



Rep. Jeanne M Ives

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LRB098 18941 MRW 56535 a

1 AMENDMENT TO HOUSE BILL 5815

2 AMENDMENT NO. _____. Amend House Bill 5815 by replacing
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

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

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

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

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

1 (iii) Court (730 ILCS 5/5-1-6),
2 (iv) Defendant (730 ILCS 5/5-1-7),
3 (v) Felony (730 ILCS 5/5-1-9),
4 (vi) Imprisonment (730 ILCS 5/5-1-10),
5 (vii) Judgment (730 ILCS 5/5-1-12),
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),
7 (ix) Offense (730 ILCS 5/5-1-15),
8 (x) Parole (730 ILCS 5/5-1-16),
9 (xi) Petty Offense (730 ILCS 5/5-1-17),
10 (xii) Probation (730 ILCS 5/5-1-18),
11 (xiii) Sentence (730 ILCS 5/5-1-19),
12 (xiv) Supervision (730 ILCS 5/5-1-21), and
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated
15 by arrest" means a charge (as defined by 730 ILCS
16 5/5-1-3) brought against a defendant where the
17 defendant is not arrested prior to or as a direct
18 result of the charge.

19 (C) "Conviction" means a judgment of conviction or
20 sentence entered upon a plea of guilty or upon a
21 verdict or finding of guilty of an offense, rendered by
22 a legally constituted jury or by a court of competent
23 jurisdiction authorized to try the case without a jury.
24 An order of supervision successfully completed by the
25 petitioner is not a conviction. An order of qualified
26 probation (as defined in subsection (a)(1)(J))

1 successfully completed by the petitioner is not a
2 conviction. An order of supervision or an order of
3 qualified probation that is terminated
4 unsatisfactorily is a conviction, unless the
5 unsatisfactory termination is reversed, vacated, or
6 modified and the judgment of conviction, if any, is
7 reversed or vacated.

8 (D) "Criminal offense" means a petty offense,
9 business offense, misdemeanor, felony, or municipal
10 ordinance violation (as defined in subsection
11 (a)(1)(H)). As used in this Section, a minor traffic
12 offense (as defined in subsection (a)(1)(G)) shall not
13 be considered a criminal offense.

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

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in
2 any jurisdiction, regardless of whether the petitioner
3 has included the criminal offense for which the
4 sentence or order of supervision or qualified
5 probation was imposed in his or her petition. If
6 multiple sentences, orders of supervision, or orders
7 of qualified probation terminate on the same day and
8 are last in time, they shall be collectively considered
9 the "last sentence" regardless of whether they were
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,
12 business offense, or Class C misdemeanor under the
13 Illinois Vehicle Code or a similar provision of a
14 municipal or local ordinance.

15 (H) "Municipal ordinance violation" means an
16 offense defined by a municipal or local ordinance that
17 is criminal in nature and with which the petitioner was
18 charged or for which the petitioner was arrested and
19 released without charging.

20 (I) "Petitioner" means an adult or a minor
21 prosecuted as an adult who has applied for relief under
22 this Section.

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
2 of the Unified Code of Corrections, Section
3 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
4 those provisions existed before their deletion by
5 Public Act 89-313), Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section
7 40-10 of the Alcoholism and Other Drug Abuse and
8 Dependency Act, or Section 10 of the Steroid Control
9 Act. For the purpose of this Section, "successful
10 completion" of an order of qualified probation under
11 Section 10-102 of the Illinois Alcoholism and Other
12 Drug Dependency Act and Section 40-10 of the Alcoholism
13 and Other Drug Abuse and Dependency Act means that the
14 probation was terminated satisfactorily and the
15 judgment of conviction was vacated.

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

26 (L) "Sexual offense committed against a minor"

1 includes but is not limited to the offenses of indecent
2 solicitation of a child or criminal sexual abuse when
3 the victim of such offense is under 18 years of age.

4 (M) "Terminate" as it relates to a sentence or
5 order of supervision or qualified probation includes
6 either satisfactory or unsatisfactory termination of
7 the sentence, unless otherwise specified in this
8 Section.

