



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2841

Introduced 2/22/2011, by

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5	from Ch. 38, par. 206-5
705 ILCS 405/5-301	
705 ILCS 405/5-305	
705 ILCS 405/5-915	
730 ILCS 5/5-9-1.17	
705 ILCS 405/5-622 rep.	
775 ILCS 5/2-103	from Ch. 68, par. 2-103

Amends the Criminal Identification Act. Eliminates the provision that policing bodies must submit fingerprint and descriptions of minors 10 and older who are arrested on charges that are classified as felonies and Class A and Class B misdemeanors. Provides that such information shall be submitted if the person is over the age of 18. Amends the Juvenile Court Act of 1987. Provides for the automatic expungement of law enforcement records of a minor who has been arrested if: (1) the minor had been arrested but no delinquency petition was filed with the clerk of the circuit court; (2) the minor has attained the age of 18; and (3) since the date of the minor's most recent arrest, at least 2 years have elapsed without an additional arrest. Provides for expungement of minor's law enforcement records in other cases. Repeals provision relating to expungement review by the Court. Amends the Unified Code of Corrections. Increases from \$10 to \$15 the additional fine imposed for expungement of juvenile records. Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for an employer to use records expunged under the Juvenile Courts Act of 1987 as a basis to make employment decisions.

LRB097 08029 RLC 48151 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. All policing bodies of this State
8 shall furnish to the Department, daily, in the form and detail
9 the Department requires, fingerprints and descriptions of all
10 persons over the age of 18 who are arrested on charges of
11 violating any penal statute of this State for offenses that are
12 classified as felonies and Class A or B misdemeanors ~~and of all~~
13 ~~minors of the age of 10 and over who have been arrested for an~~
14 ~~offense which would be a felony if committed by an adult, and~~
15 ~~may forward such fingerprints and descriptions for minors~~
16 ~~arrested for Class A or B misdemeanors.~~ Moving or nonmoving
17 traffic violations under the Illinois Vehicle Code shall not be
18 reported except for violations of Chapter 4, Section 11-204.1,
19 or Section 11-501 of that Code. In addition, conservation
20 offenses, as defined in the Supreme Court Rule 501(c), that are
21 classified as Class B misdemeanors shall not be reported. Those
22 law enforcement records maintained by the Department for minors
23 arrested for an offense prior to their 18th ~~17th~~ birthday, ~~or~~

1 ~~minors arrested for a non-felony offense, if committed by an~~
2 ~~adult, prior to their 18th birthday,~~ shall not be forwarded to
3 the Federal Bureau of Investigation unless those records relate
4 to an arrest in which a minor was charged as an adult under any
5 of the transfer provisions of the Juvenile Court Act of 1987.

6 (Source: P.A. 95-955, eff. 1-1-09; 96-328, eff. 8-11-09;
7 96-409, eff. 1-1-10; 96-707, eff. 1-1-10; 96-1000, eff.
8 7-2-10.)

9 Section 10. The Juvenile Court Act of 1987 is amended by
10 changing Sections 5-301, 5-305, and 5-915 as follows:

11 (705 ILCS 405/5-301)

12 Sec. 5-301. Station adjustments. A minor arrested for any
13 offense or a violation of a condition of previous station
14 adjustment may receive a station adjustment for that arrest as
15 provided herein. In deciding whether to impose a station
16 adjustment, either informal or formal, a juvenile police
17 officer shall consider the following factors:

18 (A) The seriousness of the alleged offense.

19 (B) The prior history of delinquency of the minor.

20 (C) The age of the minor.

21 (D) The culpability of the minor in committing the alleged
22 offense.

23 (E) Whether the offense was committed in an aggressive or
24 premeditated manner.

1 (F) Whether the minor used or possessed a deadly weapon
2 when committing the alleged offenses.

3 (1) Informal station adjustment.

4 (a) An informal station adjustment is defined as a
5 procedure when a juvenile police officer determines that
6 there is probable cause to believe that the minor has
7 committed an offense.

8 (b) A minor shall receive no more than 3 informal
9 station adjustments statewide for a misdemeanor offense
10 within 3 years without prior approval from the State's
11 Attorney's Office.

