

AN ACT concerning the sealing of criminal records.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Identification Act is amended by changing Sections 5, 12, and 13 as follows:

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

Sec. 5. Arrest reports; expungement.

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

Whenever an adult or minor prosecuted as an adult, not having previously been convicted of any criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, whether the acquittal or release occurred before, on, or after the effective date of this amendatory Act of 1991, the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the

defendant's trial may upon verified petition of the defendant order the record of arrest expunged from the official records of the arresting authority and the Department and order that the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal the records, and the fee shall be deposited into the State Police Services Fund. The records of those arrests, however, that result in a disposition of supervision for any offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the court until 2 years after discharge and dismissal of supervision. Those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, or probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act when the judgment of conviction has been vacated, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act when the judgment of conviction has been vacated, or Section 10 of the Steroid Control Act shall not be expunged from the records of the arresting authority nor impounded by the court until 5 years after termination of probation or supervision. Those records that result from a supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, shall not be expunged. All records set out

above may be ordered by the court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall not be expunged by the Department, but shall, on court order be sealed by the Department and may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

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

(b) Whenever a person has been convicted of a crime or of the violation of a municipal ordinance, in the name of a person whose identity he has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the clerk of the circuit court shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing

in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used. For purposes of this Section, convictions for moving and nonmoving traffic violations other than convictions for violations of Chapter 4, Section 11-204.1 or Section 11-501 of the Illinois Vehicle Code shall not be a bar to expunging the record of arrest and court records for violation of a misdemeanor or municipal ordinance.

(c) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person who was

pardoned.

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

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

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

(e) Nothing herein shall prevent the Department of State

Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act.

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

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

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

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

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

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

(ii) violations of Article 11 of the Criminal Code

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

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

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

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

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

(B) Misdemeanor and Class 4 felony violations of:

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

(ii) Section 4 of the Cannabis Control Act;

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

(iv) However, for purposes of this subsection (h), a sentence of first offender probation under Section 10 of the Cannabis Control Act and Section 410 of the Illinois Controlled Substances Act shall be treated as a Class 4 felony conviction.

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

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

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

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

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

and

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

(D) Convicted of an offense or offenses; and

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

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

(4) Requirements for sealing of records when more than one charge and disposition have been filed. When multiple offenses are petitioned to be sealed under this subsection (h), the requirements of the relevant provisions of clauses (h) (3) (A) through (D) each apply. In instances in which more than one waiting period is applicable under clauses (h) (C) (i) and (ii) and (h) (D) (i) and (ii), the longer applicable period applies, and the requirements of clause (h) (3) shall be considered met when the petition is filed after the passage of the longer applicable waiting period. That period commences on the date of the completion of the last sentence or the end of supervision, probation, or parole, whichever is last in time.

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

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

records.

(7) Procedure. Upon becoming eligible for the sealing of records under this subsection (h), the person who seeks the sealing of his or her records shall file a petition requesting the sealing of records with the clerk of the court where the charge or charges were brought. The records may be sealed by the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, if any. If charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, if not waived.

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

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

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

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

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

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

(8) Fees. Notwithstanding any provision of the Clerk of the Courts Act to the contrary, and subject to the approval of the county board, the clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.

~~(h) (1) Notwithstanding any other provision of this Act to the contrary and cumulative with any rights to expungement of criminal records, whenever an adult or minor prosecuted as an adult charged with a violation of a municipal ordinance or a misdemeanor is acquitted or released without being convicted, or if the person is convicted but the conviction is reversed, or if the person has been placed on supervision for a~~

~~misdemeanor and has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor within 3 years after the acquittal or release or reversal of conviction, or the completion of the terms and conditions of the supervision, if the acquittal, release, finding of not guilty, or reversal of conviction occurred on or after the effective date of this amendatory Act of the 93rd General Assembly, the Chief Judge of the circuit in which the charge was brought may have the official records of the arresting authority, the Department, and the clerk of the circuit court sealed 3 years after the dismissal of the charge, the finding of not guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices. This subsection (h) does not apply to persons placed on supervision for: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.~~