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

13 (3) Exclusions. Except as otherwise provided in
14 subsections (b) (1.5), (b) (5), (b) (6), (b) (8), (e), (e-5),
15 and (e-6) of this Section, the court shall not order:

16 (A) the sealing or expungement of the records of
17 arrests or charges not initiated by arrest that result
18 in an order of supervision for or conviction of: (i)
19 any sexual offense committed against a minor; (ii)
20 Section 11-501 of the Illinois Vehicle Code or a
21 similar provision of a local ordinance; or (iii)
22 Section 11-503 of the Illinois Vehicle Code or a
23 similar provision of a local ordinance, unless the
24 arrest or charge is for a misdemeanor violation of
25 subsection (a) of Section 11-503 or a similar provision
26 of a local ordinance, that occurred prior to the

1 offender reaching the age of 25 years and the offender
2 has no other conviction for violating Section 11-501 or
3 11-503 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance.

5 (B) the sealing or expungement of records of minor
6 traffic offenses (as defined in subsection (a)(1)(G)),
7 unless the petitioner was arrested and released
8 without charging.

9 (C) the sealing of the records of arrests or
10 charges not initiated by arrest which result in an
11 order of supervision, an order of qualified probation
12 (as defined in subsection (a)(1)(J)), or a conviction
13 for the following offenses:

14 (i) offenses included in Article 11 of the
15 Criminal Code of 1961 or the Criminal Code of 2012
16 or a similar provision of a local ordinance, except
17 Section 11-14 of the Criminal Code of 1961 or the
18 Criminal Code of 2012, or a similar provision of a
19 local ordinance;

20 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
21 26-5, or 48-1 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, or a similar provision of a
23 local ordinance;

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

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

3 (v) any offense or attempted offense that
4 would subject a person to registration under the
5 Sex Offender Registration Act.

6 (D) the sealing of the records of an arrest which
7 results in the petitioner being charged with a felony
8 offense or records of a charge not initiated by arrest
9 for a felony offense unless:

10 (i) the charge is amended to a misdemeanor and
11 is otherwise eligible to be sealed pursuant to
12 subsection (c);

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

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

24 (iv) the charge is for a felony offense listed
25 in subsection (c) (2) (F) or the charge is amended to
26 a felony offense listed in subsection (c) (2) (F);

1 (v) the charge results in acquittal,
2 dismissal, or the petitioner's release without
3 conviction; or

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

6 (b) Expungement.

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

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

12 (B) Each arrest or charge not initiated by arrest
13 sought to be expunged resulted in: (i) acquittal,
14 dismissal, or the petitioner's release without
15 charging, unless excluded by subsection (a)(3)(B);
16 (ii) a conviction which was vacated or reversed, unless
17 excluded by subsection (a)(3)(B); (iii) an order of
18 supervision and such supervision was successfully
19 completed by the petitioner, unless excluded by
20 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of
21 qualified probation (as defined in subsection
22 (a)(1)(J)) and such probation was successfully
23 completed by the petitioner.

24 (1.5) A petitioner convicted of a Class C misdemeanor,
25 other than a minor traffic offense, may petition the
26 circuit court to expunge the records of his or her arrests

1 and charges not initiated by arrest for the Class C
2 misdemeanor.

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

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

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

14 (i) Those arrests or charges that resulted in
15 orders of supervision under Section 3-707, 3-708,
16 3-710, or 5-401.3 of the Illinois Vehicle Code or a
17 similar provision of a local ordinance, or under
18 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
19 Code of 1961 or the Criminal Code of 2012, or a
20 similar provision of a local ordinance, shall not
21 be eligible for expungement until 5 years have
22 passed following the satisfactory termination of
23 the supervision.

24 (i-5) Those arrests or charges that resulted
25 in orders of supervision for a misdemeanor
26 violation of subsection (a) of Section 11-503 of

1 the Illinois Vehicle Code or a similar provision of
2 a local ordinance, that occurred prior to the
3 offender reaching the age of 25 years and the
4 offender has no other conviction for violating
5 Section 11-501 or 11-503 of the Illinois Vehicle
6 Code or a similar provision of a local ordinance
7 shall not be eligible for expungement until the
8 petitioner has reached the age of 25 years.

9 (ii) Those arrests or charges that resulted in
10 orders of supervision for any other offenses shall
11 not be eligible for expungement until 2 years have
12 passed following the satisfactory termination of
13 the supervision.