12 (c) A minor shall receive no more than 3 informal
13 station adjustments statewide for a felony offense within 3
14 years without prior approval from the State's Attorney's
15 Office.

16 (d) A minor shall receive a combined total of no more
17 than 5 informal station adjustments statewide during his or
18 her minority.

19 (e) The juvenile police officer may make reasonable
20 conditions of an informal station adjustment which may
21 include but are not limited to:

22 (i) Curfew.

23 (ii) Conditions restricting entry into designated
24 geographical areas.

25 (iii) No contact with specified persons.

26 (iv) School attendance.

1 (v) Performing up to 25 hours of community service
2 work.

3 (vi) Community mediation.

4 (vii) Teen court or a peer court.

5 (viii) Restitution limited to 90 days.

6 (f) If the minor refuses or fails to abide by the
7 conditions of an informal station adjustment, the juvenile
8 police officer may impose a formal station adjustment or
9 refer the matter to the State's Attorney's Office.

10 (g) An informal station adjustment does not constitute
11 an adjudication of delinquency or a criminal conviction.
12 Beginning January 1, 2000, a record shall be maintained
13 with the Department of State Police for informal station
14 adjustments for offenses that would be a felony if
15 committed by an adult, and may be maintained if the offense
16 would be a misdemeanor.

17 (2) Formal station adjustment.

18 (a) A formal station adjustment is defined as a
19 procedure when a juvenile police officer determines that
20 there is probable cause to believe the minor has committed
21 an offense and an admission by the minor of involvement in
22 the offense.

23 (b) The minor and parent, guardian, or legal custodian
24 must agree in writing to the formal station adjustment and
25 must be advised of the consequences of violation of any
26 term of the agreement.

1 (c) The minor and parent, guardian or legal custodian
2 shall be provided a copy of the signed agreement of the
3 formal station adjustment. The agreement shall include:

4 (i) The offense which formed the basis of the
5 formal station adjustment.

6 (ii) An acknowledgment that the terms of the formal
7 station adjustment and the consequences for violation
8 have been explained.

9 (iii) An acknowledgment that the formal station
10 adjustments record may be expunged under Section 5-915
11 of this Act.

12 (iv) An acknowledgement that the minor understands
13 that his or her admission of involvement in the offense
14 may be admitted into evidence in future court hearings.

15 (v) A statement that all parties understand the
16 terms and conditions of formal station adjustment and
17 agree to the formal station adjustment process.

18 (d) Conditions of the formal station adjustment may
19 include, but are not be limited to:

20 (i) The time shall not exceed 120 days.

21 (ii) The minor shall not violate any laws.

22 (iii) The juvenile police officer may require the
23 minor to comply with additional conditions for the
24 formal station adjustment which may include but are not
25 limited to:

26 (a) Attending school.

1 (b) Abiding by a set curfew.

2 (c) Payment of restitution.

3 (d) Refraining from possessing a firearm or
4 other weapon.

5 (e) Reporting to a police officer at
6 designated times and places, including reporting
7 and verification that the minor is at home at
8 designated hours.

9 (f) Performing up to 25 hours of community
10 service work.

11 (g) Refraining from entering designated
12 geographical areas.

13 (h) Participating in community mediation.

14 (i) Participating in teen court or peer court.

15 (j) Refraining from contact with specified
16 persons.

17 (e) A formal station adjustment does not constitute an
18 adjudication of delinquency or a criminal conviction.
19 Beginning January 1, 2000, a record shall be maintained
20 with the Department of State Police for formal station
21 adjustments.

22 (f) A minor or the minor's parent, guardian, or legal
23 custodian, or both the minor and the minor's parent,
24 guardian, or legal custodian, may refuse a formal station
25 adjustment and have the matter referred for court action or
26 other appropriate action.

1 (g) A minor or the minor's parent, guardian, or legal
2 custodian, or both the minor and the minor's parent,
3 guardian, or legal custodian, may within 30 days of the
4 commencement of the formal station adjustment revoke their
5 consent and have the matter referred for court action or
6 other appropriate action. This revocation must be in
7 writing and personally served upon the police officer or
8 his or her supervisor.

9 (h) The admission of the minor as to involvement in the
10 offense shall be admissible at further court hearings as
11 long as the statement would be admissible under the rules
12 of evidence.

