



**ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY**

120 South Riverside Plaza • Suite 1016 • Chicago, Illinois 60606 • (312) 793-8550



Meeting Agenda

PRIVACY POLICY SUBCOMMITTEE

June 2, 2004
10:00 a.m. – 12:00 p.m.

- Introductory comments
- Data quality requirements of CHRI
- FIP implementation in CHRI regulations
- Illinois' expungement statute – "Why Johnny can't read it"
- Expungement and sealing of justice records in Illinois
 - ▷ Records contained in the criminal history repository
 - ▷ Records of arresting police departments
 - ▷ State's Attorney records
 - ▷ Records maintained by circuit court clerks
 - ▷ Probation records
 - ▷ Other types of records?
- Next Meeting's Goals
 - ▷ Issue Identification, June 23, 2004
 - ▷ Continue with offender-based information
- Adjourn

This public meeting will be accessible to persons with disabilities in compliance with Executive Order #5 and pertinent State and Federal laws upon anticipated attendance. Persons with disabilities planning to attend and needing special accommodations should contact by telephone or letter Hank Anthony, Associate Director, Office of Administrative Services, Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois, 60606-3997 at (312) 793-8550. TDD services are available at (312) 793-4170.



PRIVACY POLICY SUBCOMMITTEE MEETING NOTES
31 March 2004

Present at the second meeting of the IIJIS Privacy Policy Subcommittee were:

- Robert Boehmer, Illinois Criminal Justice Information Authority;
- Lori Levin, Illinois Criminal Justice Information Authority;
- John Jesernik, Illinois State Police;
- David Clark, Illinois State's Attorneys Appellate Prosecutor's Office;
- Paul Fields, Law Office of the Cook County Public Defender;
- Michael Glover, Metro Chicago Health Care Council;
- Jim Hickey, Chicago Police Department;
- Cheryl Howard, Illinois Coalition Against Domestic Violence (by telephone);
- Lynne Johnston, Illinois State Police;
- Tammi Kestel, Illinois State Police;
- Harold Krent, Chicago-Kent College of Law;
- Ron Lewis, McLean County Public Defender's Office;
- Michael McGowan, Office of the Chief Judge, Circuit Court of Cook County;
- Wil Nagel, Illinois Criminal Justice Information Authority;
- Marcel Reid, Illinois State Police;
- Leslie Reis, the John Marshall Law School;
- Don Rudolph, Illinois State Police
- Lyn Schollet, Illinois Coalition Against Sexual Assault (by telephone);
- Art Sebek, Illinois State Police;
- Scott Sievers, Illinois Press Association (by telephone);
- Nicole Sims on behalf of Craig Wimberly, Office of the Circuit Court Clerk of Cook County; and
- Martin Typer, Clerk of the Circuit Court of Ogle County.

Introductions

After welcoming everyone to the second meeting of the IIJIS Privacy Policy Subcommittee, Mr. Boehmer asked members to introduce themselves for the benefit of the several new members present. After some additional introductory remarks, Lt. Jesernik, of the Illinois State Police, briefly commented on the timeliness of the subcommittee's work and indicated that additional privacy legislation is expected during the next congressional session.

"So you hired an axe murderer..."

Before asking Lt. Jesernik to begin the demonstration, Mr. Boehmer explained that staff members are attempting to present the materials in a manner that will keep people engaged in the topics. "So you hired an axe murderer..." was a demonstration in which cartoon characters were assigned varied criminal backgrounds and matched to jobs they would be eligible for.

The demonstration was intended to illustrate the potentially illogical and conflicting results of *ad hoc* legislation and point out that Illinois' laws and regulations governing the sharing of justice information

were developed in a similar *ad hoc* fashion. The exercise also reinforced that the accuracy of criminal history records is an important privacy concern carrying significant consequences to individuals.

Members' opinions regarding the uses and accessibility of criminal history information

A significant portion of the meeting consisted of a discussion regarding the members' access to and uses of criminal history information. Some of the main points of the discussion follow:

- Public defenders do not have direct access to criminal history records; rather they are required to use subpoenas during the discovery phase of trial. Public defenders use criminal history information to assess the credibility of their clients as well as defense and state witnesses.
- In Illinois, the healthcare industry is provided access to criminal history records by statute. Healthcare workers who will be involved in "direct patient care" must undergo criminal background checks. A conviction for one of approximately 30 enumerated offenses will automatically disqualify an applicant.
- Police departments traditionally use criminal history records during investigations to determine the credibility of persons interviewed. Additionally, the fingerprints contained in criminal history records are used to positively identify arrestees. Prior convictions are regularly used to elevate charges where appropriate.
- Police departments in Illinois must make arrest blotter information available to the press within 72 hours of the arrest; the amount and types of information contained in blotters varies widely. Generally, reporters are limited to the information provided to them by police although they also have access to public records maintained by court clerks. Newspapers will often keep archives of their own articles including arrest blotters; newspapers will commonly contact other newspapers for information contained in these archives.
- Court clerks collect dispositions and are required to report those dispositions to the criminal history repository maintained by the Illinois State Police.
- The public has access to conviction information contained in the repository pursuant to the Uniform Conviction Information Act (UCIA).
- The coalitions against domestic violence and against sexual assault only use criminal history information for employment screening purposes.

The discussion also briefly touched upon the electronic dissemination of criminal history information to third parties who compile and then re-sell the information as background checks.

Introduction to the breakdown of Code of Federal Regulations

Mr. Nagel briefly explained that a primary focus of the Privacy Policy Subcommittee is to understand not only what current privacy decisions have already been made but also why and where those decisions were made. He stated that understanding the rationale for a privacy decision helps agencies implement it and can also provide guidance to policy-makers as to whether the decision should be applied in other contexts. Additionally, knowing where a decision was made can influence the amount of deference granted to it and also identifies where proposals to change those decisions should be directed.

Mr. Nagel showed the members an enlargement of the CHRI access and review provisions as implemented in Illinois. The CFR Breakdown chart visually depicted the policy choices made by the

Department of Justice, the Illinois General Assembly and the Illinois State Police. Mr. Nagel indicated that an electronic version of the document would be sent to the members and posted on the IJIS website.

Analysis of criminal history record information (CHRI) policies in Illinois

Contents of CHRI

Lt. Jesernik conducted a flip-chart exercise in which he asked members to list the types of information that they believed was contained in the Illinois State Police criminal history repository. When he was complete, the list included the following items.