14 (C) When the arrest or charge not initiated by
15 arrest sought to be expunged resulted in an order of
16 qualified probation, successfully completed by the
17 petitioner, such records shall not be eligible for
18 expungement until 5 years have passed following the
19 satisfactory termination of the probation.

20 (D) When the arrest or charge not initiated by
21 arrest sought to be expunged resulted in a conviction
22 for a Class C misdemeanor, other than a minor traffic
23 offense, the records shall not be eligible for
24 expungement until one year has passed following the
25 satisfactory completion of his or her sentence.

26 (3) Those records maintained by the Department for

1 persons arrested prior to their 17th birthday shall be
2 expunged as provided in Section 5-915 of the Juvenile Court
3 Act of 1987.

4 (4) Whenever a person has been arrested for or
5 convicted of any offense, in the name of a person whose
6 identity he or she has stolen or otherwise come into
7 possession of, the aggrieved person from whom the identity
8 was stolen or otherwise obtained without authorization,
9 upon learning of the person having been arrested using his
10 or her identity, may, upon verified petition to the chief
11 judge of the circuit wherein the arrest was made, have a
12 court order entered nunc pro tunc by the Chief Judge to
13 correct the arrest record, conviction record, if any, and
14 all official records of the arresting authority, the
15 Department, other criminal justice agencies, the
16 prosecutor, and the trial court concerning such arrest, if
17 any, by removing his or her name from all such records in
18 connection with the arrest and conviction, if any, and by
19 inserting in the records the name of the offender, if known
20 or ascertainable, in lieu of the aggrieved's name. The
21 records of the circuit court clerk shall be sealed until
22 further order of the court upon good cause shown and the
23 name of the aggrieved person obliterated on the official
24 index required to be kept by the circuit court clerk under
25 Section 16 of the Clerks of Courts Act, but the order shall
26 not affect any index issued by the circuit court clerk

1 before the entry of the order. Nothing in this Section
2 shall limit the Department of State Police or other
3 criminal justice agencies or prosecutors from listing
4 under an offender's name the false names he or she has
5 used.

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

22 (6) If a conviction has been set aside on direct review
23 or on collateral attack and the court determines by clear
24 and convincing evidence that the petitioner was factually
25 innocent of the charge, the court that finds the petitioner
26 factually innocent of the charge shall enter an expungement

1 order for the conviction for which the petitioner has been
2 determined to be innocent as provided in subsection (b) of
3 Section 5-5-4 of the Unified Code of Corrections.

4 (7) Nothing in this Section shall prevent the
5 Department of State Police from maintaining all records of
6 any person who is admitted to probation upon terms and
7 conditions and who fulfills those terms and conditions
8 pursuant to Section 10 of the Cannabis Control Act, Section
9 410 of the Illinois Controlled Substances Act, Section 70
10 of the Methamphetamine Control and Community Protection
11 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
12 Corrections, Section 12-4.3 or subdivision (b)(1) of
13 Section 12-3.05 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, Section 10-102 of the Illinois
15 Alcoholism and Other Drug Dependency Act, Section 40-10 of
16 the Alcoholism and Other Drug Abuse and Dependency Act, or
17 Section 10 of the Steroid Control Act.

18 (8) If the petitioner has been granted a certificate of
19 innocence under Section 2-702 of the Code of Civil
20 Procedure, the court that grants the certificate of
21 innocence shall also enter an order expunging the
22 conviction for which the petitioner has been determined to
23 be innocent as provided in subsection (h) of Section 2-702
24 of the Code of Civil Procedure.

25 (c) Sealing.

26 (1) Applicability. Notwithstanding any other provision

1 of this Act to the contrary, and cumulative with any rights
2 to expungement of criminal records, this subsection
3 authorizes the sealing of criminal records of adults and of
4 minors prosecuted as adults.