13 (i) If the minor violates any term or condition of the
14 formal station adjustment the juvenile police officer
15 shall provide written notice of violation to the minor and
16 the minor's parent, guardian, or legal custodian. After
17 consultation with the minor and the minor's parent,
18 guardian, or legal custodian, the juvenile police officer
19 may take any of the following steps upon violation:

20 (i) Warn the minor of consequences of continued
21 violations and continue the formal station adjustment.

22 (ii) Extend the period of the formal station
23 adjustment up to a total of 180 days.

24 (iii) Extend the hours of community service work up
25 to a total of 40 hours.

26 (iv) Terminate the formal station adjustment

1 unsatisfactorily and take no other action.

2 (v) Terminate the formal station adjustment
3 unsatisfactorily and refer the matter to the juvenile
4 court.

5 (j) A minor shall receive no more than 2 formal station
6 adjustments statewide for a felony offense without the
7 State's Attorney's approval within a 3 year period.

8 (k) A minor shall receive no more than 3 formal station
9 adjustments statewide for a misdemeanor offense without
10 the State's Attorney's approval within a 3 year period.

11 (l) The total for formal station adjustments statewide
12 within the period of minority may not exceed 4 without the
13 State's Attorney's approval.

14 (m) If the minor is arrested in a jurisdiction where
15 the minor does not reside, the formal station adjustment
16 may be transferred to the jurisdiction where the minor does
17 reside upon written agreement of that jurisdiction to
18 monitor the formal station adjustment.

19 (3) ~~(Blank). Beginning January 1, 2000, the juvenile police~~
20 ~~officer making a station adjustment shall assure that~~
21 ~~information about any offense which would constitute a felony~~
22 ~~if committed by an adult and may assure that information about~~
23 ~~a misdemeanor is transmitted to the Department of State Police.~~

24 (4) The total number of station adjustments, both formal
25 and informal, shall not exceed 9 without the State's Attorney's
26 approval for any minor arrested anywhere in the State.

1 (Source: P.A. 90-590, eff. 1-1-99.)

2 (705 ILCS 405/5-305)

3 Sec. 5-305. Probation adjustment.

4 (1) The court may authorize the probation officer to confer
5 in a preliminary conference with a minor who is alleged to have
6 committed an offense, his or her parent, guardian or legal
7 custodian, the victim, the juvenile police officer, the State's
8 Attorney, and other interested persons concerning the
9 advisability of filing a petition under Section 5-520, with a
10 view to adjusting suitable cases without the filing of a
11 petition as provided for in this Article, the probation officer
12 should schedule a conference promptly except when the State's
13 Attorney insists on court action or when the minor has
14 indicated that he or she will demand a judicial hearing and
15 will not comply with a probation adjustment.

16 (1-b) In any case of a minor who is in custody, the holding
17 of a probation adjustment conference does not operate to
18 prolong temporary custody beyond the period permitted by
19 Section 5-415.

20 (2) This Section does not authorize any probation officer
21 to compel any person to appear at any conference, produce any
22 papers, or visit any place.

23 (3) No statement made during a preliminary conference in
24 regard to the offense that is the subject of the conference may
25 be admitted into evidence at an adjudicatory hearing or at any

1 proceeding against the minor under the criminal laws of this
2 State prior to his or her conviction under those laws.

3 (4) When a probation adjustment is appropriate, the
4 probation officer shall promptly formulate a written,
5 non-judicial adjustment plan following the initial conference.

6 (5) Non-judicial probation adjustment plans include but
7 are not limited to the following:

8 (a) up to 6 months informal supervision within the
9 family;

10 (b) up to 12 months informal supervision with a
11 probation officer involved which may include any
12 conditions of probation provided in Section 5-715;

13 (c) up to 6 months informal supervision with release to
14 a person other than a parent;

15 (d) referral to special educational, counseling, or
16 other rehabilitative social or educational programs;

17 (e) referral to residential treatment programs;

18 (f) participation in a public or community service
19 program or activity; and

20 (g) any other appropriate action with the consent of
21 the minor and a parent.

22 (6) The factors to be considered by the probation officer
23 in formulating a non-judicial probation adjustment plan shall
24 be the same as those limited in subsection (4) of Section
25 5-405.

