



Rep. Arthur L. Turner

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1 AMENDMENT TO SENATE BILL 1030

2 AMENDMENT NO. _____. Amend Senate Bill 1030, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

8 Sec. 5. Arrest reports; expungement.

9 (a) All policing bodies of this State shall furnish to the
10 Department, daily, in the form and detail the Department
11 requires, fingerprints and descriptions of all persons who are
12 arrested on charges of violating any penal statute of this
13 State for offenses that are classified as felonies and Class A
14 or B misdemeanors and of all minors of the age of 10 and over
15 who have been arrested for an offense which would be a felony
16 if committed by an adult, and may forward such fingerprints and

1 descriptions for minors arrested for Class A or B misdemeanors.
2 Moving or nonmoving traffic violations under the Illinois
3 Vehicle Code shall not be reported except for violations of
4 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In
5 addition, conservation offenses, as defined in the Supreme
6 Court Rule 501(c), that are classified as Class B misdemeanors
7 shall not be reported. Those law enforcement records maintained
8 by the Department for minors arrested for an offense prior to
9 their 17th birthday, or minors arrested for a non-felony
10 offense, if committed by an adult, prior to their 18th
11 birthday, shall not be forwarded to the Federal Bureau of
12 Investigation unless those records relate to an arrest in which
13 a minor was charged as an adult under any of the transfer
14 provisions of the Juvenile Court Act of 1987.

15 Whenever an adult or minor prosecuted as an adult, not
16 having previously been convicted of any criminal offense or
17 municipal ordinance violation, charged with a violation of a
18 municipal ordinance or a felony or misdemeanor, is acquitted or
19 released without being convicted, whether the acquittal or
20 release occurred before, on, or after the effective date of
21 this amendatory Act of 1991, the Chief Judge of the circuit
22 wherein the charge was brought, any judge of that circuit
23 designated by the Chief Judge, or in counties of less than
24 3,000,000 inhabitants, the presiding trial judge at the
25 defendant's trial may upon verified petition of the defendant
26 order the record of arrest expunged from the official records

1 of the arresting authority and the Department and order that
2 the records of the clerk of the circuit court be sealed until
3 further order of the court upon good cause shown and the name
4 of the defendant obliterated on the official index required to
5 be kept by the circuit court clerk under Section 16 of the
6 Clerks of Courts Act, but the order shall not affect any index
7 issued by the circuit court clerk before the entry of the
8 order. The Department may charge the petitioner a fee
9 equivalent to the cost of processing any order to expunge or
10 seal the records, and the fee shall be deposited into the State
11 Police Services Fund. The records of those arrests, however,
12 that result in a disposition of supervision for any offense
13 shall not be expunged from the records of the arresting
14 authority or the Department nor impounded by the court until 2
15 years after discharge and dismissal of supervision. Those
16 records that result from a supervision for a violation of
17 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois
18 Vehicle Code or a similar provision of a local ordinance, or
19 for a violation of Section 12-3.2, 12-15 or 16A-3 of the
20 Criminal Code of 1961, or probation under Section 10 of the
21 Cannabis Control Act, Section 410 of the Illinois Controlled
22 Substances Act, Section 70 of the Methamphetamine Control and
23 Community Protection Act, Section 12-4.3(b)(1) and (2) of the
24 Criminal Code of 1961 (as those provisions existed before their
25 deletion by Public Act 89-313), Section 10-102 of the Illinois
26 Alcoholism and Other Drug Dependency Act when the judgment of

1 conviction has been vacated, Section 40-10 of the Alcoholism
2 and Other Drug Abuse and Dependency Act when the judgment of
3 conviction has been vacated, or Section 10 of the Steroid
4 Control Act shall not be expunged from the records of the
5 arresting authority nor impounded by the court until 5 years
6 after termination of probation or supervision. Those records
7 that result from a supervision for a violation of Section
8 11-501 of the Illinois Vehicle Code or a similar provision of a
9 local ordinance, shall not be expunged. All records set out
10 above may be ordered by the court to be expunged from the
11 records of the arresting authority and impounded by the court
12 after 5 years, but shall not be expunged by the Department, but
13 shall, on court order be sealed by the Department and may be
14 disseminated by the Department only as required by law or to
15 the arresting authority, the State's Attorney, and the court
16 upon a later arrest for the same or a similar offense or for
17 the purpose of sentencing for any subsequent felony. Upon
18 conviction for any offense, the Department of Corrections shall
19 have access to all sealed records of the Department pertaining
20 to that individual.