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

7 (A) All arrests resulting in release without
8 charging;

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

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

17 (D) Arrests or charges not initiated by arrest
18 resulting in convictions unless excluded by subsection
19 (a) (3);

20 (E) Arrests or charges not initiated by arrest
21 resulting in orders of first offender probation under
22 Section 10 of the Cannabis Control Act, Section 410 of
23 the Illinois Controlled Substances Act, Section 70 of
24 the Methamphetamine Control and Community Protection
25 Act, or Section 5-6-3.3 of the Unified Code of
26 Corrections; and

1 (F) Arrests or charges not initiated by arrest
2 resulting in felony convictions for the following
3 offenses:

4 (i) Class 4 felony convictions for:

5 Prostitution under Section 11-14 of the
6 Criminal Code of 1961 or the Criminal Code of
7 2012.

8 Possession of cannabis under Section 4 of
9 the Cannabis Control Act.

10 Possession of a controlled substance under
11 Section 402 of the Illinois Controlled
12 Substances Act.

13 Offenses under the Methamphetamine
14 Precursor Control Act.

15 Offenses under the Steroid Control Act.

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

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

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

24 Forgery under Section 17-3 of the Criminal
25 Code of 1961 or the Criminal Code of 2012.

26 Possession of burglary tools under Section

1 19-2 of the Criminal Code of 1961 or the
2 Criminal Code of 2012.

3 (ii) Class 3 felony convictions for:

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

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

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

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

14 Possession with intent to manufacture or
15 deliver a controlled substance under Section
16 401 of the Illinois Controlled Substances Act.

17 (3) When Records Are Eligible to Be Sealed. Records
18 identified as eligible under subsection (c)(2) may be
19 sealed as follows:

20 (A) Records identified as eligible under
21 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
22 time.

23 (B) Records identified as eligible under
24 subsection (c)(2)(C) may be sealed (i) 3 years after
25 the termination of petitioner's last sentence (as
26 defined in subsection (a)(1)(F)) if the petitioner has

1 never been convicted of a criminal offense (as defined
2 in subsection (a)(1)(D)); or (ii) 4 years after the
3 termination of the petitioner's last sentence (as
4 defined in subsection (a)(1)(F)) if the petitioner has
5 ever been convicted of a criminal offense (as defined
6 in subsection (a)(1)(D)).

7 (C) Records identified as eligible under
8 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be
9 sealed 4 years after the termination of the
10 petitioner's last sentence (as defined in subsection
11 (a)(1)(F)).

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

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

23 (5) Notice of eligibility for sealing. Upon entry of a
24 disposition for an eligible record under this subsection
25 (c), the petitioner shall be informed by the court of the
26 right to have the records sealed and the procedures for the

1 sealing of the records.

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

5 (1) Filing the petition. Upon becoming eligible to
6 petition for the expungement or sealing of records under
7 this Section, the petitioner shall file a petition
8 requesting the expungement or sealing of records with the
9 clerk of the court where the arrests occurred or the
10 charges were brought, or both. If arrests occurred or
11 charges were brought in multiple jurisdictions, a petition
12 must be filed in each such jurisdiction. The petitioner
13 shall pay the applicable fee, if not waived.

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

1 petition.

2 (3) Drug test. The petitioner must attach to the
3 petition proof that the petitioner has passed a test taken
4 within 30 days before the filing of the petition showing
5 the absence within his or her body of all illegal
6 substances as defined by the Illinois Controlled
7 Substances Act, the Methamphetamine Control and Community
8 Protection Act, and the Cannabis Control Act if he or she
9 is petitioning to:

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

11 (B) seal felony records for a violation of the
12 Illinois Controlled Substances Act, the
13 Methamphetamine Control and Community Protection Act,
14 or the Cannabis Control Act under clause (c) (2) (F);

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

16 (D) expunge felony records of a qualified
17 probation under clause (b) (1) (B) (iv).

18 (4) Service of petition. The circuit court clerk shall
19 promptly serve a copy of the petition and documentation to
20 support the petition under subsection (e), (e-5), or (e-6)
21 on the State's Attorney or prosecutor charged with the duty
22 of prosecuting the offense, the Department of State Police,
23 the arresting agency and the chief legal officer of the
24 unit of local government effecting the arrest.

25 (5) Objections.

26 (A) Any party entitled to notice of the petition

1 may file an objection to the petition. All objections
2 shall be in writing, shall be filed with the circuit
3 court clerk, and shall state with specificity the basis
4 of the objection.

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

8 (6) Entry of order.