26 ~~(7) Beginning January 1, 2000, the probation officer who~~

1 ~~imposes a probation adjustment plan shall assure that~~
2 ~~information about an offense which would constitute a felony if~~
3 ~~committed by an adult, and may assure that information about a~~
4 ~~misdemeanor offense, is transmitted to the Department of State~~
5 ~~Police.~~

6 (Source: P.A. 92-329, eff. 8-9-01.)

7 (705 ILCS 405/5-915)

8 Sec. 5-915. Expungement of juvenile law enforcement and
9 court records.

10 (0.05) For purposes of this Section ~~and Section 5-622:~~

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

17 "Law enforcement record" includes but is not limited to
18 records of arrest, station adjustments, fingerprints,
19 probation adjustments, the issuance of a notice to appear,
20 or any other records maintained by a law enforcement agency
21 relating to a minor suspected of committing an offense.

22 (1) (a) Any person may petition the court, at any time, to
23 expunge all law enforcement and juvenile court records relating
24 to any incidents occurring before the person's 18th birthday.
25 The court may order the expungement of law enforcement and

1 juvenile court records if it finds that expungement would be
2 consistent with the public welfare after considering the
3 following factors:

4 (i) The type of offense;

5 (ii) The person's age, history of employment, and
6 history of criminal activity;

7 (iii) Adverse consequences that the person may suffer
8 if the law enforcement and juvenile court records are not
9 expunged; and

10 (iv) Whether retention of the records is required for
11 purposes of protection of the public safety.

12 (b) Notwithstanding paragraph (a) of this subsection (1),
13 the court shall presume that expungement would be consistent
14 with the public welfare if:

15 (i) The minor was arrested and no petition for
16 delinquency was filed with the clerk of the circuit court;

17 or

18 (ii) The minor was charged with an offense and was
19 found not delinquent of that offense.

20 ~~(1) Whenever any person has attained the age of 17 or~~
21 ~~whenever all juvenile court proceedings relating to that person~~
22 ~~have been terminated, whichever is later, the person may~~
23 ~~petition the court to expunge law enforcement records relating~~
24 ~~to incidents occurring before his or her 17th birthday or his~~
25 ~~or her juvenile court records, or both, but only in the~~
26 ~~following circumstances:~~

1 ~~(a) the minor was arrested and no petition for~~
2 ~~delinquency was filed with the clerk of the circuit court;~~

3 ~~or~~

4 ~~(b) the minor was charged with an offense and was found~~
5 ~~not delinquent of that offense; or~~

6 ~~(c) the minor was placed under supervision pursuant to~~
7 ~~Section 5-615, and the order of supervision has since been~~
8 ~~successfully terminated; or~~

9 ~~(d) the minor was adjudicated for an offense which~~
10 ~~would be a Class B misdemeanor, Class C misdemeanor, or a~~
11 ~~petty or business offense if committed by an adult.~~

12 (2) All policing bodies of this State maintaining law
13 enforcement records pertaining to a minor who has been arrested
14 shall automatically expunge those records if:

15 (a) The minor has been arrested but no petition for
16 delinquency was filed with the clerk of the circuit court;

17 (b) The minor has attained the age of 18; and

18 (c) Since the date of the minor's most recent arrest, at
19 least 2 years have elapsed without an additional arrest. Any
20 ~~person may petition the court to expunge all law enforcement~~
21 ~~records relating to any incidents occurring before his or her~~
22 ~~17th birthday which did not result in proceedings in criminal~~
23 ~~court and all juvenile court records with respect to any~~
24 ~~adjudications except those based upon first degree murder and~~
25 ~~sex offenses which would be felonies if committed by an adult,~~
26 ~~if the person for whom expungement is sought has had no~~

1 ~~convictions for any crime since his or her 17th birthday and:~~

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

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

7 ~~whichever is later of (a) or (b). Nothing in this Section 5-915~~
8 ~~precludes a minor from obtaining expungement under Section~~
9 ~~5-622.~~

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

1 parents or guardians with an expungement information packet,
2 written in plain language, including a petition to expunge
3 juvenile records obtained from the clerk of the circuit court,
4 a sample completed petition, information about the adverse
5 consequences of having a law enforcement record, and
6 expungement instructions. These instructions shall include
7 information informing the minor that (i) the minor may apply to
8 have petition fees waived if he or she files a petition
9 pursuant to subsection (1), (ii) the minor may file the
10 petition on his or her own or with the assistance of an
11 attorney, (iii) once the arrest is expunged pursuant to either
12 subsection (1) or subsection (2), it shall be treated as if it
13 never occurred, and (iv) once the minor obtains an expungement
14 pursuant to either subsection (1) or subsection (2), the minor
15 shall not be required to disclose that he or she had a law
16 enforcement record.

