

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 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 12-4.3(b)(1) and (2)
21 of the Criminal Code of 1961 (as those provisions
22 existed before their deletion by Public Act 89-313),
23 Section 10-102 of the Illinois Alcoholism and Other
24 Drug Dependency Act, Section 40-10 of the Alcoholism
25 and Other Drug Abuse and Dependency Act, or Section 10
26 of the Steroid Control Act. For the purpose of this

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

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

5 (3) Exclusions. Except as otherwise provided in
6 subsections (b)(5), (b)(6), and (e) of this Section, the
7 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.

16 (B) the sealing or expungement of records of minor
17 traffic offenses (as defined in subsection (a)(1)(G)),
18 unless the petitioner was arrested and released
19 without charging.

20 (C) the sealing of the records of arrests or
21 charges not initiated by arrest which result in an
22 order of supervision, an order of qualified probation
23 (as defined in subsection (a)(1)(J)), or a conviction
24 for the following offenses:

25 (i) offenses included in Article 11 of the
26 Criminal Code of 1961 or a similar provision of a

1 local ordinance, except Section 11-14 of the
2 Criminal Code of 1961 or a similar provision of a
3 local ordinance;

4 (ii) Section 12-15, 12-30, or 26-5 of the
5 Criminal Code of 1961 or a similar provision of a
6 local ordinance;

7 (iii) offenses defined as "crimes of violence"
8 in Section 2 of the Crime Victims Compensation Act
9 or a similar provision of a local ordinance;

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

12 (v) any offense or attempted offense that
13 would subject a person to registration under the
14 Sex Offender Registration Act.

15 (D) the sealing of the records of an arrest which
16 results in the petitioner being charged with a felony
17 offense or records of a charge not initiated by arrest
18 for a felony offense, regardless of the disposition,
19 unless:

20 (i) the charge is amended to a misdemeanor and
21 is otherwise eligible to be sealed pursuant to
22 subsection (c);

23 (ii) the charge results in first offender
24 probation as set forth in subsection (c)(2)(E); or

25 (iii) the charge is for a Class 4 felony
26 offense listed in subsection (c)(2)(F) or the

1 charge is amended to a Class 4 felony offense
2 listed in subsection (c)(2)(F). Records of arrests
3 which result in the petitioner being charged with a
4 Class 4 felony offense listed in subsection
5 (c)(2)(F), records of charges not initiated by
6 arrest for Class 4 felony offenses listed in
7 subsection (c)(2)(F), and records of charges
8 amended to a Class 4 felony offense listed in
9 (c)(2)(F) may be sealed, regardless of the
10 disposition, subject to any waiting periods set
11 forth in subsection (c)(3).

12 (b) Expungement.

13 (1) A petitioner may petition the circuit court to
14 expunge the records of his or her arrests and charges not
15 initiated by arrest when:

16 (A) He or she has never been convicted of a
17 criminal offense; and

18 (B) Each arrest or charge not initiated by arrest
19 sought to be expunged resulted in: (i) acquittal,
20 dismissal, or the petitioner's release without
21 charging, unless excluded by subsection (a)(3)(B);
22 (ii) a conviction which was vacated or reversed, unless
23 excluded by subsection (a)(3)(B); (iii) an order of
24 supervision and such supervision was successfully
25 completed by the petitioner, unless excluded by
26 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of

1 qualified probation (as defined in subsection
2 (a)(1)(J)) and such probation was successfully
3 completed by the petitioner.

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

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

11 (B) When the arrest or charge not initiated by
12 arrest sought to be expunged resulted in an order of
13 supervision, successfully completed by the petitioner,
14 the following time frames will apply:

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

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

1 the supervision.

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

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

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

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

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

1 shall make the records of the circuit court clerk in
2 connection with the proceedings of the trial court
3 concerning the offense available for public inspection.

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

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

22 (c) Sealing.

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

1 minors prosecuted as adults.

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

4 (A) All arrests resulting in release without
5 charging;

6 (B) Arrests or charges not initiated by arrest
7 resulting in acquittal, dismissal, or conviction when
8 the conviction was reversed or vacated, except as
9 excluded by subsection (a) (3) (B) or (a) (3) (D);

10 (C) Arrests or charges not initiated by arrest
11 resulting in orders of supervision successfully
12 completed by the petitioner, unless excluded by
13 subsection (a) (3);

14 (D) Arrests or charges not initiated by arrest
15 resulting in convictions unless excluded by subsection
16 (a) (3);

17 (E) Arrests or charges not initiated by arrest
18 resulting in orders of first offender probation under
19 Section 10 of the Cannabis Control Act, Section 410 of
20 the Illinois Controlled Substances Act, or Section 70
21 of the Methamphetamine Control and Community
22 Protection Act; and

23 (F) Arrests or charges not initiated by arrest
24 resulting in Class 4 felony convictions for the
25 following offenses:

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

- 1 (ii) Section 4 of the Cannabis Control Act;
- 2 (iii) Section 402 of the Illinois Controlled
- 3 Substances Act;
- 4 (iv) the Methamphetamine Precursor Control
- 5 Act; and
- 6 (v) the Steroid Control Act.