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

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

22 (7) Hearings. If an objection is filed, the court shall
23 set a date for a hearing and notify the petitioner and all
24 parties entitled to notice of the petition of the hearing
25 date at least 30 days prior to the hearing. Prior to the
26 hearing, the State's Attorney shall consult with the

1 Department as to the appropriateness of the relief sought
2 in the petition to expunge or seal. At the hearing, the
3 court shall hear evidence on whether the petition should or
4 should not be granted, and shall grant or deny the petition
5 to expunge or seal the records based on the evidence
6 presented at the hearing. The court may consider the
7 following:

8 (A) the strength of the evidence supporting the
9 defendant's conviction;

10 (B) the reasons for retention of the conviction
11 records by the State;

12 (C) the petitioner's age, criminal record history,
13 and employment history;

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

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

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

1 agencies as may be ordered by the court.

2 (9) Implementation of order.

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

5 (i) the records shall be expunged (as defined
6 in subsection (a) (1) (E)) by the arresting agency,
7 the Department, and any other agency as ordered by
8 the court, within 60 days of the date of service of
9 the order, unless a motion to vacate, modify, or
10 reconsider the order is filed pursuant to
11 paragraph (12) of subsection (d) of this Section;

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

21 (iii) in response to an inquiry for expunged
22 records, the court, the Department, or the agency
23 receiving such inquiry, shall reply as it does in
24 response to inquiries when no records ever
25 existed.

26 (B) Upon entry of an order to expunge records

1 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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

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

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

23 (iv) records impounded by the Department may
24 be disseminated by the Department only as required
25 by law or to the arresting authority, the State's
26 Attorney, and the court upon a later arrest for the

1 same or a similar offense or for the purpose of
2 sentencing for any subsequent felony, and to the
3 Department of Corrections upon conviction for any
4 offense; and

5 (v) in response to an inquiry for such records
6 from anyone not authorized by law to access such
7 records, the court, the Department, or the agency
8 receiving such inquiry shall reply as it does in
9 response to inquiries when no records ever
10 existed.

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

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

20 (ii) the records of the circuit court clerk
21 shall be impounded until further order of the court
22 upon good cause shown and the name of the
23 petitioner obliterated on the official index
24 required to be kept by the circuit court clerk
25 under Section 16 of the Clerks of Courts Act, but
26 the order shall not affect any index issued by the

1 circuit court clerk before the entry of the order;

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

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

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

22 (C) Upon entry of an order to seal records under
23 subsection (c), the arresting agency, any other agency
24 as ordered by the court, the Department, and the court
25 shall seal the records (as defined in subsection
26 (a) (1) (K)). In response to an inquiry for such records

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

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

20 (10) Fees. The Department may charge the petitioner a
21 fee equivalent to the cost of processing any order to
22 expunge or seal records. Notwithstanding any provision of
23 the Clerks of Courts Act to the contrary, the circuit court
24 clerk may charge a fee equivalent to the cost associated
25 with the sealing or expungement of records by the circuit
26 court clerk. From the total filing fee collected for the

1 petition to seal or expunge, the circuit court clerk shall
2 deposit \$10 into the Circuit Court Clerk Operation and
3 Administrative Fund, to be used to offset the costs
4 incurred by the circuit court clerk in performing the
5 additional duties required to serve the petition to seal or
6 expunge on all parties. The circuit court clerk shall
7 collect and forward the Department of State Police portion
8 of the fee to the Department and it shall be deposited in
9 the State Police Services Fund.

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

15 (12) Motion to Vacate, Modify, or Reconsider. Under
16 Section 2-1203 of the Code of Civil Procedure, the
17 petitioner or any party entitled to notice may file a
18 motion to vacate, modify, or reconsider the order granting
19 or denying the petition to expunge or seal within 60 days
20 of service of the order. If filed more than 60 days after
21 service of the order, a petition to vacate, modify, or
22 reconsider shall comply with subsection (c) of Section
23 2-1401 of the Code of Civil Procedure. Upon filing of a
24 motion to vacate, modify, or reconsider, notice of the
25 motion shall be served upon the petitioner and all parties
26 entitled to notice of the petition.