17 (2.6) If a minor is charged with an offense, then upon
18 completion of the minor's sentence or upon disposition of the
19 charge, whichever is later ~~and is found not delinquent of that~~
20 ~~offense; or if a minor is placed under supervision under~~
21 ~~Section 5-615, and the order of supervision is successfully~~
22 ~~terminated; or if a minor is adjudicated for an offense that~~
23 ~~would be a Class B misdemeanor, a Class C misdemeanor, or a~~
24 ~~business or petty offense if committed by an adult; or if a~~
25 ~~minor has incidents occurring before his or her 17th birthday~~
26 ~~that have not resulted in proceedings in criminal court, or~~

1 ~~resulted in proceedings in juvenile court, and the~~
2 ~~adjudications were not based upon first degree murder or sex~~
3 ~~offenses that would be felonies if committed by an adult; then~~
4 ~~at the time of sentencing or dismissal of the case, the judge~~
5 shall inform the ~~delinquent~~ minor of his or her right to
6 petition for expungement as provided by law, and the clerk of
7 the circuit court shall provide an expungement information
8 packet to the ~~delinquent~~ minor, written in plain language,
9 including a petition for expungement, a sample of a completed
10 petition, information about the adverse consequences of having
11 a law enforcement and juvenile court record, and expungement
12 instructions. These instructions ~~that~~ shall include
13 information informing the minor that (i) the minor may apply to
14 have petition fees waived, (ii) the minor may file the petition
15 on his or her own or with the assistance of an attorney, (iii)
16 once the case is expunged, it shall be treated as if it never
17 occurred, and (iv) once the minor obtains an expungement, the
18 court shall provide a certified copy of the expungement order,
19 and the minor shall not be required to disclose that he or she
20 had a juvenile or law enforcement record ~~(i) once the case is~~
21 ~~expunged, it shall be treated as if it never occurred, (ii) he~~
22 ~~or she may apply to have petition fees waived, (iii) once he or~~
23 ~~she obtains an expungement, he or she may not be required to~~
24 ~~disclose that he or she had a juvenile record, and (iv) he or~~
25 ~~she may file the petition on his or her own or with the~~
26 ~~assistance of an attorney. The failure of the judge to inform~~

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

6 (2.7) For counties with a population over 3,000,000, the
 7 clerk of the circuit court shall send a "Notification of a
 8 Possible Right to Expungement" post card to the minor at the
 9 address last received by the clerk of the circuit court on the
 10 date that the minor attains the age of 17 based on the
 11 birthdate provided to the court by the minor or his or her
 12 guardian in cases under paragraph (a) ~~paragraphs (b), (c), and~~
 13 ~~(d)~~ of subsection (1), ~~and when the minor attains the age of 21~~
 14 ~~based on the birthdate provided to the court by the minor or~~
 15 ~~his or her guardian in cases under subsection (2).~~

16 (2.8) The petition for expungement for subsection (1) may
 17 include multiple offenses on the same petition and shall be
 18 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)~~

~~PETITION TO EXPUNGE JUVENILE RECORDS~~

~~(705 ILCS 405/5-915 (SUBSECTION 1))~~

~~(Please prepare a separate petition for each offense)~~

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

~~(Check One:)~~

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

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

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

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

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

~~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) 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 1 ~~2~~))

16 (If this is a petition for multiple offenses, please attach an
17 Appendix listing each offense ~~Please prepare a separate~~
18 ~~petition for each offense)~~

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

1 The incident for which the Petitioner seeks expungement
 2 occurred before the Petitioner's 18th ~~17th~~ birthday, ~~and did~~
 3 ~~not result in proceedings in criminal court and the Petitioner~~
 4 ~~has not had any convictions for any crime since his/her 17th~~
 5 ~~birthday; and~~