- Demographic information (including race, sex, eye color);
- State Identification (SID) number;
- Aliases;
- Records of arrests (including local offenses, charges, arrested on warrants);
- State's attorney charging decisions;
- Court dispositions (including charges and convictions);
- Custodial status information;
- Fingerprints;
- Caution notations;
- Stop orders (99% of which come from the FBI);
- Criminal justice and non-criminal justice fee applicants (for notifications of subsequent events);
- Access and review notations; and
- Death notices.

Some discussion was had concerning the statutory authority of the Illinois State Police to collect ordinance violations and stop orders. Members were interested in who made the decisions to collect this data and how the public was informed of those decisions.

Illinois policies granting access to CHRI

Mr. Marcel Reid of the Illinois State Police discussed the statutory environment for the dissemination of criminal history record information in Illinois. He began by explaining the distinction between criminal justice users of non-conviction information and non-criminal justice users of conviction-only CHRI. Mr. Reid explained that non-conviction information includes anything on file while conviction-only CHRI includes records of convictions only. Mr. Reid stated that the level of access to CHRI is, in Illinois, determined by statute.

Before moving on, Mr. Reid clarified some of the types of information that are not contained in the CHRI repository. The repository does not include orders of protection or sex offender registrations, nor does it contain convictions outside the State of Illinois. Mr. Reid added that the CHRI repository did maintain a log of CHRI requestors for the implementation of the 30-day revised response requirement as well as a secondary dissemination log.

On the federal level, Mr. Reid identified United States Public Law 92-544 as the controlling statute regarding an entity's access to FBI criminal history record information. Federal CHRI contains federal offenses as well as any state offenses reported to the FBI. He pointed out that while certain criteria are necessary for the dissemination of federal CHRI to non-criminal justice entities, the FBI does not disseminate its criminal history record information to private individuals. To obtain federal CHRI, a state law or its functional equivalent must provide the agency with access to the FBI records and the individual must be fingerprinted because the FBI does not run name inquiries. In Illinois, the Department of Children and Family Services (DCFS) and school boards are authorized to access federal CHRI.

Individual access and review provisions

Ms. Tammi Kestel, of the Illinois State Police Bureau of Identification, asked the members to complete a questionnaire intended to explain individuals' access and review rights to their criminal history transcripts maintained in the CHRI repository. The questionnaire covered the need to be fingerprinted, which agencies are authorized to forward an access and review request to the Illinois State Police, how long those agencies have to actually forward the request, the individual's right to challenge the information contained in his criminal history transcript, and the individual's right to an administrative appeal.

Once the members completed the questionnaire, Ms. Kestel explained the answers and provided the group with a copy of Title 20, Part 1210 of the Illinois Administrative Code and an Access and Review fingerprint card used by the Illinois State Police to process requests.

Study proposal – Comparison of unofficial and official sources of CHRI in Illinois

Mr. Nagel briefly discussed a proposed study to compare unofficial sources of criminal history information with that contained in Illinois' criminal history repository. Some members were concerned with whether the researchers were required to inform individuals if errors were discovered in their unofficial criminal history transcript. Mr. Nagel replied that the Authority's Institutional Review Board (IRB) would review the study. Mr. Boehmer clarified that the IRB's function is to protect human research subjects, and that the members' concerns would be addressed before the IRB approved the research.

Next Meeting's Goals

Mr. Boehmer explained that the next meeting of the subcommittee would be the last to specifically cover the regulations of the Illinois criminal history repository. He anticipated that at the next meeting, the members would discuss the data quality requirements imposed upon the repository as well as Illinois' expungement law. Mr. Boehmer expected the next meeting of the IJIS Privacy Policy Subcommittee taking place in June and said that staff would be in contact with the members to inform them of the date.

Adjourn

The meeting adjourned at 12:05 p.m.

Criminal Identification Act

20 ILCS 2630/5

2630/5. Arrest reports; expungement

§ 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 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) 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) 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 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.

1 AN ACT concerning the sealing of criminal records.

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

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

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

7 Sec. 5. Arrest reports; expungement.

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

23 Whenever an adult or minor prosecuted as an adult, not
24 having previously been convicted of any criminal offense or
25 municipal ordinance violation, charged with a violation of a
26 municipal ordinance or a felony or misdemeanor, is acquitted or
27 released without being convicted, whether the acquittal or
28 release occurred before, on, or after the effective date of
29 this amendatory Act of 1991, the Chief Judge of the circuit
30 wherein the charge was brought, any judge of that circuit
31 designated by the Chief Judge, or in counties of less than
32 3,000,000 inhabitants, the presiding trial judge at the

1 defendant's trial may upon verified petition of the defendant
2 order the record of arrest expunged from the official records
3 of the arresting authority and the Department and order that
4 the records of the clerk of the circuit court be sealed until
5 further order of the court upon good cause shown and the name
6 of the defendant obliterated on the official index required to
7 be kept by the circuit court clerk under Section 16 of the
8 Clerks of Courts Act, but the order shall not affect any index
9 issued by the circuit court clerk before the entry of the
10 order. The Department may charge the petitioner a fee
11 equivalent to the cost of processing any order to expunge or
12 seal the records, and the fee shall be deposited into the State
13 Police Services Fund. The records of those arrests, however,
14 that result in a disposition of supervision for any offense
15 shall not be expunged from the records of the arresting
16 authority or the Department nor impounded by the court until 2
17 years after discharge and dismissal of supervision. Those
18 records that result from a supervision for a violation of
19 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois
20 Vehicle Code or a similar provision of a local ordinance, or
21 for a violation of Section 12-3.2, 12-15 or 16A-3 of the
22 Criminal Code of 1961, or probation under Section 10 of the
23 Cannabis Control Act, Section 410 of the Illinois Controlled
24 Substances Act, Section 12-4.3(b)(1) and (2) of the Criminal
25 Code of 1961 (as those provisions existed before their deletion
26 by Public Act 89-313), Section 10-102 of the Illinois
27 Alcoholism and Other Drug Dependency Act when the judgment of
28 conviction has been vacated, Section 40-10 of the Alcoholism
29 and Other Drug Abuse and Dependency Act when the judgment of
30 conviction has been vacated, or Section 10 of the Steroid
31 Control Act shall not be expunged from the records of the
32 arresting authority nor impounded by the court until 5 years
33 after termination of probation or supervision. Those records
34 that result from a supervision for a violation of Section
35 11-501 of the Illinois Vehicle Code or a similar provision of a
36 local ordinance, shall not be expunged. All records set out

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

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

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

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

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

1 pardoned.