~~(2) Upon acquittal, release without conviction, or being placed on supervision, the person charged with the offense shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records. Three years after the dismissal of the charge, the finding of not~~

~~guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision, the defendant shall provide the clerk of the court with a notice of request for sealing of records and payment of the applicable fee and a current address and shall promptly notify the clerk of the court of any change of address. The clerk shall promptly serve notice that the person's records are to be sealed on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to sealing of the records within 90 days of notice the court shall enter an order sealing the defendant's records 3 years after the dismissal of the charge, the finding of not guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision. The clerk of the court shall promptly serve by mail or in person a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted.~~

~~(3) The clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.~~

~~(4) Whenever sealing of records is required under this subsection (h), the notification of the sealing must be given by the circuit court where the arrest occurred to the Department in a form and manner prescribed by the Department.~~

~~(5) An adult or a minor prosecuted as an adult who was charged with a violation of a municipal ordinance or a~~

~~misdemeanor who was acquitted, released without being convicted, convicted and the conviction was reversed, or placed on supervision for a misdemeanor before the date of this amendatory Act of the 93rd General Assembly and was not convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for 3 years after the acquittal or release or reversal of conviction, or completion of the terms and conditions of the supervision may petition the Chief Judge of the circuit in which the charge was brought, any judge of that circuit in which the charge was brought, any judge of the circuit designated by the Chief Judge, or, in counties of less than 3,000,000 inhabitants, the presiding trial judge at that defendant's trial, to seal the official records of the arresting authority, the Department, and the clerk of the court, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies, the Department of Corrections, and State's Attorneys and other prosecutors in carrying out the duties of their offices. This subsection (h) does not apply to persons placed on supervision for: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act. The State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest shall be~~

~~served with a copy of the verified petition and shall have 90 days to object. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted. The person whose records are sealed under the provisions of this Act shall pay to the clerk of the court and the Department of State Police a fee equivalent to the cost associated with the sealing of records. The fees shall be paid to the clerk of the court who shall forward the appropriate portion to the Department at the time the court order to seal the defendant's record is forwarded to the Department for processing. The Department of State Police portion of the fee shall be deposited into the State Police Services Fund.~~

~~(i) (1) any other provision of this Act to the contrary and cumulative with any rights to expungement of criminal records, whenever an adult or minor prosecuted as an adult charged with a violation of a municipal ordinance or a misdemeanor is convicted of a misdemeanor and has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor within 4 years after the completion of the sentence, if the conviction occurred on or after the effective date of this amendatory Act of the 93rd General Assembly, the Chief Judge of the circuit in which the charge was brought may have the official records of the arresting authority, the Department, and the clerk of the circuit court sealed 4 years after the completion of the sentence, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices. This subsection (i) does not apply to persons convicted of: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the~~

~~Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.~~

~~(2) Upon the conviction of such offense, the person charged with the offense shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records. Four years after the completion of the sentence, the defendant shall provide the clerk of the court with a notice of request for sealing of records and payment of the applicable fee and a current address and shall promptly notify the clerk of the court of any change of address. The clerk shall promptly serve notice that the person's records are to be sealed on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to sealing of the records within 90 days of notice the court shall enter an order sealing the defendant's records 4 years after the completion of the sentence. The clerk of the court shall promptly serve by mail or in person a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted.~~

~~(3) The clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the~~

~~Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.~~

~~(4) Whenever sealing of records is required under this subsection (i), the notification of the sealing must be given by the circuit court where the arrest occurred to the Department in a form and manner prescribed by the Department.~~

~~(5) An adult or a minor prosecuted as an adult who was charged with a violation of a municipal ordinance or a misdemeanor who was convicted of a misdemeanor before the date of this amendatory Act of the 93rd General Assembly and was not convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for 4 years after the completion of the sentence may petition the Chief Judge of the circuit in which the charge was brought, any judge of that circuit in which the charge was brought, any judge of the circuit designated by the Chief Judge, or, in counties of less than 3,000,000 inhabitants, the presiding trial judge at that defendant's trial, to seal the official records of the arresting authority, the Department, and the clerk of the court, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies, the Department of Corrections, and State's Attorneys and other prosecutors in carrying out the duties of their offices. This subsection (i) does not apply to persons convicted of: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to~~

