance with  
14 such request.

15 (B) Contents of petition. The petition shall contain  
16 the petitioner's name, date of birth, current address, each  
17 charge, each case number, the date of each charge, the  
18 identity of the arresting authority, and such other  
19 information as the court may require. During the pendency  
20 of the proceeding, the petitioner shall promptly notify the  
21 clerk of the court of any change of address.

22 (C) Drug test. A person filing a petition to have his  
23 or her records sealed pursuant to this subsection must  
24 attach to the petition proof that the petitioner has passed  
25 a test taken within the previous 30 days before the filing  
26 of the petition showing the absence within his or her body

1 of all illegal substances in violation of either the  
2 Illinois Controlled Substances Act, the Methamphetamine  
3 Control and Community Protection Act, or the Cannabis  
4 Control Act.

5 (D) Service of petition. The clerk shall promptly serve  
6 a copy of the petition on the State's Attorney or  
7 prosecutor charged with the duty of prosecuting the  
8 offense, the Department of State Police, the arresting  
9 agency and the chief legal officer of the unit of local  
10 government effecting the arrest.

11 (E) Any written report submitted to the court pursuant  
12 to this Section is confidential and may not be made  
13 available to any person or public or private agency except  
14 where specifically required or permitted by law or upon  
15 specific authorization of the court. However, upon the  
16 court's receipt of such report, the court shall provide a  
17 copy of such report, or direct that such report be provided  
18 to the applicant's attorney, or the applicant himself or  
19 herself, if he or she has no attorney. In its discretion,  
20 the court may except from disclosure a part or parts of the  
21 report which are not relevant to the granting of a pardon,  
22 or sources of information which have been obtained on a  
23 promise of confidentiality, or any other portion thereof,  
24 disclosure of which would not be in the interest of  
25 justice. The action of the court excepting information from  
26 disclosure shall be subject to appellate review.

1           (F) Entry of order. Unless the State's Attorney or  
2           prosecutor, the Department of State Police, the arresting  
3           agency or such chief legal officer objects to sealing of  
4           the records within 90 days of notice the court shall enter  
5           an order sealing the defendant's records.

6           (G) Hearing upon objection. If an objection is filed,  
7           the court shall set a date for a hearing and notify the  
8           petitioner and the parties on whom the petition had been  
9           served, and shall hear evidence on whether the sealing of  
10           the records should or should not be granted, and shall make  
11           a determination on whether to issue an order to seal the  
12           records based on the evidence presented at the hearing. In  
13           determining whether to enter an order sealing a record the  
14           court shall consider all relevant factors including and not  
15           limited to:

16                   (1) the number of offenses in the record and the  
17                   disposition and penalties imposed for each;

18                   (2) the age of the individual when the crime or  
19                   crimes were committed;

20                   (3) the circumstances surrounding the crime or  
21                   crimes;

22                   (4) the length of time since the last conviction;

23                   (5) the nature of the conditions of probation and  
24                   parole and whether they were fulfilled;

25                   (6) rehabilitative efforts relevant to the  
26                   offenses and circumstances of the petitioner's life

1 such as alcohol or substance abuse treatment; mental  
2 health treatment; anger management; education; job  
3 readiness and skills training; parenting training; and  
4 participation in community or faith based services or  
5 programs, the results of such efforts, and the  
6 references of program staff;

7 (7) the facts and circumstances, if any, that led  
8 the petitioner to make a choice to engage in no further  
9 criminal conduct;

10 (8) the petitioner's work history, both paid and  
11 voluntary, and references of employers;

12 (9) character references;

13 (10) any evidence concerning the failure of the  
14 petitioner to be rehabilitated and absence of a  
15 commitment to refrain from criminal activity; and

16 (11) any other evidence the petitioner may present  
17 concerning his or her rehabilitation and commitment to  
18 refrain from criminal activity.

19 (H) Service of order. After entering the order to seal  
20 records, the court must provide copies of the order to the  
21 Department, in a form and manner prescribed by the  
22 Department, to the petitioner, to the State's Attorney or  
23 prosecutor charged with the duty of prosecuting the  
24 offense, to the arresting agency, to the chief legal  
25 officer of the unit of local government effecting the  
26 arrest, and to such other criminal justice agencies as may

1           be ordered by the court.