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

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

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

36 (e) Nothing herein shall prevent the Department of State

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

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

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

24 (h) (1) Notwithstanding any other provision of this Act to
25 the contrary and cumulative with any rights to expungement of
26 criminal records, whenever an adult or minor prosecuted as an
27 adult charged with a violation of a municipal ordinance or a
28 misdemeanor is acquitted or released without being convicted,
29 or if the person is convicted but the conviction is reversed,
30 or if the person has been placed on supervision for a
31 misdemeanor and has not been convicted of a felony or
32 misdemeanor or placed on supervision for a misdemeanor within 3
33 years after the acquittal or release or reversal of conviction,
34 or the completion of the terms and conditions of the
35 supervision, if the acquittal, release, finding of not guilty,
36 or reversal of conviction occurred on or after the effective

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

27 (2) Upon acquittal, release without conviction, or being
28 placed on supervision, the person charged with the offense
29 shall be informed by the court of the right to have the records
30 sealed and the procedures for the sealing of the records. Three
31 years after the dismissal of the charge, the finding of not
32 guilty, the reversal of conviction, or the completion of the
33 terms and conditions of the supervision, the defendant shall
34 provide the clerk of the court with a notice of request for
35 sealing of records and payment of the applicable fee and a
36 current address and shall promptly notify the clerk of the

1 court of any change of address. The clerk shall promptly serve
2 notice that the person's records are to be sealed on the
3 State's Attorney or prosecutor charged with the duty of
4 prosecuting the offense, the Department of State Police, the
5 arresting agency and the chief legal officer of the unit of
6 local government effecting the arrest. Unless the State's
7 Attorney or prosecutor, the Department of State Police, the
8 arresting agency or such chief legal officer objects to sealing
9 of the records within 90 days of notice the court shall enter
10 an order sealing the defendant's records 3 years after the
11 dismissal of the charge, the finding of not guilty, the
12 reversal of conviction, or the completion of the terms and
13 conditions of the supervision. The clerk of the court shall
14 promptly serve by mail or in person a copy of the order to the
15 person, the arresting agency, the prosecutor, the Department of
16 State Police and such other criminal justice agencies as may be
17 ordered by the judge. If an objection is filed, the court shall
18 set a date for hearing. At the hearing the court shall hear
19 evidence on whether the sealing of the records should or should
20 not be granted.

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

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

30 (5) An adult or a minor prosecuted as an adult who was
31 charged with a violation of a municipal ordinance or a
32 misdemeanor who was acquitted, released without being
33 convicted, convicted and the conviction was reversed, or placed
34 on supervision for a misdemeanor before the date of this
35 amendatory Act of the 93rd General Assembly and was not
36 convicted of a felony or misdemeanor or placed on supervision

1 for a misdemeanor for 3 years after the acquittal or release or
2 reversal of conviction, or completion of the terms and
3 conditions of the supervision may petition the Chief Judge of
4 the circuit in which the charge was brought, any judge of that
5 circuit in which the charge was brought, any judge of the
6 circuit designated by the Chief Judge, or, in counties of less
7 than 3,000,000 inhabitants, the presiding trial judge at that
8 defendant's trial, to seal the official records of the
9 arresting authority, the Department, and the clerk of the
10 court, except those records are subject to inspection and use
11 by the court for the purposes of subsequent sentencing for
12 misdemeanor and felony violations and inspection and use by law
13 enforcement agencies, the Department of Corrections, and
14 State's Attorneys and other prosecutors in carrying out the
15 duties of their offices. Except as otherwise provided in
16 subsection (j), this ~~This~~ subsection (h) does not apply to
17 persons placed on supervision for: (1) a violation of Section
18 11-501 of the Illinois Vehicle Code or a similar provision of a
19 local ordinance; (2) a misdemeanor violation of Article 11 of
20 the Criminal Code of 1961 or a similar provision of a local
21 ordinance; (3) a misdemeanor violation of Section 12-15, 12-30,
22 or 26-5 of the Criminal Code of 1961 or a similar provision of
23 a local ordinance; (4) a misdemeanor violation that is a crime
24 of violence as defined in Section 2 of the Crime Victims
25 Compensation Act or a similar provision of a local ordinance;
26 (5) a Class A misdemeanor violation of the Humane Care for
27 Animals Act; or (6) any offense or attempted offense that would
28 subject a person to registration under the Sex Offender
29 Registration Act. The State's Attorney or prosecutor charged
30 with the duty of prosecuting the offense, the Department of
31 State Police, the arresting agency and the chief legal officer
32 of the unit of local government effecting the arrest shall be
33 served with a copy of the verified petition and shall have 90
34 days to object. If an objection is filed, the court shall set a
35 date for hearing. At the hearing the court shall hear evidence
36 on whether the sealing of the records should or should not be

1 granted. The person whose records are sealed under the
2 provisions of this Act shall pay to the clerk of the court and
3 the Department of State Police a fee equivalent to the cost
4 associated with the sealing of records. The fees shall be paid
5 to the clerk of the court who shall forward the appropriate
6 portion to the Department at the time the court order to seal
7 the defendant's record is forwarded to the Department for
8 processing. The Department of State Police portion of the fee
9 shall be deposited into the State Police Services Fund.

10 (i) (1) Notwithstanding any other provision of this Act to
11 the contrary and cumulative with any rights to expungement of
12 criminal records, whenever an adult or minor prosecuted as an
13 adult charged with a violation of a municipal ordinance or a
14 misdemeanor is convicted of a misdemeanor and has not been
15 convicted of a felony or misdemeanor or placed on supervision
16 for a misdemeanor within 4 years after the completion of the
17 sentence, if the conviction occurred on or after the effective
18 date of this amendatory Act of the 93rd General Assembly, the
19 Chief Judge of the circuit in which the charge was brought may
20 have the official records of the arresting authority, the
21 Department, and the clerk of the circuit court sealed 4 years
22 after the completion of the sentence, except those records are
23 subject to inspection and use by the court for the purposes of
24 subsequent sentencing for misdemeanor and felony violations
25 and inspection and use by law enforcement agencies and State's
26 Attorneys or other prosecutors in carrying out the duties of
27 their offices. Except as otherwise provided in subsection (j),
28 this ~~This~~ subsection (i) does not apply to persons convicted
29 of: (1) a violation of Section 11-501 of the Illinois Vehicle
30 Code or a similar provision of a local ordinance; (2) a
31 misdemeanor violation of Article 11 of the Criminal Code of
32 1961 or a similar provision of a local ordinance; (3) a
33 misdemeanor violation of Section 12-15, 12-30, or 26-5 of the
34 Criminal Code of 1961 or a similar provision of a local
35 ordinance; (4) a misdemeanor violation that is a crime of
36 violence as defined in Section 2 of the Crime Victims

1 Compensation Act or a similar provision of a local ordinance;
2 (5) a Class A misdemeanor violation of the Humane Care for
3 Animals Act; or (6) any offense or attempted offense that would
4 subject a person to registration under the Sex Offender
5 Registration Act.