1 (13) Effect of Order. An order granting a petition
2 under the expungement or sealing provisions of this Section
3 shall not be considered void because it fails to comply
4 with the provisions of this Section or because of any error
5 asserted in a motion to vacate, modify, or reconsider. The
6 circuit court retains jurisdiction to determine whether
7 the order is voidable and to vacate, modify, or reconsider
8 its terms based on a motion filed under paragraph (12) of
9 this subsection (d).

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

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

1 (16) The changes to this subsection (d) made by Public
2 Act 98-163 ~~this amendatory Act of the 98th General Assembly~~
3 apply to all petitions pending on August 5, 2013 (the
4 effective date of Public Act 98-163) ~~this amendatory Act of~~
5 ~~the 98th General Assembly~~ and to all orders ruling on a
6 petition to expunge or seal on or after August 5, 2013 (the
7 effective date of Public Act 98-163) ~~this amendatory Act of~~
8 ~~the 98th General Assembly~~.

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

1 Department may be disseminated by the Department only to the
2 arresting authority, the State's Attorney, and the court upon a
3 later arrest for the same or similar offense or for the purpose
4 of sentencing for any subsequent felony. Upon conviction for
5 any subsequent offense, the Department of Corrections shall
6 have access to all sealed records of the Department pertaining
7 to that individual. Upon entry of the order of expungement, the
8 circuit court clerk shall promptly mail a copy of the order to
9 the person who was pardoned.

10 (e-5) Whenever a person who has been convicted of an
11 offense is granted a certificate of eligibility for sealing by
12 the Prisoner Review Board which specifically authorizes
13 sealing, he or she may, upon verified petition to the Chief
14 Judge of the circuit where the person had been convicted, any
15 judge of the circuit designated by the Chief Judge, or in
16 counties of less than 3,000,000 inhabitants, the presiding
17 trial judge at the petitioner's trial, have a court order
18 entered sealing the record of arrest from the official records
19 of the arresting authority and order that the records of the
20 circuit court clerk and the Department be sealed until further
21 order of the court upon good cause shown or as otherwise
22 provided herein, and the name of the petitioner obliterated
23 from the official index requested to be kept by the circuit
24 court clerk under Section 16 of the Clerks of Courts Act in
25 connection with the arrest and conviction for the offense for
26 which he or she had been granted the certificate but the order

1 shall not affect any index issued by the circuit court clerk
2 before the entry of the order. All records sealed by the
3 Department may be disseminated by the Department only as
4 required by this Act or to the arresting authority, a law
5 enforcement agency, the State's Attorney, and the court upon a
6 later arrest for the same or similar offense or for the purpose
7 of sentencing for any subsequent felony. Upon conviction for
8 any subsequent offense, the Department of Corrections shall
9 have access to all sealed records of the Department pertaining
10 to that individual. Upon entry of the order of sealing, the
11 circuit court clerk shall promptly mail a copy of the order to
12 the person who was granted the certificate of eligibility for
13 sealing.

14 (e-6) Whenever a person who has been convicted of an
15 offense is granted a certificate of eligibility for expungement
16 by the Prisoner Review Board which specifically authorizes
17 expungement, he or she may, upon verified petition to the Chief
18 Judge of the circuit where the person had been convicted, any
19 judge of the circuit designated by the Chief Judge, or in
20 counties of less than 3,000,000 inhabitants, the presiding
21 trial judge at the petitioner's trial, have a court order
22 entered expunging the record of arrest from the official
23 records of the arresting authority and order that the records
24 of the circuit court clerk and the Department be sealed until
25 further order of the court upon good cause shown or as
26 otherwise provided herein, and the name of the petitioner

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

18 (f) Subject to available funding, the Illinois Department
19 of Corrections shall conduct a study of the impact of sealing,
20 especially on employment and recidivism rates, utilizing a
21 random sample of those who apply for the sealing of their
22 criminal records under Public Act 93-211. At the request of the
23 Illinois Department of Corrections, records of the Illinois
24 Department of Employment Security shall be utilized as
25 appropriate to assist in the study. The study shall not
26 disclose any data in a manner that would allow the

1 identification of any particular individual or employing unit.
2 The study shall be made available to the General Assembly no
3 later than September 1, 2010.

4 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
5 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.
6 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
7 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
8 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; revised
9 9-4-13.)".