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

12 Expungement is consistent with the public welfare.

13 Petitioner was arrested on by the Police
 14 Department for the offense of, ~~and:~~

15 ~~(Check whichever one occurred the latest:)~~

16 ~~() a. The Petitioner has attained the age of 21 years, his/her~~
 17 ~~birthday being; or~~

18 ~~() b. 5 years have elapsed since all juvenile court~~
 19 ~~proceedings relating to the Petitioner have been terminated; or~~
 20 ~~the Petitioner's commitment to the Department of Juvenile~~
 21 ~~Justice pursuant to the expungement of juvenile law enforcement~~
 22 ~~and court records provisions of the Juvenile Court Act of 1987~~
 23 ~~has been terminated.~~ Petitioner ...has ...has not been arrested
 24 on charges in this or any other county other than the charge

1 listed above. If Petitioner ~~petitioner~~ has been arrested on
2 additional charges, please list the charges below:

3 Charge(s):

4 Arresting Agency or Agencies:

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

6 WHEREFORE, the Petitioner ~~petitioner~~ respectfully requests
7 this Honorable Court ~~to~~ (1) to order all law enforcement
8 agencies to expunge all records of Petitioner ~~petitioner~~
9 related to this incident, and (2) to order the Clerk of the
10 Court to expunge all records concerning the Petitioner
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
22 statements in this petition are true and correct, or on

1 information and belief I believe the same to be true.

2

3 Petitioner (Signature)

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

1 enter an order granting expungement. The person whose records
 2 are to be expunged shall pay the clerk of the circuit court a
 3 fee equivalent to the cost associated with expungement of
 4 records by the clerk ~~and the Department of State Police~~. The
 5 clerk shall ~~forward a certified copy of the order to the~~
 6 ~~Department of State Police, the appropriate portion of the fee~~
 7 ~~to the Department of State Police for processing, and~~ deliver a
 8 certified copy of the order to the arresting agency.

9 (3.1) The Notice 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 NOTICE

19 TO: State's Attorney
 20 TO: Arresting Agency

21
 22
 23

1
2

3 ~~TO: Illinois State Police~~

4
5

6
7

8 ATTENTION: Expungement

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

14
15 Petitioner's Signature

16
17 Petitioner's Street Address

18
19 City, State, Zip Code

20
21 Petitioner's Telephone Number

22 PROOF OF SERVICE

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

26 (Check One:)

1 delivering copies personally to each entity to whom they are
2 directed;

3 or

4 by mailing copies to each entity to whom they are directed by
5 depositing the same in the U.S. Mail, proper postage fully
6 prepaid, before the hour of 5:00 p.m., at the United States
7 Postal Depository located at

8
9

10 Signature

Clerk of the Circuit Court or Deputy Clerk

11 Printed Name of Delinquent Minor/Petitioner:

12 Address:

13 Telephone Number:

14 (3.2) The Order of Expungement shall be in substantially
15 the following form:

16 IN THE CIRCUIT COURT OF, ILLINOIS

17 JUDICIAL CIRCUIT

18
19 IN THE INTEREST OF) NO.

20)

21)

22)

23 (Name of Petitioner)

24 DOB

1 Arresting Agency/Agencies

2 ORDER OF EXPUNGEMENT

3 (705 ILCS 405/5-915 (SUBSECTION 3))

4 This matter having been heard on the petitioner's motion and
5 the court being fully advised in the premises does find that
6 the petitioner is indigent or has presented reasonable cause to
7 waive all costs in this matter, IT IS HEREBY ORDERED that:

8 () 1. Clerk of Court ~~and Department of State Police~~ costs
9 are hereby waived in this matter.