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

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

36 (4) Whenever sealing of records is required under this

1 subsection (i), the notification of the sealing must be given
2 by the circuit court where the arrest occurred to the
3 Department in a form and manner prescribed by the Department.

4 (5) An adult or a minor prosecuted as an adult who was
5 charged with a violation of a municipal ordinance or a
6 misdemeanor who was convicted of a misdemeanor before the date
7 of this amendatory Act of the 93rd General Assembly and was not
8 convicted of a felony or misdemeanor or placed on supervision
9 for a misdemeanor for 4 years after the completion of the
10 sentence may petition the Chief Judge of the circuit in which
11 the charge was brought, any judge of that circuit in which the
12 charge was brought, any judge of the circuit designated by the
13 Chief Judge, or, in counties of less than 3,000,000
14 inhabitants, the presiding trial judge at that defendant's
15 trial, to seal the official records of the arresting authority,
16 the Department, and the clerk of the court, except those
17 records are subject to inspection and use by the court for the
18 purposes of subsequent sentencing for misdemeanor and felony
19 violations and inspection and use by law enforcement agencies,
20 the Department of Corrections, and State's Attorneys and other
21 prosecutors in carrying out the duties of their offices. Except
22 as otherwise provided in subsection (j), this ~~This~~ subsection
23 (i) does not apply to persons convicted of: (1) a violation of
24 Section 11-501 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance; (2) a misdemeanor violation of
26 Article 11 of the Criminal Code of 1961 or a similar provision
27 of a local ordinance; (3) a misdemeanor violation of Section
28 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar
29 provision of a local ordinance; (4) a misdemeanor violation
30 that is a crime of violence as defined in Section 2 of the
31 Crime Victims Compensation Act or a similar provision of a
32 local ordinance; (5) a Class A misdemeanor violation of the
33 Humane Care for Animals Act; or (6) any offense or attempted
34 offense that would subject a person to registration under the
35 Sex Offender Registration Act. The State's Attorney or
36 prosecutor charged with the duty of prosecuting the offense,

1 the Department of State Police, the arresting agency and the
2 chief legal officer of the unit of local government effecting
3 the arrest shall be served with a copy of the verified petition
4 and shall have 90 days to object. If an objection is filed, the
5 court shall set a date for hearing. At the hearing the court
6 shall hear evidence on whether the sealing of the records
7 should or should not be granted. The person whose records are
8 sealed under the provisions of this Act shall pay to the clerk
9 of the court and the Department of State Police a fee
10 equivalent to the cost associated with the sealing of records.
11 The fees shall be paid to the clerk of the court who shall
12 forward the appropriate portion to the Department at the time
13 the court order to seal the defendant's record is forwarded to
14 the Department for processing. The Department of State Police
15 portion of the fee shall be deposited into the State Police
16 Services Fund.

17 (j) Subsections (h) and (i) apply to a person placed on
18 supervision for a misdemeanor violation of or who is convicted
19 of a misdemeanor or felony violation of Section 11-14 of the
20 Criminal Code of 1961, a misdemeanor or Class 4 felony
21 violation of Section 4 of the Cannabis Control Act, or a
22 misdemeanor or Class 4 felony violation of Section 402 of the
23 Illinois Controlled Substances Act or who is acquitted or
24 released without being convicted, or whose conviction is
25 reversed for any of those offenses provided that the other
26 requirements of subsection (h) or (i) are met.

27 (k) The Illinois Department of Corrections, in cooperation
28 with the Illinois Department of Employment Security, shall
29 conduct a blind study utilizing a random sample of those who
30 apply for the sealing of their criminal records under Public
31 Act 93-211. The random sample shall be large enough to have a
32 margin of error of 3% or less. Utilizing the random sample of
33 those who applied for the sealing of their criminal records
34 under Public Act 93-211, the study shall determine for each
35 subject the following: (i) how soon they applied for work after
36 their release and how many times they applied for employment at

1 different entities as reported to the Illinois Department of
2 Employment Security; (ii) how soon they applied for work after
3 having their records sealed and how many times they applied for
4 employment at different entities as reported to the Illinois
5 Department of Employment Security; (iii) their employment
6 history following their release; and (iv) their employment
7 history following the sealing of their records. In addition, if
8 the subjects were recidivist, the study shall note: (i) when
9 they were arrested following their release; (ii) when they were
10 arrested following the sealing of the criminal records; (iii)
11 how often they were arrested; (iv) what they were arrested for
12 and what they were charged with; (v) what sentence they
13 received, if any; and (vi) how long they were re-incarcerated,
14 if at all. The study shall be delivered to the chairpersons of
15 the House and Senate Judiciary Committees no later than
16 September 1, 2006.

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



Adopted in House Comm. on Apr 22, 2004

09300SB3007ham001

LRB093 21097 RLC 49904 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007 on page 6, by
3 replacing lines 29 and 30 with the following:

4 "or if an adult or minor prosecuted as an adult ~~the person~~ is
5 convicted of a violation of a municipal ordinance or a
6 misdemeanor but the conviction is reversed, or if an adult or
7 minor prosecuted as an adult, regardless of the original
8 charge, the person has been placed on supervision for a"; and

9 on page 8, by replacing lines 32 and 33 with the following:

10 "misdemeanor who was acquitted ~~or~~ released without being
11 convicted, or an adult or minor prosecuted as an adult who was
12 convicted of a violation of a municipal ordinance or a
13 misdemeanor and the conviction was reversed, or an adult or
14 minor prosecuted as an adult, regardless of the original
15 charge, who was placed"; and

16 by replacing lines 27 through 36 on page 13 and lines 1 through
17 16 on page 14 with the following:

18 "(k) A person may not have subsequent felony conviction
19 records sealed as provided in subsection (j) if he or she is
20 convicted of any felony offense subsequent to the date of the
21 sealing of prior felony records as provided in subsection (j).