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

24 (b) Whenever a person has been convicted of a crime or of
25 the violation of a municipal ordinance, in the name of a person
26 whose identity he has stolen or otherwise come into possession

1 of, the aggrieved person from whom the identity was stolen or
2 otherwise obtained without authorization, upon learning of the
3 person having been arrested using his identity, may, upon
4 verified petition to the chief judge of the circuit wherein the
5 arrest was made, have a court order entered nunc pro tunc by
6 the chief judge to correct the arrest record, conviction
7 record, if any, and all official records of the arresting
8 authority, the Department, other criminal justice agencies,
9 the prosecutor, and the trial court concerning such arrest, if
10 any, by removing his name from all such records in connection
11 with the arrest and conviction, if any, and by inserting in the
12 records the name of the offender, if known or ascertainable, in
13 lieu of the aggrieved's name. The records of the clerk of the
14 circuit court clerk shall be sealed until further order of the
15 court upon good cause shown and the name of the aggrieved
16 person obliterated on the official index required to be kept by
17 the circuit court clerk under Section 16 of the Clerks of
18 Courts Act, but the order shall not affect any index issued by
19 the circuit court clerk before the entry of the order. Nothing
20 in this Section shall limit the Department of State Police or
21 other criminal justice agencies or prosecutors from listing
22 under an offender's name the false names he or she has used.
23 For purposes of this Section, convictions for moving and
24 nonmoving traffic violations other than convictions for
25 violations of Chapter 4, Section 11-204.1 or Section 11-501 of
26 the Illinois Vehicle Code shall not be a bar to expunging the

1 record of arrest and court records for violation of a
2 misdemeanor or municipal ordinance.

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

1 Department pertaining to that individual. Upon entry of the
2 order of expungement, the clerk of the circuit court shall
3 promptly mail a copy of the order to the person who was
4 pardoned.

5 (c-5) Whenever a person has been convicted of criminal
6 sexual assault, aggravated criminal sexual assault, predatory
7 criminal sexual assault of a child, criminal sexual abuse, or
8 aggravated criminal sexual abuse, the victim of that offense
9 may request that the State's Attorney of the county in which
10 the conviction occurred file a verified petition with the
11 presiding trial judge at the defendant's trial to have a court
12 order entered to seal the records of the clerk of the circuit
13 court in connection with the proceedings of the trial court
14 concerning that offense. However, the records of the arresting
15 authority and the Department of State Police concerning the
16 offense shall not be sealed. The court, upon good cause shown,
17 shall make the records of the clerk of the circuit court in
18 connection with the proceedings of the trial court concerning
19 the offense available for public inspection.

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

26 (d) Notice of the petition for subsections (a), (b), and

1 (c) shall be served by the clerk upon the State's Attorney or
2 prosecutor charged with the duty of prosecuting the offense,
3 the Department of State Police, the arresting agency and the
4 chief legal officer of the unit of local government affecting
5 the arrest. Unless the State's Attorney or prosecutor, the
6 Department of State Police, the arresting agency or such chief
7 legal officer objects to the petition within 30 days from the
8 date of the notice, the court shall enter an order granting or
9 denying the petition. The clerk of the court shall promptly
10 mail a copy of the order to the person, the arresting agency,
11 the prosecutor, the Department of State Police and such other
12 criminal justice agencies as may be ordered by the judge.

13 (e) Nothing herein shall prevent the Department of State
14 Police from maintaining all records of any person who is
15 admitted to probation upon terms and conditions and who
16 fulfills those terms and conditions pursuant to Section 10 of
17 the Cannabis Control Act, Section 410 of the Illinois
18 Controlled Substances Act, Section 70 of the Methamphetamine
19 Control and Community Protection Act, Section 12-4.3 of the
20 Criminal Code of 1961, Section 10-102 of the Illinois
21 Alcoholism and Other Drug Dependency Act, Section 40-10 of the
22 Alcoholism and Other Drug Abuse and Dependency Act, or Section
23 10 of the Steroid Control Act.

24 (f) No court order issued under the expungement provisions
25 of this Section shall become final for purposes of appeal until
26 30 days after notice is received by the Department. Any court

1 order contrary to the provisions of this Section is void.

2 (g) Except as otherwise provided in subsection (c-5) of
3 this Section, the court shall not order the sealing or
4 expungement of the arrest records and records of the circuit
5 court clerk of any person granted supervision for or convicted
6 of any sexual offense committed against a minor under 18 years
7 of age. For the purposes of this Section, "sexual offense
8 committed against a minor" includes but is not limited to the
9 offenses of indecent solicitation of a child or criminal sexual
10 abuse when the victim of such offense is under 18 years of age.

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

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

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

20 (i) violations of Section 11-501 of the Illinois
21 Vehicle Code or a similar provision of a local
22 ordinance;

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

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

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

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

9 (vi) any offense or attempted offense that would
10 subject a person to registration under the Sex Offender
11 Registration Act.

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

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

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

15 (iii) Section 402 of the Illinois Controlled
16 Substances Act; and

17 (iv) Section 60 of the Methamphetamine Control and
18 Community Protection Act.

19 However, for purposes of this subsection (h), a
20 sentence of first offender probation under Section 10 of
21 the Cannabis Control Act, Section 410 of the Illinois
22 Controlled Substances Act, or Section 70 of the
23 Methamphetamine Control and Community Protection Act shall
24 be treated as a Class 4 felony conviction.

25 (3) Requirements for sealing. Records identified as
26 sealable under clause (h) (2) may be sealed when the individual

1 was:

2 (A) Acquitted of the offense or offenses or released
3 without being convicted.