10 () 2. The ~~Illinois State Police Bureau of Identification~~
11 ~~and the~~ following law enforcement agencies expunge all records
12 of petitioner relating to an arrest dated for the
13 offense of

14 Law Enforcement Agencies:

15

16

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

19 ENTER:

20
21 JUDGE

22 DATED:

23 Name:

24 Attorney for:

25 Address: City/State/Zip:

26 Attorney Number:

1 (3.3) The Notice of Objection shall be in substantially the
2 following form:

3 IN THE CIRCUIT COURT OF, ILLINOIS
4 JUDICIAL CIRCUIT

5 IN THE INTEREST OF) NO.
6)
7)
8)
9 (Name of Petitioner)

10 NOTICE OF OBJECTION

11 TO: (Attorney, Public Defender, Minor)

12
13

14 ~~TO: (Illinois State Police)~~

15
16

17 TO: (Clerk of the Court)

18
19

20 TO: (Judge)

21
22

23 TO: (Arresting Agency/Agencies)

24

1
2

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

() State's Attorney's Office;

() Prosecutor (other than State's Attorney's Office) charged
with the duty of prosecuting the offense sought to be
expunged;

~~() Department of Illinois State Police; or~~

() Arresting Agency or Agencies.

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

DATED:

Name:

Attorney For:

Address:

City/State/Zip:

Telephone:

Attorney No.:

FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

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

1 A copy of this completed Notice of Objection containing the
2 court date, time, and location, has been sent via regular U.S.
3 Mail to the following entities. (If more than one Notice of
4 Objection is received on the same case, each one must be
5 completed with the court date, time and location and mailed to
6 the following entities):

7 () Attorney, Public Defender or Minor;

8 () State's Attorney's Office;

9 () Prosecutor (other than State's Attorney's Office) charged
10 with the duty of prosecuting the offense sought to be
11 expunged;

12 ~~() Department of Illinois State Police; and~~

13 () Arresting agency or agencies.

14 Date:

15 Initials of Clerk completing this section:

16 (4) Upon entry of an order expunging records or files, the
17 offense, which the records or files concern shall be treated as
18 if it never occurred. Law enforcement officers and other public
19 offices and agencies shall properly reply on inquiry that no
20 record or file exists with respect to the person. The person
21 whose records are expunged shall not have to disclose the fact
22 of the records or any matter relating thereto on an application
23 for employment, credit, or other type of application.

24 (5) Records which have not been expunged are sealed, and
25 may be obtained only under the provisions of Sections 5-901,
26 5-905 and 5-915.

1 (6) Nothing in this Section shall be construed to prohibit
2 the maintenance of information relating to an offense after
3 records or files concerning the offense have been expunged if
4 the information is kept in a manner that does not enable
5 identification of the offender. This information may only be
6 used for statistical and bona fide research purposes.

7 (7) (a) The State Appellate Defender shall establish,
8 maintain, and carry out, by December 31, 2004, a juvenile
9 expungement program to provide information and assistance to
10 minors eligible to have their juvenile records expunged.

11 (b) The State Appellate Defender shall develop brochures,
12 pamphlets, and other materials in printed form and through the
13 agency's World Wide Web site. The pamphlets and other materials
14 shall include at a minimum the following information:

15 (i) An explanation of the State's juvenile expungement
16 process;

17 (ii) The circumstances under which juvenile
18 expungement may occur;

19 ~~(iii) The juvenile offenses that may be expunged;~~

20 (iii) ~~(iv)~~ The steps necessary to initiate and complete
21 the juvenile expungement process; and

22 (iv) ~~(v)~~ Directions on how to contact the State
23 Appellate Defender.

24 (c) The State Appellate Defender shall establish and
25 maintain a statewide toll-free telephone number that a person
26 may use to receive information or assistance concerning the

1 expungement of juvenile records. The State Appellate Defender
2 shall advertise the toll-free telephone number statewide. The
3 State Appellate Defender shall develop an expungement
4 information packet that may be sent to eligible persons seeking
5 expungement of their juvenile records, which may include, but
6 is not limited to, a pre-printed expungement petition with
7 instructions on how to complete the petition and a pamphlet
8 containing information that would assist individuals through
9 the juvenile expungement process.

10 (d) The State Appellate Defender shall compile a statewide
11 list of volunteer attorneys willing to assist eligible
12 individuals through the juvenile expungement process.

13 (e) This Section shall be implemented from funds
14 appropriated by the General Assembly to the State Appellate
15 Defender for this purpose. The State Appellate Defender shall
16 employ the necessary staff and adopt the necessary rules for
17 implementation of this Section.