~~registration under the Sex Offender Registration Act. The State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest shall be served with a copy of the verified petition and shall have 90 days to object. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted. The person whose records are sealed under the provisions of this Act shall pay to the clerk of the court and the Department of State Police a fee equivalent to the cost associated with the sealing of records. The fees shall be paid to the clerk of the court who shall forward the appropriate portion to the Department at the time the court order to seal the defendant's record is forwarded to the Department for processing. The Department of State Police portion of the fee shall be deposited into the State Police Services Fund.~~

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

(Source: P.A. 92-651, eff. 7-11-02; 93-210, eff. 7-18-03; 93-211, eff. 1-1-04; revised 8-25-03.)

20 ILCS 2630/12)

Sec. 12. Entry of order; effect of expungement or sealing records.

(a) Except with respect to law enforcement agencies, the Department of Corrections, State's Attorneys, or other prosecutors, and as provided in Section 13 of this Act, an expunged or sealed record may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Applications for employment must contain specific language which states that the applicant is not obligated to disclose sealed or expunged records of conviction or arrest. Employers may not ask if an applicant has had records expunged or sealed.

(b) A person whose records have been sealed or expunged is not entitled to remission of any fines, costs, or other money paid as a consequence of the sealing or expungement. This amendatory Act of the 93rd General Assembly does not affect the right of the victim of a crime to prosecute or defend a civil action for damages. Persons engaged in civil litigation involving criminal records that have been sealed may petition the court to open the records for the limited purpose of using them in the course of litigation.

(Source: P.A. 93-211, eff. 1-1-04.)

(20 ILCS 2630/13)

Sec. 13. Retention and release of sealed records ~~Prohibited conduct; misdemeanor; penalty.~~

(a) The Department of State Police shall retain records sealed under subsection ~~subsections~~ (h) ~~and (i)~~ of Section 5 and shall release them only as authorized by this Act. Felony records ~~The~~ sealed under subsection (h) of Section 5 ~~records~~ shall be used and disseminated by the Department only as otherwise specifically required or authorized by a federal or State law, rule, or regulation that requires inquiry into and release of criminal records, including, but not limited to, subsection (A) of Section 3 of this Act. However, all requests for records that have been expunged, sealed, and impounded and the use of those records are subject to the provisions of

Section 2-103 of the Illinois Human Rights Act ~~allowed by law.~~
Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

(b) Notwithstanding the foregoing, all sealed records are subject to inspection and use by the court and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices.

(c) ~~(b)~~ The sealed records maintained under subsection (a) are exempt from disclosure under the Freedom of Information Act.

(d) The Department of State Police shall commence the sealing of records of felony arrests and felony convictions pursuant to the provisions of subsection (h) of Section 5 of this Act no later than one year from the date that funds have been made available for purposes of establishing the technologies necessary to implement the changes made by this amendatory Act of the 93rd General Assembly.

(Source: P.A. 93-211, eff. 1-1-04.)

Section 10. The Illinois Human Rights Act is amended by changing Section 2-103 as follows:

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

Sec. 2-103. Arrest Record.

(A) Unless otherwise authorized by law, it is a civil rights violation for any employer, employment agency or labor organization to inquire into or to use the fact of an arrest or criminal history record information ordered expunged, sealed or impounded under Section 5 of the Criminal Identification Act as a basis to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment. This Section does not prohibit a State agency, unit of local government or school district, or

private organization from requesting or utilizing sealed felony conviction information obtained from the Department of State Police under the provisions of Section 3 of the Criminal Identification Act or under other State or federal laws or regulations that require criminal background checks in evaluating the qualifications and character of an employee or a prospective employee.

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

(Source: P.A. 89-370, eff. 8-18-95.)