4 (B) Convicted of the offense or offenses and the
5 conviction or convictions were reversed.

6 (C) Placed on misdemeanor supervision for an offense or
7 offenses; and

8 (i) at least 3 years have elapsed since the
9 completion of the term of supervision, or terms of
10 supervision, if more than one term has been ordered;
11 and

12 (ii) the individual has not been convicted of a
13 felony or misdemeanor or placed on supervision for a
14 misdemeanor or felony during the period specified in
15 clause (i).

16 (D) Convicted of an offense or offenses; and

17 (i) at least 4 years have elapsed since the last
18 such conviction or term of any sentence, probation,
19 parole, or supervision, if any, whichever is last in
20 time; and

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

25 (4) Requirements for sealing of records when more than one
26 charge and disposition have been filed. When multiple offenses

1 are petitioned to be sealed under this subsection (h), the
2 requirements of the relevant provisions of clauses (h) (3) (A)
3 through (D) each apply. In instances in which more than one
4 waiting period is applicable under clauses (h) (C) (i) and (ii)
5 and (h) (D) (i) and (ii), the longer applicable period applies,
6 and the requirements of clause (h) (3) shall be considered met
7 when the petition is filed after the passage of the longer
8 applicable waiting period. That period commences on the date of
9 the completion of the last sentence or the end of supervision,
10 probation, or parole, whichever is last in time.

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

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

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

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

8 (A) Contents of petition. The petition shall contain
9 the petitioner's name, date of birth, current address, each
10 charge, each case number, the date of each charge, the
11 identity of the arresting authority, and such other
12 information as the court may require. During the pendency
13 of the proceeding, the petitioner shall promptly notify the
14 clerk of the court of any change of address.

15 (B) Drug test. A person filing a petition to have his
16 or her records sealed for a Class 4 felony violation of
17 Section 4 of the Cannabis Control Act or for a Class 4
18 felony violation of Section 402 of the Illinois Controlled
19 Substances Act must attach to the petition proof that the
20 petitioner has passed a test taken within the previous 30
21 days before the filing of the petition showing the absence
22 within his or her body of all illegal substances in
23 violation of either the Illinois Controlled Substances Act
24 or the Cannabis Control Act.

25 (C) Service of petition. The clerk shall promptly serve
26 a copy of the petition on the State's Attorney or

1 prosecutor charged with the duty of prosecuting the
2 offense, the Department of State Police, the arresting
3 agency and the chief legal officer of the unit of local
4 government effecting the arrest.

5 (D) Entry of order. Unless the State's Attorney or
6 prosecutor, the Department of State Police, the arresting
7 agency or such chief legal officer objects to sealing of
8 the records within 90 days of notice the court shall enter
9 an order sealing the defendant's records.

10 (E) Hearing upon objection. If an objection is filed,
11 the court shall set a date for a hearing and notify the
12 petitioner and the parties on whom the petition had been
13 served, and shall hear evidence on whether the sealing of
14 the records should or should not be granted, and shall make
15 a determination on whether to issue an order to seal the
16 records based on the evidence presented at the hearing.

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

26 (8) Fees. Notwithstanding any provision of the Clerk of the

1 Courts Act to the contrary, and subject to the approval of the
2 county board, the clerk may charge a fee equivalent to the cost
3 associated with the sealing of records by the clerk and the
4 Department of State Police. The clerk shall forward the
5 Department of State Police portion of the fee to the Department
6 and it shall be deposited into the State Police Services Fund.

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

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

1 Petition to Seal or Expunge on all parties. The clerk shall
2 also charge a filing fee equivalent to the cost of sealing or
3 expunging the record by the Department of State Police. The
4 clerk shall collect and forward the Department of State Police
5 portion of the fee to the Department and it shall be deposited
6 in the State Police Services Fund.

7 (Source: P.A. 94-556, eff. 9-11-05; 95-955, eff. 1-1-09;
8 revised 10-28-08.)

9 Section 10. The Juvenile Court Act of 1987 is amended by
10 changing Section 5-915 as follows:

11 (705 ILCS 405/5-915)

12 Sec. 5-915. Expungement of juvenile law enforcement and
13 court records.

14 (0.05) For purposes of this Section:

15 "Expunge" means to physically destroy the records and
16 to obliterate the minor's name from any official index or
17 public record, or both. Nothing in this Act shall require
18 the physical destruction of the internal office records,
19 files, or databases maintained by a State's Attorney's
20 Office or other prosecutor.

21 "Law enforcement record" includes but is not limited to
22 records of arrest, station adjustments, fingerprints,
23 probation adjustments, the issuance of a notice to appear,
24 or any other records maintained by a law enforcement agency

1 relating to a minor suspected of committing an offense.