22 (l) The Illinois Department of Corrections shall conduct a
23 study of the impact of sealing, especially on employment and
24 recidivism rates, utilizing a random sample of those who apply

1 for the sealing of their criminal records under Public Act
2 93-211, in accordance to rules adopted by the Department. At
3 the request of the Illinois Department of Corrections, records
4 of the Illinois Department of Employment Security shall be
5 utilized as appropriate to assist in the study. The study shall
6 not disclose any data in a manner that would allow the
7 identification of any particular individual or employing unit.
8 The study shall be made available to the General Assembly no
9 later than September 1, 2006."



Filed: 5/14/2004

09300SB3007ham002

LRB093 21097 RLC 51122 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007, AS AMENDED,
3 by replacing paragraph (1) of subsection (h) of Sec. 5 of
4 Section 5 with the following:

5 "(h) (1) Notwithstanding any other provision of this Act to
6 the contrary and cumulative with any rights to expungement of
7 criminal records, the Chief Judge of the circuit in which the
8 charge or charges were brought may have the official records of
9 the charges and disposition that are held by the arresting
10 authority, the Department, and the clerk of the circuit court
11 regarding an adult or minor prosecuted as an adult sealed if
12 the adult or minor prosecuted as an adult was:

13 (A) charged with one or more municipal ordinance
14 violations or misdemeanors, and thereafter was either
15 acquitted or released without being convicted; or

16 (B) regardless of the original charge or charges,
17 placed on misdemeanor supervision; and

18 (i) at least 3 years have elapsed since the
19 completion of the term of supervision for the last such
20 event; and

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

25 (C) regardless of the original charge or charges,
26 placed on misdemeanor supervision or convicted of a

1 municipal ordinance violation or a misdemeanor and the
2 conviction was reversed.

3 However, all such records are nonetheless subject to
4 inspection and use by the court and inspection and use by law
5 enforcement agencies and State's Attorneys or other
6 prosecutors in carrying out the duties of their offices.
7 ~~Notwithstanding any other provision of this Act to the contrary~~
8 ~~and cumulative with any rights to expungement of criminal~~
9 ~~records, whenever an adult or minor prosecuted as an adult~~
10 ~~charged with a violation of a municipal ordinance or a~~
11 ~~misdemeanor is acquitted or released without being convicted,~~
12 ~~or if the person is convicted but the conviction is reversed,~~
13 ~~or if the person has been placed on supervision for a~~
14 ~~misdemeanor and has not been convicted of a felony or~~
15 ~~misdemeanor or placed on supervision for a misdemeanor within 3~~
16 ~~years after the acquittal or release or reversal of conviction,~~
17 ~~or the completion of the terms and conditions of the~~
18 ~~supervision, if the acquittal, release, finding of not guilty,~~
19 ~~or reversal of conviction occurred on or after the effective~~
20 ~~date of this amendatory Act of the 93rd General Assembly, the~~
21 ~~Chief Judge of the circuit in which the charge was brought may~~
22 ~~have the official records of the arresting authority, the~~
23 ~~Department, and the clerk of the circuit court sealed 3 years~~
24 ~~after the dismissal of the charge, the finding of not guilty,~~
25 ~~the reversal of conviction, or the completion of the terms and~~
26 ~~conditions of the supervision, except those records are subject~~
27 ~~to inspection and use by the court for the purposes of~~
28 ~~subsequent sentencing for misdemeanor and felony violations~~
29 ~~and inspection and use by law enforcement agencies and State's~~
30 ~~Attorneys or other prosecutors in carrying out the duties of~~
31 ~~their offices. Except as otherwise provided in subsection (j),~~
32 this ~~This~~ subsection (h) does not apply to persons placed on
33 supervision for: (1) a violation of Section 11-501 of the
34 Illinois Vehicle Code or a similar provision of a local

1 ordinance; (2) a misdemeanor violation of Article 11 of the
2 Criminal Code of 1961 or a similar provision of a local
3 ordinance; (3) a misdemeanor violation of Section 12-15, 12-30,
4 or 26-5 of the Criminal Code of 1961 or a similar provision of
5 a local ordinance; (4) a misdemeanor violation that is a crime
6 of violence as defined in Section 2 of the Crime Victims
7 Compensation Act or a similar provision of a local ordinance;
8 (5) a Class A misdemeanor violation of the Humane Care for
9 Animals Act; or (6) any offense or attempted offense that would
10 subject a person to registration under the Sex Offender
11 Registration Act."; and

12 by replacing paragraph (1) of subsection (i) of Sec. 5 of
13 Section 5 with the following:

14 "(i) (1) Notwithstanding any other provision of this Act to
15 the contrary and cumulative with any rights to expungement of
16 criminal records, the Chief Judge of the circuit in which the
17 charge or charges were brought may have the official records of
18 the charges and disposition that are held by the arresting
19 authority, the Department, and the clerk of the circuit court
20 regarding an adult or minor prosecuted as an adult sealed if:

21 (A) the adult or minor prosecuted as an adult has been
22 convicted of one or more municipal ordinance violations or
23 misdemeanors; and

24 (B) at least 4 years have elapsed since the last such
25 conviction or term of any sentence, probation, or
26 supervision, if any; and

27 (C) the individual, since the last such conviction or
28 term of any sentence, probation or supervision, if any, has
29 not been convicted of a felony or misdemeanor or placed on
30 supervision for a misdemeanor.

