

1                                    AMENDMENT TO HOUSE BILL 299

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 299 by replacing  
3 everything after the enacting clause with with following:

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

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

7            Sec. 5. Arrest reports; expungement.

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

1           Whenever an adult or minor prosecuted as an adult, not  
2 having previously been convicted of any criminal offense or  
3 municipal ordinance violation, charged with a violation of a  
4 municipal ordinance or a felony or misdemeanor, is acquitted  
5 or released without being convicted, whether the acquittal or  
6 release occurred before, on, or after the effective date of  
7 this amendatory Act of 1991, the Chief Judge of the circuit  
8 wherein the charge was brought, any judge of that circuit  
9 designated by the Chief Judge, or in counties of less than  
10 3,000,000 inhabitants, the presiding trial judge at the  
11 defendant's trial may upon verified petition of the defendant  
12 order the record of arrest expunged from the official records  
13 of the arresting authority and the Department and order that  
14 the records of the clerk of the circuit court be sealed until  
15 further order of the court upon good cause shown and the name  
16 of the defendant obliterated on the official index required  
17 to be kept by the circuit court clerk under Section 16 of the  
18 Clerks of Courts Act, but the order shall not affect any  
19 index issued by the circuit court clerk before the entry of  
20 the order. The Department may charge the petitioner a fee  
21 equivalent to the cost of processing any order to expunge or  
22 seal the records, and the fee shall be deposited into the  
23 State Police Services Fund. The records of those arrests,  
24 however, that result in a disposition of supervision for any  
25 offense shall not be expunged from the records of the  
26 arresting authority or the Department nor impounded by the  
27 court until 2 years after discharge and dismissal of  
28 supervision. Those records that result from a supervision  
29 for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or  
30 11-503 of the Illinois Vehicle Code or a similar provision of  
31 a local ordinance, or for a violation of Section 12-3.2,  
32 12-15 or 16A-3 of the Criminal Code of 1961, or probation  
33 under Section 10 of the Cannabis Control Act, Section 410 of  
34 the Illinois Controlled Substances Act, Section 12-4.3(b)(1)

1 and (2) of the Criminal Code of 1961 (as those provisions  
2 existed before their deletion by Public Act 89-313), Section  
3 10-102 of the Illinois Alcoholism and Other Drug Dependency  
4 Act when the judgment of conviction has been vacated, Section  
5 40-10 of the Alcoholism and Other Drug Abuse and Dependency  
6 Act when the judgment of conviction has been vacated, or  
7 Section 10 of the Steroid Control Act shall not be expunged  
8 from the records of the arresting authority nor impounded by  
9 the court until 5 years after termination of probation or  
10 supervision. Those records that result from a supervision  
11 for a violation of Section 11-501 of the Illinois Vehicle  
12 Code or a similar provision of a local ordinance, shall not  
13 be expunged. All records set out above may be ordered by the  
14 court to be expunged from the records of the arresting  
15 authority and impounded by the court after 5 years, but shall  
16 not be expunged by the Department, but shall, on court order  
17 be sealed by the Department and may be disseminated by the  
18 Department only as required by law or to the arresting  
19 authority, the State's Attorney, and the court upon a later  
20 arrest for the same or a similar offense or for the purpose  
21 of sentencing for any subsequent felony. Upon conviction for  
22 any offense, the Department of Corrections shall have access  
23 to all sealed records of the Department pertaining to that  
24 individual.

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

29 (b) Whenever a person has been convicted of a crime or  
30 of the violation of a municipal ordinance, in the name of a  
31 person whose identity he has stolen or otherwise come into  
32 possession of, the aggrieved person from whom the identity  
33 was stolen or otherwise obtained without authorization, upon  
34 learning of the person having been arrested using his

1 identity, may, upon verified petition to the chief judge of  
2 the circuit wherein the arrest was made, have a court order  
3 entered nunc pro tunc by the chief judge to correct the  
4 arrest record, conviction record, if any, and all official  
5 records of the arresting authority, the Department, other  
6 criminal justice agencies, the prosecutor, and the trial  
7 court concerning such arrest, if any, by removing his name  
8 from all such records in connection with the arrest and  
9 conviction, if any, and by inserting in the records the name  
10 of the offender, if known or ascertainable, in lieu of the  
11 has name. The records of the clerk of the circuit court  
12 clerk shall be sealed until further order of the court upon  
13 good cause shown and the name of the aggrieved person  
14 obliterated on the official index required to be kept by the  
15 circuit court clerk under Section 16 of the Clerks of Courts  
16 Act, but the order shall not affect any index issued by the  
17 circuit court clerk before the entry of the order. Nothing in  
18 this Section shall limit the Department of State Police or  
19 other criminal justice agencies or prosecutors from listing  
20 under an offender's name the false names he or she has used.  
21 For purposes of this Section, convictions for moving and  
22 nonmoving traffic violations other than convictions for  
23 violations of Chapter 4, Section 11-204.1 or Section 11-501  
24 of the Illinois Vehicle Code shall not be a bar to expunging  
25 the record of arrest and court records for violation of a  
26 misdemeanor or municipal ordinance.