2 (1) Upon a minor's 17th birthday in cases where the minor
3 was arrested for any offense prior to his 17th birthday, or
4 upon a minor's 18th birthday in cases where the minor was
5 arrested after reaching the age of 17 but prior to his 18th
6 birthday for an offense that would be a misdemeanor if
7 committed by an adult, the Department of State Police shall
8 notify in writing the local law enforcement agency that made
9 the arrest, the State's Attorney or other prosecutor charged
10 with the duty of prosecuting the offense, the minor, and the
11 clerk of the circuit court in the circuit in which the arrest
12 was made, that the records of arrest relating to the minor
13 shall be expunged unless a written objection stating the reason
14 the records should not be expunged is received by the clerk of
15 the circuit court within 60 days of the receipt of such notice.
16 In such cases, objections shall be limited to the following:

17 (a) that the offense for which the minor was arrested
18 is still under active investigation;

19 (b) that the minor is a potential witness in an
20 upcoming court proceeding and that such arrest record is
21 relevant to that proceeding;

22 (c) that a petition for adjudication of delinquency
23 relating to the arrest at issue was filed against the
24 minor;

25 (d) that criminal charges relating to the arrest at
26 issue were instituted against the minor pursuant to any

1 transfer provision of this Act; or

2 (e) that the arrest at issue was for one of the
3 following offenses: (i) homicide; (ii) an offense
4 involving a deadly weapon; (iii) a sex offense as defined
5 in the Sex Offender Registration Act; or (iv) aggravated
6 domestic battery.

7 If the arresting agency or prosecutor responds to the
8 notice with a written objection to the clerk of the circuit
9 court, the clerk shall set a date for hearing after the 60 day
10 objection period. The clerk of the circuit court shall send
11 notice of the objection and the hearing within 7 days to the
12 minor at the minor's last known address. The clerk of the
13 circuit court shall also provide the minor with the phone
14 number and website address of the Expungement Program
15 maintained by the Office of the State Appellate Defender. At
16 the hearing the objecting party must prove by a preponderance
17 of the evidence that the basis of the objection falls within
18 clauses (1) (a) through (e), and outweighs the juvenile justice
19 system's interest in equipping juvenile offenders with
20 competencies to live responsibly and productively, as set forth
21 in the purpose and policy set forth in Section 5-101. If the
22 objecting party fails to meet this burden of proof, the court
23 shall enter an order granting expungement. The clerk shall
24 forward a certified copy of the order to the Department of
25 State Police and the arresting agency. An objection or a denial
26 of an expungement order under this subsection does not operate

1 to bar the filing of a Petition to Expunge by the minor under
2 subsection (2) of this Section where applicable. If no written
3 objection is received from the arresting agency, the
4 prosecutor, or the Department of State Police, the Court shall
5 enter an order granting expungement and the clerk of the
6 circuit court shall forward written notice to the minor, the
7 arresting agency and the Department of State Police that the
8 records of arrest relating to the minor must be expunged
9 pursuant to this Section. Arresting agencies and the Department
10 of State Police shall comply with such notice within 60 days of
11 receipt.

12 (1.5) If a minor is arrested, at the time the minor is
13 released from custody the youth officer, if applicable, or
14 other designated person from the arresting agency, shall notify
15 verbally and in writing to the minor or the minor's parents or
16 guardians that upon the minor's 17th birthday or upon the
17 minor's 18th birthday if the minor was arrested after their
18 17th birthday but prior to their 18th birthday for an offense
19 that would be a misdemeanor if committed by an adult, the
20 minor's law enforcement record shall be expunged if the
21 arresting agency, the prosecutor, or the Department of State
22 Police do not object to the expungement. The arresting agency
23 should further notify the minor that notice of any objections,
24 the expungement hearing and the expungement order shall be sent
25 to the minor by the clerk of the circuit court at the minor's
26 last known address.

1 (2) ~~(1)~~ Whenever any person has attained the age of 17 or
2 whenever all juvenile court proceedings relating to that person
3 have been terminated, whichever is later, the person may
4 petition the court to expunge law enforcement records relating
5 to incidents occurring before his or her 17th birthday or his
6 or her juvenile court records, or both, but only in the
7 following circumstances:

8 (a) the minor was arrested and no petition for
9 delinquency was filed with the clerk of the circuit court
10 and the minor does not meet the requirements for automatic
11 expungement under paragraph (1) of Section 5-915; or

12 (b) the minor was charged with an offense and was found
13 not delinquent of that offense; or

14 (c) the minor was placed under supervision pursuant to
15 Section 5-615, and the order of supervision has since been
16 successfully terminated; or

17 (d) the minor was adjudicated for an offense which
18 would be a Class B misdemeanor, Class C misdemeanor, or a
19 petty or business offense if committed by an adult.

20 (2.5) ~~(2)~~ Any person may petition the court to expunge all
21 law enforcement records relating to any incidents occurring
22 before his or her 17th birthday which did not result in
23 proceedings in criminal court and all juvenile court records
24 with respect to any adjudications except those based upon first
25 degree murder and sex offenses which would be felonies if
26 committed by an adult, if the person for whom expungement is

1 sought has had no convictions for any crime since his or her
2 17th birthday and:

3 (a) has attained the age of 21 years; or

4 (b) 5 years have elapsed since all juvenile court
5 proceedings relating to him or her have been terminated or
6 his or her commitment to the Department of Juvenile Justice
7 pursuant to this Act has been terminated;

8 whichever is later of (a) or (b).