31 However, all such records are nonetheless subject to
32 inspection and use by the court and inspection and use by law
33 enforcement agencies and State's Attorneys or other

1 prosecutors in carrying out the duties of their offices.
2 ~~Notwithstanding any other provision of this Act to the contrary~~
3 ~~and cumulative with any rights to expungement of criminal~~
4 ~~records, whenever an adult or minor prosecuted as an adult~~
5 ~~charged with a violation of a municipal ordinance or a~~
6 ~~misdemeanor is convicted of a misdemeanor and has not been~~
7 ~~convicted of a felony or misdemeanor or placed on supervision~~
8 ~~for a misdemeanor within 4 years after the completion of the~~
9 ~~sentence, if the conviction occurred on or after the effective~~
10 ~~date of this amendatory Act of the 93rd General Assembly, the~~
11 ~~Chief Judge of the circuit in which the charge was brought may~~
12 ~~have the official records of the arresting authority, the~~
13 ~~Department, and the clerk of the circuit court sealed 4 years~~
14 ~~after the completion of the sentence, except those records are~~
15 ~~subject to inspection and use by the court for the purposes of~~
16 ~~subsequent sentencing for misdemeanor and felony violations~~
17 ~~and inspection and use by law enforcement agencies and State's~~
18 ~~Attorneys or other prosecutors in carrying out the duties of~~
19 ~~their offices. Except as otherwise provided in subsection (j),~~
20 this ~~This~~ subsection (i) does not apply to persons convicted
21 of: (1) a violation of Section 11-501 of the Illinois Vehicle
22 Code or a similar provision of a local ordinance; (2) a
23 misdemeanor violation of Article 11 of the Criminal Code of
24 1961 or a similar provision of a local ordinance; (3) a
25 misdemeanor violation of Section 12-15, 12-30, or 26-5 of the
26 Criminal Code of 1961 or a similar provision of a local
27 ordinance; (4) a misdemeanor violation that is a crime of
28 violence as defined in Section 2 of the Crime Victims
29 Compensation Act or a similar provision of a local ordinance;
30 (5) a Class A misdemeanor violation of the Humane Care for
31 Animals Act; or (6) any offense or attempted offense that would
32 subject a person to registration under the Sex Offender
33 Registration Act."; and

1 in subsection (j) of Sec. 5 of Section 5, by inserting after
2 "met." the following:

3 "A person filing a petition to have his or her records sealed
4 for a Class 4 felony violation of Section 4 of the Cannabis
5 Control Act or for a Class 4 felony violation of Section 402 of
6 the Illinois Controlled Substances Act must attach to the
7 petition proof that the petitioner has passed a test taken
8 within the previous 30 days before the filing of the petition
9 showing the absence within his or her body of all illegal
10 substances in violation of either the Illinois Controlled
11 Substances Act or the Cannabis Control Act."; and

12 by inserting after the last line of subsection (k) of Sec. 5 of
13 Section 5 the following:

14 "(l) Criminal history records sealed as prescribed in
15 subsections (h), (i), and (j) shall not remain sealed to
16 employers, authorizing bodies, and government agencies when
17 State or federal law or regulation would otherwise prohibit
18 employment or licensure by the person had his or her criminal
19 history records not been sealed. A felony record of arrest or
20 conviction shall not be sealed until the Department of State
21 Police has implemented the system to provide these records,
22 which shall be accomplished in no more than one year from the
23 effective date of this amendatory Act of the 93rd General
24 Assembly. Subject to the approval by the Illinois Commerce
25 Commission, an amount not to exceed \$885,000 shall be
26 transferred from the Digital Divide Elimination Infrastructure
27 Fund to the State Police Services Fund for the purpose of
28 establishing the computer system necessary for the
29 implementation of this amendatory Act of the 93rd General
30 Assembly."; and

31 by relettering subsection "(l)" of Sec. 5 of Section 5 as
32 subsection "(m)"; and

1 in the relettered subsection (m), by replacing "The Illinois
2 Department of Corrections shall conduct" with "Subject to
3 available funding, the Illinois Department of Corrections
4 shall conduct".



Rep. Constance A. Howard

Filed: 5/14/2004

09300SB3007ham003

LRB093 21097 RLC 51074 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007 on page 8,
3 line 25, by inserting after the period the following:

4 "In counties with a population of 180,000 or less, the clerk's
5 portion of the fee shall be deposited in the Court Document
6 Storage Fund.".



Rep. Constance A. Howard

Filed: 5/18/2004

09300SB3007ham004

LRB093 21097 RLC 51299 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007 on page 8,
3 line 21, by changing "The clerk" to "Notwithstanding any
4 provision of the Clerks of Courts Act to the contrary and
5 subject to county board approval, the clerk"; and

6 on page 11, line 31, by changing "The clerk" to
7 "Notwithstanding any provision of the Clerks of Courts Act to
8 the contrary and subject to county board approval, the clerk".



Rep. Constance A. Howard

Filed: 5/18/2004

09300SB3007ham005

LRB093 21097 RLC 51258 a

1 AMENDMENT TO SENATE BILL 3007

2 AMENDMENT NO. _____. Amend Senate Bill 3007, AS AMENDED,
3 by replacing the introductory clause of Section 5 with the
4 following:

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

7 by deleting all of subsection (l) of Sec. 5 of Section 5; and

8 by relettering subsection "(m)" of Sec. 5 of Section 5 as
9 subsection "(l)"; and

10 by inserting after the last line of Sec. 5 of Section 5 the
11 following:

12 "(20 ILCS 2630/12)

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

15 (a) Except with respect to law enforcement agencies, the
16 Department of Corrections, State's Attorneys, or other
17 prosecutors, and as provided in Section 13 of this Act, an
18 expunged or sealed record may not be considered by any private
19 or public entity in employment matters, certification,
20 licensing, revocation of certification or licensure, or
21 registration. Applications for employment must contain
22 specific language which states that the applicant is not

1 obligated to disclose sealed or expunged records of conviction
2 or arrest. Employers may not ask if an applicant has had
3 records expunged or sealed.

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

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

14 (20 ILCS 2630/13)

15 Sec. 13. Retention and release of sealed records ~~Prohibited~~
16 ~~conduct, misdemeanor, penalty.~~

17 (a) The Department of State Police shall retain records
18 sealed under subsections (h), ~~and (i), and (j)~~ of Section 5 and
19 shall release them only as authorized by this Act. Felony
20 records ~~The sealed~~ under subsection (j) of Section 5 records
21 shall be used and disseminated by the Department only as
22 otherwise specifically required or authorized by a federal or
23 State law, rule, or regulation that requires inquiry into and
24 release of criminal records, including, but not limited to,
25 subsection (A) of Section 3 of this Act. However, all requests
26 for records that have been expunged, sealed, and impounded and
27 the use of those records are subject to the provisions of
28 Section 2-103 of the Illinois Human Rights Act ~~allowed by law.~~
29 Upon conviction for any offense, the Department of Corrections
30 shall have access to all sealed records of the Department
31 pertaining to that individual.