27 (c) Whenever a person who has been convicted of an  
28 offense is granted a pardon by the Governor which  
29 specifically authorizes expungement, he may, upon verified  
30 petition to the chief judge of the circuit where the person  
31 had been convicted, any judge of the circuit designated by  
32 the Chief Judge, or in counties of less than 3,000,000  
33 inhabitants, the presiding trial judge at the defendant's  
34 trial, may have a court order entered expunging the record of

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

21 (c-5) Whenever a person has been convicted of criminal  
22 sexual assault, aggravated criminal sexual assault, predatory  
23 criminal sexual assault of a child, criminal sexual abuse, or  
24 aggravated criminal sexual abuse, the victim of that offense  
25 may request that the State's Attorney of the county in which  
26 the conviction occurred file a verified petition with the  
27 presiding trial judge at the defendant's trial to have a  
28 court order entered to seal the records of the clerk of the  
29 circuit court in connection with the proceedings of the trial  
30 court concerning that offense. However, the records of the  
31 arresting authority and the Department of State Police  
32 concerning the offense shall not be sealed. The court, upon  
33 good cause shown, shall make the records of the clerk of the  
34 circuit court in connection with the proceedings of the trial

1 court concerning the offense available for public inspection.

2 (c-6) For employment application purposes only, whenever  
3 a person has been placed on supervision for a misdemeanor,  
4 12 months after completion of the period of supervision for  
5 the misdemeanor, the chief judge of the circuit where the  
6 person had been convicted, any judge of the circuit  
7 designated by the Chief Judge, or in counties of less than  
8 3,000,000 inhabitants, the presiding trial judge at the  
9 defendant's trial, shall enter a court order expunging the  
10 record of arrest from the official records of the arresting  
11 authority as to access to those records by employers and  
12 prospective employers and order that the records of the clerk  
13 of the circuit court and the Department be sealed from  
14 employers or prospective employers. All records sealed by  
15 the Department from employers and prospective employers may  
16 be disseminated by the Department only as required by law or  
17 to the arresting authority, the State's Attorney, and the  
18 court. The Department of Corrections shall have access to  
19 all sealed records of the Department pertaining to that  
20 individual. Upon entry of the order of expungement, the clerk  
21 of the circuit court shall promptly mail a copy of the order  
22 to the person who was subject to the expungement. This  
23 subsection (c-6) does not apply to the following offenses and  
24 an employer or prospective employer may have access to  
25 supervision information for these offenses:

26 (1) A violation of Section 11-501 of the Illinois  
27 Vehicle Code or a similar provision of a local ordinance.

28 (2) A violation of Article 11 of the Criminal Code  
29 of 1961 or any predecessor or successor offenses that are  
30 similar to the offenses enumerated in this paragraph (2).

31 (3) A violation of the Firearm Owners  
32 Identification Card Act or Article 24 of the Criminal  
33 Code of 1961.

34 (4) A crime of violence as defined in Section 2 of

1           the Crime Victims Compensation Act.

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

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

26          (f) No court order issued pursuant to the expungement  
27          provisions of this Section shall become final for purposes of  
28          appeal until 30 days after notice is received by the  
29          Department. Any court order contrary to the provisions of  
30          this Section is void.

31          (g) Except as otherwise provided in subsection (c-5) of  
32          this Section, the court shall not order the sealing or  
33          expungement of the arrest records and records of the circuit  
34          court clerk of any person granted supervision for or

1 convicted of any sexual offense committed against a minor  
2 under 18 years of age. For the purposes of this Section,  
3 "sexual offense committed against a minor" includes but is  
4 not limited to the offenses of indecent solicitation of a  
5 child or criminal sexual abuse when the victim of such  
6 offense is under 18 years of age.

7 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;  
8 91-357, eff. 7-29-99.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law."