9 (2.6) ~~(2.5)~~ If a minor is arrested and no petition for
10 delinquency is filed with the clerk of the circuit court as
11 provided in paragraph (a) of subsection (2) ~~(1)~~ at the time the
12 minor is released from custody, the youth officer, if
13 applicable, or other designated person from the arresting
14 agency, shall notify verbally and in writing to the minor or
15 the minor's parents or guardians that if the State's Attorney
16 does not file a petition for delinquency, the minor has a right
17 to petition to have his or her law enforcement ~~arrest~~ record
18 expunged when the minor attains the age of 17 or when all
19 juvenile court proceedings relating to that minor have been
20 terminated and that unless a petition to expunge is filed or
21 the minor's law enforcement records are expunged pursuant to
22 subsection (1), the minor shall have a law enforcement ~~an~~
23 ~~arrest~~ record. The youth officer, if applicable, or other
24 designated person from the arresting agency ~~and~~ shall provide
25 the minor and the minor's parents or guardians with an
26 expungement information packet, including a petition to

1 expunge juvenile records obtained from the clerk of the circuit
2 court.

3 (2.7) ~~(2.6)~~ If a minor is charged with an offense and is
4 found not delinquent of that offense; or if a minor is placed
5 under supervision under Section 5-615, and the order of
6 supervision is successfully terminated; or if a minor is
7 adjudicated for an offense that would be a Class B misdemeanor,
8 a Class C misdemeanor, or a business or petty offense if
9 committed by an adult; or if a minor has incidents occurring
10 before his or her 17th birthday that have not resulted in
11 proceedings in criminal court, or resulted in proceedings in
12 juvenile court, and the adjudications were not based upon first
13 degree murder or sex offenses that would be felonies if
14 committed by an adult; then at the time of sentencing or
15 dismissal of the case, the judge shall inform the delinquent
16 minor of his or her right to petition for expungement as
17 provided by law, and the clerk of the circuit court shall
18 provide an expungement information packet to the delinquent
19 minor, written in plain language, including a petition for
20 expungement, a sample of a completed petition, expungement
21 instructions that shall include information informing the
22 minor that (i) once the case is expunged, it shall be treated
23 as if it never occurred, (ii) he or she may apply to have
24 petition fees waived, (iii) once he or she obtains an
25 expungement, he or she may not be required to disclose that he
26 or she had a juvenile record, and (iv) he or she may file the

1 petition on his or her own or with the assistance of an
 2 attorney. The failure of the judge to inform the delinquent
 3 minor of his or her right to petition for expungement as
 4 provided by law does not create a substantive right, nor is
 5 that failure grounds for: (i) a reversal of an adjudication of
 6 delinquency, (ii) a new trial; or (iii) an appeal.

7 (2.8) ~~(2.7)~~ For counties with a population over 3,000,000,
 8 the clerk of the circuit court shall send a "Notification of a
 9 Possible Right to Expungement" post card to the minor at the
 10 address last received by the clerk of the circuit court on the
 11 date that the minor attains the age of 17 based on the
 12 birthdate provided to the court by the minor or his or her
 13 guardian in cases under paragraphs (b), (c), and (d) of
 14 subsection (2) ~~(1)~~; and when the minor attains the age of 21
 15 based on the birthdate provided to the court by the minor or
 16 his or her guardian in cases under subsection (2.5) ~~(2)~~.

17 (2.9) ~~(2.8)~~ The petition for expungement for subsection (2)
 18 ~~(1)~~ shall be substantially in the following form:

19 IN THE CIRCUIT COURT OF, ILLINOIS

20 JUDICIAL CIRCUIT

21 IN THE INTEREST OF) NO.

22)

23)

24)

25 (Name of Petitioner)

1 PETITION TO EXPUNGE JUVENILE RECORDS

2 (705 ILCS 405/5-915 (SUBSECTION 2 ±))

3 (Please prepare a separate petition for each offense)

4 Now comes, petitioner, and respectfully requests
5 that this Honorable Court enter an order expunging all juvenile
6 law enforcement and court records of petitioner and in support
7 thereof states that: Petitioner has attained the age of 17,
8 his/her birth date being, or all Juvenile Court
9 proceedings terminated as of, whichever occurred later.
10 Petitioner was arrested on by the Police
11 Department for the offense of, and:

12 (Check One:)

13 () a. no petition was filed with the Clerk of the Circuit
14 Court.

15 () b. was charged with and was found not delinquent of
16 the offense.

17 () c. a petition was filed and the petition was dismissed
18 without a finding of delinquency on

19 () d. on placed under supervision pursuant to Section
20 5-615 of the Juvenile Court Act of 1987 and such order of
21 supervision successfully terminated on

22 () e. was adjudicated for the offense, which would have been a
23 Class B misdemeanor, a Class C misdemeanor, or a petty offense
24 or business offense if committed by an adult.