7 (3) When Records Are Eligible to Be Sealed. Records

8 identified as eligible under subsection (c)(2) may be

9 sealed as follows:

10 (A) Records identified as eligible under

11 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any

12 time.

13 (B) Records identified as eligible under

14 subsection (c)(2)(C) may be sealed (i) 3 years after

15 the termination of petitioner's last sentence (as

16 defined in subsection (a)(1)(F)) if the petitioner has

17 never been convicted of a criminal offense (as defined

18 in subsection (a)(1)(D)); or (ii) 4 years after the

19 termination of the petitioner's last sentence (as

20 defined in subsection (a)(1)(F)) if the petitioner has

21 ever been convicted of a criminal offense (as defined

22 in subsection (a)(1)(D)).

23 (C) Records identified as eligible under

24 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be

25 sealed 4 years after the termination of the

26 petitioner's last sentence (as defined in subsection

1 (a) (1) (F)).

2 (4) Subsequent felony convictions. A person may not
3 have subsequent felony conviction records sealed as
4 provided in this subsection (c) if he or she is convicted
5 of any felony offense after the date of the sealing of
6 prior felony convictions as provided in this subsection
7 (c). The court may, upon conviction for a subsequent felony
8 offense, order the unsealing of prior felony conviction
9 records previously ordered sealed by the court.

10 (5) Notice of eligibility for sealing. Upon entry of a
11 disposition for an eligible record under this subsection
12 (c), the petitioner shall be informed by the court of the
13 right to have the records sealed and the procedures for the
14 sealing of the records.

15 (d) Procedure. The following procedures apply to
16 expungement under subsections (b) and (e), and sealing under
17 subsection (c):

18 (1) Filing the petition. Upon becoming eligible to
19 petition for the expungement or sealing of records under
20 this Section, the petitioner shall file a petition
21 requesting the expungement or sealing of records with the
22 clerk of the court where the arrests occurred or the
23 charges were brought, or both. If arrests occurred or
24 charges were brought in multiple jurisdictions, a petition
25 must be filed in each such jurisdiction. The petitioner
26 shall pay the applicable fee, if not waived.

1 (2) Contents of petition. The petition shall be
2 verified and shall contain the petitioner's name, date of
3 birth, current address and, for each arrest or charge not
4 initiated by arrest sought to be sealed or expunged, the
5 case number, the date of arrest (if any), the identity of
6 the arresting authority, and such other information as the
7 court may require. During the pendency of the proceeding,
8 the petitioner shall promptly notify the circuit court
9 clerk of any change of his or her address.

10 (3) Drug test. The petitioner must attach to the
11 petition proof that the petitioner has passed a test taken
12 within 30 days before the filing of the petition showing
13 the absence within his or her body of all illegal
14 substances as defined by the Illinois Controlled
15 Substances Act, the Methamphetamine Control and Community
16 Protection Act, and the Cannabis Control Act if he or she
17 is petitioning to seal felony records pursuant to clause
18 (c)(2)(E) or (c)(2)(F)(ii)-(v) or if he or she is
19 petitioning to expunge felony records of a qualified
20 probation pursuant to clause (b)(1)(B)(iv).

21 (4) Service of petition. The circuit court clerk shall
22 promptly serve a copy of the petition on the State's
23 Attorney or prosecutor charged with the duty of prosecuting
24 the offense, the Department of State Police, the arresting
25 agency and the chief legal officer of the unit of local
26 government effecting the arrest.

1 (5) Objections.

2 (A) Any party entitled to notice of the petition
3 may file an objection to the petition. All objections
4 shall be in writing, shall be filed with the circuit
5 court clerk, and shall state with specificity the basis
6 of the objection.

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

10 (6) Entry of order.

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

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

24 (7) Hearings. If an objection is filed, the court shall
25 set a date for a hearing and notify the petitioner and all
26 parties entitled to notice of the petition of the hearing

1 date at least 30 days prior to the hearing, and shall hear
2 evidence on whether the petition should or should not be
3 granted, and shall grant or deny the petition to expunge or
4 seal the records based on the evidence presented at the
5 hearing.

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

15 (9) Effect of order.

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

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

25 (ii) the records of the circuit court clerk
26 shall be impounded until further order of the court

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

8 (iii) in response to an inquiry for expunged
9 records, the court, the Department, or the agency
10 receiving such inquiry, shall reply as it does in
11 response to inquiries when no records ever
12 existed.