2           (6) Fees. (A) Notwithstanding any provision of the Clerks  
3 of Courts Act to the contrary, and subject to the approval of  
4 the county board, the clerk may charge a fee equivalent to the  
5 cost associated with the sealing of records by the clerk and  
6 the Department of State Police. The clerk shall forward the  
7 Department of State Police portion of the fee to the Department  
8 and it shall be deposited into the State Police Services Fund.

9           (B) Notwithstanding any provision of the Clerks of Courts  
10 Act to the contrary, and subject to the approval of the county  
11 board, the clerk may charge a fee equivalent to the cost  
12 associated with the probation officer's investigation and  
13 preparation of the report.

14           (i) Subject to available funding, the Illinois Department  
15 of Corrections shall conduct a study of the impact of sealing,  
16 especially on employment and recidivism rates, utilizing a  
17 random sample of those who apply for the sealing of their  
18 criminal records under Public Act 93-211, in accordance to  
19 rules adopted by the Department. At the request of the Illinois  
20 Department of Corrections, records of the Illinois Department  
21 of Employment Security shall be utilized as appropriate to  
22 assist in the study. The study shall not disclose any data in a  
23 manner that would allow the identification of any particular  
24 individual or employing unit. The study shall be made available  
25 to the General Assembly no later than September 1, 2006.

26           (Source: P.A. 93-210, eff. 7-18-03; 93-211, eff. 1-1-04;

1 93-1084, eff. 6-1-05; 94-556, eff. 9-11-05.)

2 Section 10. The Unified Code of Corrections is amended by  
3 changing Section 5-5.5-20 as follows:

4 (730 ILCS 5/5-5.5-20)

5 Sec. 5-5.5-20. Certificates of relief from disabilities  
6 issued by the Prisoner Review Board.

7 (a) The Prisoner Review Board shall have the power to issue  
8 a certificate of relief from disabilities to:

9 (1) any eligible offender who has been committed to an  
10 institution under the jurisdiction of the Department of  
11 Corrections. The certificate may be issued by the Board at  
12 the time the offender is released from the institution  
13 under the conditions of parole or mandatory supervised  
14 release or at any time thereafter; or

15 (2) any eligible offender who resides within this State  
16 and whose judgment of conviction was rendered by a court in  
17 any other jurisdiction.

18 (b) If the Prisoner Review Board has issued a certificate  
19 of relief from disabilities, the Board may at any time issue a  
20 new certificate enlarging the relief previously granted.

21 (b-5) In determining whether the applicant has been  
22 rehabilitated, the Board shall apply the same criteria used to  
23 determine whether a recommendation for executive clemency  
24 should be issued, and shall grant the certificate only if the

1 applicant meets those standards.

2 (c) The Prisoner Review Board may not issue any certificate  
3 of relief from disabilities under subsections (a) or (b),  
4 unless the Board is satisfied that:

5 (1) the person to whom it is to be granted is an  
6 eligible offender, as defined in Section 5-5.5-5;

7 (2) the relief to be granted by the certificate is  
8 consistent with the rehabilitation of the eligible  
9 offender; and

10 (3) the relief to be granted by the certificate is  
11 consistent with the public interest.

12 (d) Any certificate of relief from disabilities issued by  
13 the Prisoner Review Board to an eligible offender, who at time  
14 of the issuance of the certificate is under the conditions of  
15 parole or mandatory supervised release established by the  
16 Board, shall be deemed to be a temporary certificate until such  
17 time as the eligible offender is discharged from parole or  
18 mandatory supervised release, and, while temporary, the  
19 certificate may be revoked by the Board for violation of the  
20 conditions of parole or mandatory supervised release.  
21 Revocation shall be upon notice to the parolee or releasee, who  
22 shall be accorded an opportunity to explain the violation prior  
23 to a decision on the revocation of the certificate. If the  
24 certificate is not so revoked, it shall become a permanent  
25 certificate upon expiration or termination of the offender's  
26 parole or mandatory supervised release term.



1           (e) In granting or revoking a certificate of relief from  
2 disabilities, the action of the Prisoner Review Board shall be  
3 by unanimous vote of the members authorized to grant or revoke  
4 parole or mandatory supervised release.

5           (f) The certificate may be limited to one or more  
6 enumerated disabilities or bars, or may relieve the individual  
7 of all disabilities and bars.

8           (Source: P.A. 93-207, eff. 1-1-04.)

9           Section 99. Effective date. This Act takes effect June 1,  
10 2007.