25 Petitioner has has not been arrested on charges in

1 this or any county other than the charges listed above. If
2 petitioner has been arrested on additional charges, please list
3 the charges below:

4 Charge(s):

5 Arresting Agency or Agencies:

6 Disposition/Result: (choose from a. through e., above):

7 WHEREFORE, the petitioner respectfully requests this Honorable
8 Court to (1) order all law enforcement agencies to expunge all
9 records of petitioner to this incident, and (2) to order the
10 Clerk of the Court to expunge all records concerning the
11 petitioner regarding this incident.

12
13 Petitioner (Signature)

14
15 Petitioner's Street Address

16
17 City, State, Zip Code

18
19 Petitioner's Telephone Number

20 Pursuant to the penalties of perjury under the Code of Civil
21 Procedure, 735 ILCS 5/1-109, I hereby certify that the

1 statements in this petition are true and correct, or on
2 information and belief I believe the same to be true.

3
4 Petitioner (Signature)

5 The Petition for Expungement for subsection (2.5) ~~(2)~~ shall be
6 substantially in the following form:

7 IN THE CIRCUIT COURT OF, ILLINOIS
8 JUDICIAL CIRCUIT

9 IN THE INTEREST OF) NO.
10)
11)
12)
13 (Name of Petitioner)

14 PETITION TO EXPUNGE JUVENILE RECORDS
15 (705 ILCS 405/5-915 (SUBSECTION 2.5 ~~2~~))

16 (Please prepare a separate petition for each offense)

17 Now comes, petitioner, and respectfully requests
18 that this Honorable Court enter an order expunging all Juvenile
19 Law Enforcement and Court records of petitioner and in support
20 thereof states that:

21 The incident for which the Petitioner seeks expungement
22 occurred before the Petitioner's 17th birthday and did not

1 result in proceedings in criminal court and the Petitioner has
2 not had any convictions for any crime since his/her 17th
3 birthday; and

4 The incident for which the Petitioner seeks expungement
5 occurred before the Petitioner's 17th birthday and the
6 adjudication was not based upon first-degree murder or sex
7 offenses which would be felonies if committed by an adult, and
8 the Petitioner has not had any convictions for any crime since
9 his/her 17th birthday.

10 Petitioner was arrested on by the Police
11 Department for the offense of, and:

12 (Check whichever one occurred the latest:)

13 () a. The Petitioner has attained the age of 21 years, his/her
14 birthday being

15 () b. 5 years have elapsed since all juvenile court
16 proceedings relating to the Petitioner have been terminated; or
17 the Petitioner's commitment to the Department of Juvenile
18 Justice pursuant to the expungement of juvenile law enforcement
19 and court records provisions of the Juvenile Court Act of 1987
20 has been terminated. Petitioner ...has ...has not been arrested
21 on charges in this or any other county other than the charge
22 listed above. If petitioner has been arrested on additional
23 charges, please list the charges below:

24 Charge(s):

25 Arresting Agency or Agencies:

26 Disposition/Result: (choose from a or b, above):

1 WHEREFORE, the petitioner respectfully requests this Honorable
 2 Court to (1) order all law enforcement agencies to expunge all
 3 records of petitioner related to this incident, and (2) to
 4 order the Clerk of the Court to expunge all records concerning
 5 the petitioner regarding this incident.

6
 7 Petitioner (Signature)

8
 9 Petitioner's Street Address

10
 11 City, State, Zip Code

12
 13 Petitioner's Telephone Number

14 Pursuant to the penalties of perjury under the Code of Civil
 15 Procedure, 735 ILCS 5/1-109, I hereby certify that the
 16 statements in this petition are true and correct, or on
 17 information and belief I believe the same to be true.

18
 19 Petitioner (Signature)

20 (3) The chief judge of the circuit in which an arrest was
 21 made or a charge was brought or any judge of that circuit
 22 designated by the chief judge may, upon verified petition of a

1 person who is the subject of an arrest or a juvenile court
2 proceeding under subsection ~~(1) or~~ (2) or (2.5) of this
3 Section, order the law enforcement records or official court
4 file, or both, to be expunged from the official records of the
5 arresting authority, the clerk of the circuit court and the
6 Department of State Police. The person whose records are to be
7 expunged shall petition the court using the appropriate form
8 containing his or her current address and shall promptly notify
9 the clerk of the circuit court of any change of address. Notice
10 of the petition shall be served upon the State's Attorney or
11 prosecutor charged with the duty of prosecuting the offense,
12 the Department of State Police, and the arresting agency or
13 agencies by the clerk of the circuit court. If an objection is
14 filed within 45 days of the notice of the petition, the clerk
15 of the circuit court shall set a date for hearing after the 45
16 day objection period. At the hearing the court shall hear
17 evidence on whether the expungement should or should not be
18 granted. Unless the State's Attorney or prosecutor, the
19 Department of State Police, or an arresting agency objects to
20 the expungement within 45 days of the notice, the court may
21 enter an order granting expungement. The person whose records
22 are to be expunged shall pay the clerk of the circuit court a
23 fee equivalent to the cost associated with expungement of
24 records by the clerk and the Department of State Police. The
25 clerk shall forward a certified copy of the order to the
26 Department of State Police, the appropriate portion of the fee

1 to the Department of State Police for processing, and deliver a
2 certified copy of the order to the arresting agency.