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

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

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

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

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

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

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

23 (C) Upon entry of an order to seal records under
24 subsection (c), the arresting agency, any other agency
25 as ordered by the court, the Department, and the court
26 shall seal the records (as defined in subsection

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

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

22 (11) Final Order. No court order issued under the
23 expungement or sealing provisions of this Section shall
24 become final for purposes of appeal until 30 days after
25 service of the order on the petitioner and all parties
26 entitled to notice of the petition.

1 (12) Motion to Vacate, Modify, or Reconsider. The
2 petitioner or any party entitled to notice may file a
3 motion to vacate, modify, or reconsider the order granting
4 or denying the petition to expunge or seal within 60 days
5 of service of the order.

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

1 similar offense or for the purpose of sentencing for any
2 subsequent felony. Upon conviction for any subsequent offense,
3 the Department of Corrections shall have access to all sealed
4 records of the Department pertaining to that individual. Upon
5 entry of the order of expungement, the circuit court clerk
6 shall promptly mail a copy of the order to the person who was
7 pardoned.

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

20 (Source: P.A. 96-409, eff. 1-1-10.)

21 Section 10. The Criminal Code of 1961 is amended by
22 changing Sections 16-1, 16H-50, and 16H-55 and by adding
23 Section 16H-70 as follows:

24 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

1 Sec. 16-1. Theft.

2 (a) A person commits theft when he knowingly:

3 (1) Obtains or exerts unauthorized control over
4 property of the owner; or

5 (2) Obtains by deception control over property of the
6 owner; or

7 (3) Obtains by threat control over property of the
8 owner; or

9 (4) Obtains control over stolen property knowing the
10 property to have been stolen or under such circumstances as
11 would reasonably induce him to believe that the property
12 was stolen; or

13 (5) Obtains or exerts control over property in the
14 custody of any law enforcement agency which any law
15 enforcement officer or any individual acting in behalf of a
16 law enforcement agency explicitly represents to the person
17 as being stolen or represents to the person such
18 circumstances as would reasonably induce the person to
19 believe that the property was stolen ~~is explicitly~~
20 ~~represented to him by any law enforcement officer or any~~
21 ~~individual acting in behalf of a law enforcement agency as~~
22 ~~being stolen, and~~

23 (A) Intends to deprive the owner permanently of the
24 use or benefit of the property; or

25 (B) Knowingly uses, conceals or abandons the
26 property in such manner as to deprive the owner

1 permanently of such use or benefit; or

2 (C) Uses, conceals, or abandons the property
3 knowing such use, concealment or abandonment probably
4 will deprive the owner permanently of such use or
5 benefit.

6 (b) Sentence.

7 (1) Theft of property not from the person and not
8 exceeding \$500 in value is a Class A misdemeanor.

9 (1.1) Theft of property not from the person and not
10 exceeding \$500 in value is a Class 4 felony if the theft
11 was committed in a school or place of worship or if the
12 theft was of governmental property.

13 (2) A person who has been convicted of theft of
14 property not from the person and not exceeding \$500 in
15 value who has been previously convicted of any type of
16 theft, robbery, armed robbery, burglary, residential
17 burglary, possession of burglary tools, home invasion,
18 forgery, a violation of Section 4-103, 4-103.1, 4-103.2, or
19 4-103.3 of the Illinois Vehicle Code relating to the
20 possession of a stolen or converted motor vehicle, or a
21 violation of Section 8 of the Illinois Credit Card and
22 Debit Card Act is guilty of a Class 4 felony. When a person
23 has any such prior conviction, the information or
24 indictment charging that person shall state such prior
25 conviction so as to give notice of the State's intention to
26 treat the charge as a felony. The fact of such prior

1 conviction is not an element of the offense and may not be
2 disclosed to the jury during trial unless otherwise
3 permitted by issues properly raised during such trial.

4 (3) (Blank).

5 (4) Theft of property from the person not exceeding
6 \$500 in value, or theft of property exceeding \$500 and not
7 exceeding \$10,000 in value, is a Class 3 felony.

8 (4.1) Theft of property from the person not exceeding
9 \$500 in value, or theft of property exceeding \$500 and not
10 exceeding \$10,000 in value, is a Class 2 felony if the
11 theft was committed in a school or place of worship or if
12 the theft was of governmental property.

13 (5) Theft of property exceeding \$10,000 and not
14 exceeding \$100,000 in value is a Class 2 felony.

15 (5.1) Theft of property exceeding \$10,000 and not
16 exceeding \$100,000 in value is a Class 1 felony if the
17 theft was committed in a school or place of worship or if
18 the theft was of governmental property.

19 (6) Theft of property exceeding \$100,000 and not
20 exceeding \$500,000 in value is a Class 1 felony.

21 (6.1) Theft of property exceeding \$100,000 in value is
22 a Class X felony if the theft was committed in a school or
23 place of worship or if the theft was of governmental
24 property.