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

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

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

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

11 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

12 Sec. 2-103. Arrest Record.

13 (A) Unless otherwise authorized by law, it is a civil
14 rights violation for any employer, employment agency or labor
15 organization to inquire into or to use the fact of an arrest or
16 criminal history record information ordered expunged, sealed
17 or impounded under Section 5 of the Criminal Identification Act
18 as a basis to refuse to hire, to segregate, or to act with
19 respect to recruitment, hiring, promotion, renewal of
20 employment, selection for training or apprenticeship,
21 discharge, discipline, tenure or terms, privileges or
22 conditions of employment. This Section does not prohibit a
23 State agency, unit of local government or school district, or
24 private organization from requesting or utilizing sealed
25 felony conviction information obtained from the Department of
26 State Police under the provisions of Section 3 of the Criminal
27 Identification Act or under other State or federal laws or
28 regulations that require criminal background checks in
29 evaluating the qualifications and character of an employee or a
30 prospective employee.

31 (B) The prohibition against the use of the fact of an
32 arrest contained in this Section shall not be construed to

1 prohibit an employer, employment agency, or labor organization
2 from obtaining or using other information which indicates that
3 a person actually engaged in the conduct for which he or she
4 was arrested.

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

1 AN ACT concerning minors.

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

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

6 (705 ILCS 405/5-915)

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

9 (1) Whenever any person has attained the age of 17 or
10 whenever all juvenile court proceedings relating to that person
11 have been terminated, whichever is later, the person may
12 petition the court to expunge law enforcement records relating
13 to incidents occurring before his or her 17th birthday or his
14 or her juvenile court records, or both, but only in the
15 following circumstances:

16 (a) the minor was arrested and no petition for
17 delinquency was filed with the clerk of the circuit court;
18 or

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

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

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

27 (2) Any person may petition the court to expunge all law
28 enforcement records relating to any incidents occurring before
29 his or her 17th birthday which did not result in proceedings in
30 criminal court and all juvenile court records with respect to
31 any adjudications except those based upon first degree murder
32 and sex offenses which would be felonies if committed by an

1 adult, if the person for whom expungement is sought has had no
2 convictions for any crime since his or her 17th birthday and:

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

4 (b) 5 years have elapsed since all juvenile court
5 proceedings relating to him or her have been terminated or
6 his or her commitment to the Department of Corrections,
7 Juvenile Division pursuant to this Act has been terminated;
8 whichever is later of (a) or (b).

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

25 (2.6) If a minor is charged with an offense and is found
26 not delinquent of that offense; or if a minor is placed under
27 supervision under Section 5-615, and the order of supervision
28 is successfully terminated; or if a minor is adjudicated for an
29 offense that would be a Class B misdemeanor, a Class C
30 misdemeanor, or a business or petty offense if committed by an
31 adult; or if a minor has incidents occurring before his or her
32 17th birthday that have not resulted in proceedings in criminal
33 court, or resulted in proceedings in juvenile court, and the
34 adjudications were not based upon first degree murder or sex
35 offenses that would be felonies if committed by an adult; then
36 at the time of sentencing or dismissal of the case, the judge

1 shall inform the delinquent minor of his or her right to
 2 petition for expungement as provided by law, and the clerk of
 3 the circuit court shall provide an expungement information
 4 packet to the delinquent minor, written in plain language,
 5 including a petition for expungement, a sample of a completed
 6 petition, expungement instructions that shall include
 7 information informing the minor that (i) once the case is
 8 expunged, it shall be treated as if it never occurred, (ii) he
 9 or she may apply to have petition fees waived, (iii) once he or
 10 she obtains an expungement, he or she may not be required to
 11 disclose that he or she had a juvenile record, and (iv) he or
 12 she may file the petition on his or her own or with the
 13 assistance of an attorney.

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

24 (2.8) The petition for expungement for subsection (1) shall
 25 be substantially in the following form:

26 IN THE CIRCUIT COURT OF , ILLINOIS
 27JUDICIAL CIRCUIT
 28 IN THE INTEREST OF)
 29 NO.
 30
 31)
 32
 33)
 34)
 35 (Name of Petitioner)

1 PETITION TO EXPUNGE JUVENILE RECORDS

2 (705 ILCS 405/5-915 (SUBSECTION 1))

3 (Please prepare a separate petition for each offense)

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

12 (Check One:)

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

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

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

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

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

25 Petitioner has has not been arrested on charges in
26 this or any county other than the charges listed above. If
27 petitioner has been arrested on additional charges, please list
28 the charges below:

29 Charge(s):

30 Arresting Agency or Agencies:

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

32 WHEREFORE, the petitioner respectfully requests this Honorable
33 Court to (1) order all law enforcement agencies to expunge all
34 records of petitioner to this incident, and (2) to order the
35 Clerk of the Court to expunge all records concerning the
36 petitioner regarding this incident.

1

2 Petitioner (Signature)

3

4 Petitioner's Street Address

5

6 City, State, Zip Code

7

8 Petitioner's Telephone Number

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

13

14 Petitioner (Signature)

15 The Petition for Expungement for subsection (2) shall be
16 substantially in the following form:

17 IN THE CIRCUIT COURT OF, ILLINOIS

18 JUDICIAL CIRCUIT

19 IN THE INTEREST OF)

20 NO.

21
22)

23
24)

25)

26 (Name of Petitioner)

27 PETITION TO EXPUNGE JUVENILE RECORDS

28 (705 ILCS 405/5-915 (SUBSECTION 2))

29 (Please prepare a separate petition for each offense)

1 Now comes, petitioner, and respectfully requests
2 that this Honorable Court enter an order expunging all Juvenile
3 Law Enforcement and Court records of petitioner and in support
4 thereof states that:

5 The incident for which the Petitioner seeks expungement
6 occurred before the Petitioner's 17th birthday and did not
7 result in proceedings in criminal court and the Petitioner has
8 not had any convictions for any crime since his/her 17th
9 birthday; and

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

16 Petitioner was arrested on by the Police
17 Department for the offense of, and:

18 (Check whichever one occurred the latest:)

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

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

30 Charge(s):

31 Arresting Agency or Agencies:

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

33 WHEREFORE, the petitioner respectfully requests this Honorable
34 Court to (1) order all law enforcement agencies to expunge all
35 records of petitioner related to this incident, and (2) to
36 order the Clerk of the Court to expunge all records concerning

1 the petitioner regarding this incident.