3 (3.1) The Notice of Expungement shall be in substantially
4 the following form:

5 IN THE CIRCUIT COURT OF, ILLINOIS
6 JUDICIAL CIRCUIT

7 IN THE INTEREST OF) NO.
8)
9)
10)
11 (Name of Petitioner)

12 NOTICE

13 TO: State's Attorney

14 TO: Arresting Agency

15

16

17

18

19

20

21 TO: Illinois State Police

22

23

24

1
2

ATTENTION: Expungement

3 You are hereby notified that on, at, in courtroom
4 ..., located at ..., before the Honorable ..., Judge, or any
5 judge sitting in his/her stead, I shall then and there present
6 a Petition to Expunge Juvenile records in the above-entitled
7 matter, at which time and place you may appear.

8
9

Petitioner's Signature

10
11

Petitioner's Street Address

12
13

City, State, Zip Code

14
15

Petitioner's Telephone Number

16 PROOF OF SERVICE

17 On the day of, 20..., I on oath state that I
18 served this notice and true and correct copies of the
19 above-checked documents by:

20 (Check One:)

21 delivering copies personally to each entity to whom they are
22 directed;

23 or

24 by mailing copies to each entity to whom they are directed by
25 depositing the same in the U.S. Mail, proper postage fully
26 prepaid, before the hour of 5:00 p.m., at the United States

1 Postal Depository located at
2
3

4 Signature
5 Clerk of the Circuit Court or Deputy Clerk
6 Printed Name of Delinquent Minor/Petitioner:
7 Address:
8 Telephone Number:

9 (3.2) The Order of Expungement shall be in substantially
10 the following form:

11 IN THE CIRCUIT COURT OF, ILLINOIS
12 JUDICIAL CIRCUIT

13 IN THE INTEREST OF) NO.
14)
15)
16)
17 (Name of Petitioner)

18 DOB

19 Arresting Agency/Agencies

20 ORDER OF EXPUNGEMENT
21 (705 ILCS 405/5-915 (SUBSECTION 3))

22 This matter having been heard on the petitioner's motion and
23 the court being fully advised in the premises does find that
24 the petitioner is indigent or has presented reasonable cause to

1 waive all costs in this matter, IT IS HEREBY ORDERED that:

2 () 1. Clerk of Court and Department of State Police costs
3 are hereby waived in this matter.

4 () 2. The Illinois State Police Bureau of Identification
5 and the following law enforcement agencies expunge all records
6 of petitioner relating to an arrest dated for the
7 offense of

8 Law Enforcement Agencies:
9
10

11 () 3. IT IS FURTHER ORDERED that the Clerk of the Circuit
12 Court expunge all records regarding the above-captioned case.

13 ENTER:

14
15 JUDGE
16 DATED:
17 Name:
18 Attorney for:
19 Address: City/State/Zip:
20 Attorney Number:

21 (3.3) The Notice of Objection shall be in substantially the
22 following form:

23 IN THE CIRCUIT COURT OF, ILLINOIS
24 JUDICIAL CIRCUIT

25 IN THE INTEREST OF) NO.

1)
 2)
 3)
 4 (Name of Petitioner)

NOTICE OF OBJECTION

6 TO:(Attorney, Public Defender, Minor)
 7
 8

9 TO:(Illinois State Police)
 10
 11

12 TO:(Clerk of the Court)
 13
 14

15 TO:(Judge)
 16
 17

18 TO:(Arresting Agency/Agencies)
 19
 20

21 ATTENTION: You are hereby notified that an objection has been
 22 filed by the following entity regarding the above-named minor's
 23 petition for expungement of juvenile records:

- 24 () State's Attorney's Office;
- 25 () Prosecutor (other than State's Attorney's Office) charged

1 with the duty of prosecuting the offense sought to be expunged;
2 () Department of Illinois State Police; or
3 () Arresting Agency or Agencies.

4 The agency checked above respectfully requests that this case
5 be continued and set for hearing on whether the expungement
6 should or should not be granted.

7 DATED:

8 Name:

9 Attorney For:

10 Address:

11 City/State/Zip:

12 Telephone:

13 Attorney No.:

14 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

15 This matter has been set for hearing on the foregoing
16 objection, on in room, located at, before the
17 Honorable, Judge, or any judge sitting in his/her stead.

18 (Only one hearing shall be set, regardless of the number of
19 Notices of Objection received on the same case).

20 A copy of this completed Notice of Objection containing the
21 court date, time, and location, has been sent via regular U.S.
22 Mail to the following entities. (If more than one Notice of
23 Objection is received on the same case, each one must be
24 completed with the court date, time and location and mailed to
25 the following entities):

26 () Attorney, Public Defender or Minor;

- 1 () State's Attorney's Office;
- 2 () Prosecutor (other than State's Attorney's Office) charged
- 3 with the duty of prosecuting the offense sought to be expunged;
- 4 () Department of Illinois State Police; and
- 5 () Arresting agency or agencies.