25 (6.2) Theft of property exceeding \$500,000 and not
26 exceeding \$1,000,000 in value is a Class 1

1 non-probationable felony.

2 (6.3) Theft of property exceeding \$1,000,000 in value
3 is a Class X felony.

4 (7) Theft by deception, as described by paragraph (2)
5 of subsection (a) of this Section, in which the offender
6 obtained money or property valued at \$5,000 or more from a
7 victim 60 years of age or older is a Class 2 felony.

8 (8) Theft by deception, as described by paragraph (2)
9 of subsection (a) of this Section, in which the offender
10 falsely poses as a landlord or agent or employee of the
11 landlord and obtains a rent payment or a security deposit
12 from a tenant is a Class 3 felony if the rent payment or
13 security deposit obtained does not exceed \$500.

14 (9) Theft by deception, as described by paragraph (2)
15 of subsection (a) of this Section, in which the offender
16 falsely poses as a landlord or agent or employee of the
17 landlord and obtains a rent payment or a security deposit
18 from a tenant is a Class 2 felony if the rent payment or
19 security deposit obtained exceeds \$500 and does not exceed
20 \$10,000.

21 (10) Theft by deception, as described by paragraph (2)
22 of subsection (a) of this Section, in which the offender
23 falsely poses as a landlord or agent or employee of the
24 landlord and obtains a rent payment or a security deposit
25 from a tenant is a Class 1 felony if the rent payment or
26 security deposit obtained exceeds \$10,000 and does not

1 exceed \$100,000.

2 (11) Theft by deception, as described by paragraph (2)
3 of subsection (a) of this Section, in which the offender
4 falsely poses as a landlord or agent or employee of the
5 landlord and obtains a rent payment or a security deposit
6 from a tenant is a Class X felony if the rent payment or
7 security deposit obtained exceeds \$100,000.

8 (c) When a charge of theft of property exceeding a
9 specified value is brought, the value of the property involved
10 is an element of the offense to be resolved by the trier of
11 fact as either exceeding or not exceeding the specified value.

12 (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;
13 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11.)

14 (720 ILCS 5/16H-50)

15 Sec. 16H-50. Continuing financial crimes enterprise. A
16 person commits the offense of a continuing financial crimes
17 enterprise when the person knowingly, within an 18 month
18 period, commits 3 or more separate offenses constituting any
19 combination of the following:

20 (1) an offense under this Article;

21 (2) a felony offense in violation of Section 16A-3 or
22 paragraph (4) or (5) of subsection (a) of Section 16-1 of this
23 Code for the purpose of reselling or otherwise re-entering the
24 merchandise in commerce, including conveying the merchandise
25 to a merchant in exchange for anything of value; or

1 (3) ~~7~~ if involving a financial institution, any other
2 felony offense ~~offenses~~ established under this Code.

3 (Source: P.A. 93-440, eff. 8-5-03.)

4 (720 ILCS 5/16H-55)

5 Sec. 16H-55. Organizer of a continuing financial crimes
6 enterprise.

7 (a) A person commits the offense of being an organizer of a
8 continuing financial crimes enterprise when the person:

9 (1) with the intent to commit an offense ~~under this~~
10 ~~Article,~~ agrees with another person to the commission of
11 any combination of the following offenses on 3 or more
12 separate occasions within an 18 month period:

13 (A) an offense under this Article;

14 (B) a felony offense in violation of Section 16A-3
15 or paragraph (4) or (5) of subsection (a) of Section 16-1
16 of this Code for the purpose of reselling or otherwise
17 re-entering the merchandise in commerce, including
18 conveying the merchandise to a merchant in exchange for
19 anything of value; or

20 (C) ~~7~~ if involving a financial institution, any
21 other felony offense established under this Code, ~~agrees~~
22 ~~with another person to the commission of that offense on 3~~
23 ~~or more separate occasions within an 18 month period, and~~

24 (2) with respect to the other persons within the
25 conspiracy, occupies a position of organizer, supervisor,

1 or financier or other position of management.

2 (b) The person with whom the accused agreed to commit the 3
3 or more offenses under this Article, or, if involving a
4 financial institution, any other felony offenses established
5 under this Code, need not be the same person or persons for
6 each offense, as long as the accused was a part of the common
7 scheme or plan to engage in each of the 3 or more alleged
8 offenses.

9 (Source: P.A. 93-440, eff. 8-5-03.)

10 (720 ILCS 5/16H-70 new)

11 Sec. 16H-70. Forfeiture. Any violation of subdivision (2)
12 of Section 16H-50 or subdivision (a) (1) (B) of Section 16H-55 of
13 this Article shall be subject to the remedies, procedures, and
14 forfeiture as set forth in subsections (f) through (s) of
15 Section 29B-1 of this Code.