18 (8) (a) Except with respect to law enforcement agencies, the
19 Department of Corrections, State's Attorneys, or other
20 prosecutors, an expunged juvenile record may not be considered
21 by any private or public entity in employment matters,
22 certification, licensing, revocation of certification or
23 licensure, or registration. Applications for employment must
24 contain specific language that states that the applicant is not
25 obligated to disclose expunged juvenile records of conviction
26 or arrest. Employers may not ask if an applicant has had a

1 juvenile record expunged. Effective January 1, 2005, the
2 Department of Labor shall develop a link on the Department's
3 website to inform employers that employers may not ask if an
4 applicant had a juvenile record expunged and that application
5 for employment must contain specific language that states that
6 the applicant is not obligated to disclose expunged juvenile
7 records of arrest or conviction.

8 (b) A person whose juvenile records have been expunged is
9 not entitled to remission of any fines, costs, or other money
10 paid as a consequence of expungement. This amendatory Act of
11 the 93rd General Assembly does not affect the right of the
12 victim of a crime to prosecute or defend a civil action for
13 damages.

14 (c) The expungement of juvenile records under this Section
15 ~~5-622~~ shall be funded by the additional fine imposed under
16 Section 5-9-1.17 of the Unified Code of Corrections and
17 additional appropriations made by the General Assembly for such
18 purpose.

19 (Source: P.A. 95-861, eff. 1-1-09; 96-707, eff. 1-1-10.)

20 Section 15. The Unified Code of Corrections is amended by
21 changing Section 5-9-1.17 as follows:

22 (730 ILCS 5/5-9-1.17)

23 Sec. 5-9-1.17. Additional fine to fund expungement of
24 juvenile records.

1 (a) There shall be added to every penalty imposed in
2 sentencing for a criminal offense an additional fine of \$30 to
3 be imposed upon a plea of guilty or finding of guilty resulting
4 in a judgment of conviction.

5 (b) Fifteen ~~Ten~~ dollars of each such additional fine shall
6 be ~~remitted to the State Treasurer for deposit into the State~~
7 ~~Police Services Fund to be used to implement the expungement of~~
8 ~~juvenile records as provided in Section 5-622 of the Juvenile~~
9 ~~Court Act of 1987, \$10 shall~~ be paid to the State's Attorney's
10 Office that prosecuted the criminal offense, and \$15 ~~\$10~~ shall
11 be retained by the Circuit Clerk for administrative costs
12 associated with the expungement of juvenile records and shall
13 be deposited into the Circuit Court Clerk Operation and
14 Administrative Fund.

15 (Source: P.A. 96-707, eff. 1-1-10; 96-1000, eff. 7-2-10.)

16 (705 ILCS 405/5-622 rep.)

17 Section 20. The Juvenile Court Act of 1987 is amended by
18 repealing Section 5-622.

19 Section 25. The Illinois Human Rights Act is amended by
20 changing Section 2-103 as follows:

21 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

22 Sec. 2-103. Arrest Record.

23 (A) Unless otherwise authorized by law, it is a civil

1 rights violation for any employer, employment agency or labor
2 organization to inquire into or to use the fact of an arrest or
3 criminal history record information ordered expunged, sealed
4 or impounded under Section 5.2 of the Criminal Identification
5 Act or expunged under Section 5-915 of the Juvenile Court Act
6 of 1987 as a basis to refuse to hire, to segregate, or to act
7 with respect to recruitment, hiring, promotion, renewal of
8 employment, selection for training or apprenticeship,
9 discharge, discipline, tenure or terms, privileges or
10 conditions of employment. This Section does not prohibit a
11 State agency, unit of local government or school district, or
12 private organization from requesting or utilizing sealed
13 felony conviction information obtained from the Department of
14 State Police under the provisions of Section 3 of the Criminal
15 Identification Act or under other State or federal laws or
16 regulations that require criminal background checks in
17 evaluating the qualifications and character of an employee or a
18 prospective employee.

19 (B) The prohibition against the use of the fact of an
20 arrest contained in this Section shall not be construed to
21 prohibit an employer, employment agency, or labor organization
22 from obtaining or using other information which indicates that
23 a person actually engaged in the conduct for which he or she
24 was arrested.

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