6 Date:

7 Initials of Clerk completing this section:

8 (4) Upon entry of an order expunging records or files, the

9 offense, which the records or files concern shall be treated as

10 if it never occurred. Law enforcement officers and other public

11 offices and agencies shall properly reply on inquiry that no

12 record or file exists with respect to the person.

13 (5) Records which have not been expunged are sealed, and

14 may be obtained only under the provisions of Sections 5-901,

15 5-905 and 5-915.

16 (6) Nothing in this Section shall be construed to prohibit

17 the maintenance of information relating to an offense after

18 records or files concerning the offense have been expunged if

19 the information is kept in a manner that does not enable

20 identification of the offender. This information may only be

21 used for statistical and bona fide research purposes.

22 (7)(a) The State Appellate Defender shall establish,

23 maintain, and carry out, by December 31, 2004, a juvenile

24 expungement program to provide information and assistance to

25 minors eligible to have their juvenile records expunged.

26 (b) The State Appellate Defender shall develop brochures,

1 pamphlets, and other materials in printed form and through the
2 agency's World Wide Web site. The pamphlets and other materials
3 shall include at a minimum the following information:

4 (i) An explanation of the State's juvenile expungement
5 process;

6 (ii) The circumstances under which juvenile
7 expungement may occur;

8 (iii) The juvenile offenses that may be expunged;

9 (iv) The steps necessary to initiate and complete the
10 juvenile expungement process; and

11 (v) Directions on how to contact the State Appellate
12 Defender.

13 (c) The State Appellate Defender shall establish and
14 maintain a statewide toll-free telephone number that a person
15 may use to receive information or assistance concerning the
16 expungement of juvenile records. The State Appellate Defender
17 shall advertise the toll-free telephone number statewide. The
18 State Appellate Defender shall develop an expungement
19 information packet that may be sent to eligible persons seeking
20 expungement of their juvenile records, which may include, but
21 is not limited to, a pre-printed expungement petition with
22 instructions on how to complete the petition and a pamphlet
23 containing information that would assist individuals through
24 the juvenile expungement process.

25 (d) The State Appellate Defender shall compile a statewide
26 list of volunteer attorneys willing to assist eligible

1 individuals through the juvenile expungement process.

2 (e) This Section shall be implemented from funds
3 appropriated by the General Assembly to the State Appellate
4 Defender for this purpose. The State Appellate Defender shall
5 employ the necessary staff and adopt the necessary rules for
6 implementation of this Section.

7 (8) (a) Except with respect to law enforcement agencies, the
8 Department of Corrections, State's Attorneys, or other
9 prosecutors, an expunged juvenile record may not be considered
10 by any private or public entity in employment matters,
11 certification, licensing, revocation of certification or
12 licensure, or registration. Applications for employment must
13 contain specific language that states that the applicant is not
14 obligated to disclose expunged juvenile records of conviction
15 or arrest. Employers may not ask if an applicant has had a
16 juvenile record expunged. Effective January 1, 2005, the
17 Department of Labor shall develop a link on the Department's
18 website to inform employers that employers may not ask if an
19 applicant had a juvenile record expunged and that application
20 for employment must contain specific language that states that
21 the applicant is not obligated to disclose expunged juvenile
22 records of arrest or conviction.

23 (b) A person whose juvenile records have been expunged is
24 not entitled to remission of any fines, costs, or other money
25 paid as a consequence of expungement. This amendatory Act of
26 the 93rd General Assembly does not affect the right of the

1 victim of a crime to prosecute or defend a civil action for
2 damages.

3 (c) The expungement of juvenile records under subsections
4 (1) and (1.5) shall be funded by the additional fine imposed
5 under Section 5-9-1.17 of the Unified Code of Corrections and
6 additional appropriations made by the General Assembly for such
7 purpose.

8 (Source: P.A. 94-696, eff. 6-1-06; 95-861, eff. 1-1-09.)

9 Section 15. The Unified Code of Corrections is amended by
10 adding Section 5-9-1.17 as follows:

11 (730 ILCS 5/5-9-1.17 new)

12 Sec. 5-9-1.17. Additional fine to fund expungement of
13 juvenile records.

14 (a) There shall be added to every penalty imposed in
15 sentencing for a criminal offense an additional fine of \$50 to
16 be imposed upon a plea of guilty or finding of guilty resulting
17 in a judgment of conviction.

18 (b) Forty dollars of each such additional fine shall be
19 remitted to the State Treasurer for deposit into the State
20 Police Services Fund to be used to implement the expungement of
21 juvenile records as provided in subsections (1) and (1.5) of
22 Section 5-915 of the Juvenile Court Act of 1987 and \$10 shall
23 be retained by the Circuit Clerk for administrative costs
24 associated with the expungement of juvenile records and shall

1 be deposited into the Circuit Court Clerk Operation and
2 Administrative Fund.".