2
3 Petitioner (Signature)

4
5 Petitioner's Street Address

6
7 City, State, Zip Code

8
9 Petitioner's Telephone Number

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

14
15 Petitioner (Signature)

16 (3) The chief judge of the circuit in which an arrest was
17 made or a charge was brought or any judge of that circuit
18 designated by the chief judge may, upon verified petition of a
19 person who is the subject of an arrest or a juvenile court
20 proceeding under subsection (1) or (2) of this Section, order
21 the law enforcement records or official court file, or both, to
22 be expunged from the official records of the arresting
23 authority, the clerk of the circuit court and the Department of
24 State Police. The person whose records are to be expunged shall
25 petition the court using the appropriate form containing his or
26 her current address and shall promptly notify the clerk of the
27 circuit court of any change of address. Notice of the petition
28 shall be served upon the State's Attorney or prosecutor charged
29 with the duty of prosecuting the offense, the Department of
30 State Police, and the arresting agency or agencies by the clerk
31 of the circuit court. If an objection is filed within 90 days
32 of the notice of the petition, the clerk of the circuit court

1 shall set a date for hearing after the 90 day objection period.
 2 At the hearing the court shall hear evidence on whether the
 3 expungement should or should not be granted. Unless the State's
 4 Attorney or prosecutor, the Department of State Police, or an
 5 arresting agency objects to the expungement within 90 days of
 6 the notice, the court may enter an order granting expungement.
 7 The person whose records are to be expunged shall pay the clerk
 8 of the circuit court a fee equivalent to the cost associated
 9 with expungement of records by the clerk and the Department of
 10 State Police. The clerk shall forward a certified copy of the
 11 order to the Department of State Police, the appropriate
 12 portion of the fee to the Department of State Police for
 13 processing, and deliver a certified copy of the order to the
 14 arresting agency. and upon the arresting authority which is the
 15 subject of the petition for expungement.

16 (3.1) The Notice of Expungement shall be in substantially
 17 the following form:

18 IN THE CIRCUIT COURT OF, ILLINOIS
 19 JUDICIAL CIRCUIT

20 IN THE INTEREST OF)

21 NO.

22
 23)

24
 25)

26)

27 (Name of Petitioner)

28 NOTICE

29 TO: State's Attorney

30 TO: Arresting Agency

31
 32

33

34
 35

36

1 TO: Illinois State Police

2

3

4

5

6 ATTENTION: Expungement

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

12

.....

13

Petitioner's Signature

14

.....

15

Petitioner's Street Address

16

.....

17

City, State, Zip Code

18

.....

19

Petitioner's Telephone Number

20

PROOF OF SERVICE

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

24 (Check One:)

25 delivering copies personally to each entity to whom they are
26 directed;

27 or

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

32

.....

33

34 Signature

35

Clerk of the Circuit Court or Deputy Clerk

36

Printed Name of Delinquent Minor/Petitioner:

1 Address:

2 Telephone Number:

3 (3.2) The Order of Expungement shall be in substantially
4 the following form:

5 IN THE CIRCUIT COURT OF, ILLINOIS

6 JUDICIAL CIRCUIT

7 IN THE INTEREST OF)

8 NO.

9

10)

11

12)

13)

14 (Name of Petitioner)

15 DOB

16 Arresting Agency/Agencies

17 ORDER OF EXPUNGEMENT

18 (705 ILCS 405/5-915 (SUBSECTION 3))

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

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

25 () 2. The Illinois State Police Bureau of Identification
26 and the following law enforcement agencies expunge all records
27 of petitioner relating to an arrest dated for the
28 offense of

29 Law Enforcement Agencies:

30

31

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

34 ENTER:

35

36 JUDGE

1 DATED:

2 Name:

3 Attorney for:

4 Address: City/State/Zip:

5 Attorney Number:

6 (3.3) The Notice of Objection shall be in substantially the
7 following form:

8 IN THE CIRCUIT COURT OF, ILLINOIS

9 JUDICIAL CIRCUIT

10 IN THE INTEREST OF)

11 NO.

12

13)

14

15)

16)

17 (Name of Petitioner)

18 NOTICE OF OBJECTION

19 TO: (Attorney, Public Defender, Minor)

20

21

22 TO: (Illinois State Police)

23

24

25 TO: (Clerk of the Court)

26

27

28 TO: (Judge)

29

30

31 TO: (Arresting Agency/Agencies)

32

33

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

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

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

9 DATED:

10 Name:

11 Attorney For:

12 Address:

13 City/State/Zip:

14 Telephone:

15 Attorney No.:

16 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

17 This matter has been set for hearing on the foregoing
 18 objection, on in room, located at, before the
 19 Honorable, Judge, or any judge sitting in his/her stead.
 20 (Only one hearing shall be set, regardless of the number of
 21 Notices of Objection received on the same case).

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

- 28 () Attorney, Public Defender or Minor;
- 29 () State's Attorney's Office;
- 30 () Prosecutor (other than State's Attorney's Office) charged
- 31 with the duty of prosecuting the offense sought to be expunged;
- 32 () Department of Illinois State Police; and
- 33 () Arresting agency or agencies.

34 Date:

35 Initials of Clerk completing this section:

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

1 offense, which the records or files concern shall be treated as
2 if it never occurred. Law enforcement officers and other public
3 offices and agencies shall properly reply on inquiry that no
4 record or file exists with respect to the person.

5 (5) Records which have not been expunged are sealed, and
6 may be obtained only under the provisions of Sections 5-901,
7 5-905 and 5-915.

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

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

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

22 (i) An explanation of the State's juvenile expungement
23 process;

24 (ii) The circumstances under which juvenile
25 expungement may occur;

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

27 (iv) The steps necessary to initiate and complete the
28 juvenile expungement process; and

29 (v) Directions on how to contact the State Appellate
30 Defender.

31 (c) The State Appellate Defender shall establish and
32 maintain a statewide toll-free telephone number that a person
33 may use to receive information or assistance concerning the
34 expungement of juvenile records. The State Appellate Defender
35 shall advertise the toll-free telephone number statewide. The
36 State Appellate Defender shall develop an expungement

1 information packet that may be sent to eligible persons seeking
2 expungement of their juvenile records, which may include, but
3 is not limited to, a pre-printed expungement petition with
4 instructions on how to complete the petition and a pamphlet
5 containing information that would assist individuals through
6 the juvenile expungement process.

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

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

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

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

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

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.



Sen. Jacqueline Y. Collins

Filed: 5/10/2004

09300HB4566sam001

LRB093 19428 RLC 50091 a

1 AMENDMENT TO HOUSE BILL 4566

2 AMENDMENT NO. _____. Amend House Bill 4566 on page 3, line
3 13, by inserting after the period the following:

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