

1 AN ACT in relation to the expungement and sealing of
2 arrest and court records.

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

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

7 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

8 Sec. 5. Arrest reports; expungement.

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

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

1 designated by the Chief Judge, or in counties of less than
2 3,000,000 inhabitants, the presiding trial judge at the
3 defendant's trial may upon verified petition of the defendant
4 order the record of arrest expunged from the official records
5 of the arresting authority and the Department and order that
6 the records of the clerk of the circuit court be sealed until
7 further order of the court upon good cause shown and the name
8 of the defendant obliterated on the official index required
9 to be kept by the circuit court clerk under Section 16 of the
10 Clerks of Courts Act, but the order shall not affect any
11 index issued by the circuit court clerk before the entry of
12 the order. The Department may charge the petitioner a fee
13 equivalent to the cost of processing any order to expunge or
14 seal the records, and the fee shall be deposited into the
15 State Police Services Fund. The records of those arrests,
16 however, that result in a disposition of supervision for any
17 offense must ~~shall not~~ be expunged from the records of the
18 arresting authority or the Department and ~~nor~~ impounded by
19 the court immediately ~~until--2--years~~ after discharge and
20 termination ~~dismissal~~ of supervision. ~~These records that~~
21 ~~result from a supervision for a violation of--Section--3-707,~~
22 ~~3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code~~
23 ~~or--a--similar--provision--of--a--local--ordinance, or for a~~
24 ~~violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal~~
25 ~~Code of 1961, or probation under Section 10 of the Cannabis~~
26 ~~Control Act, Section 410 of the Illinois Controlled~~
27 ~~Substances Act, Section 12-4.3(b)(1) and (2) of the Criminal~~
28 ~~Code of 1961 (as these provisions existed before their~~
29 ~~deletion by Public Act 89-313), Section 10-102 of the~~
30 ~~Illinois Alcoholism and Other Drug Dependency Act when the~~
31 ~~judgment of conviction has been vacated, Section 40-10 of the~~
32 ~~Alcoholism and Other Drug Abuse and Dependency Act when the~~
33 ~~judgment of conviction has been vacated, or Section 10 of the~~
34 ~~Steroid Control Act shall not be expunged from the records of~~

1 the--arresting--authority--nor--impounded--by--the--court--until--5
2 years--after--termination--of--probation--or--supervision. Those
3 records that result from a supervision for a violation of
4 Section 11-501 of the Illinois Vehicle Code or a similar
5 provision of a local ordinance, shall not be expunged. All
6 records set out above must may be ordered by the court to be
7 expunged from the records of the arresting authority and
8 immediately impounded by the court and after--5--years,--but
9 shall--not--be expunged by the Department and,--but--shall,--on
10 court--order--be sealed by the Department and may be
11 disseminated by the Department only as required by law or to
12 the arresting authority, the State's Attorney, and the court
13 upon a later arrest for the same or a similar offense or for
14 the purpose of sentencing for any subsequent felony. Upon
15 conviction for any offense, the Department of Corrections
16 shall have access to all sealed records of the Department
17 pertaining to that individual.

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

22 (b) Whenever a person has been convicted of a crime or
23 of the violation of a municipal ordinance, in the name of a
24 person whose identity he has stolen or otherwise come into
25 possession of, the aggrieved person from whom the identity
26 was stolen or otherwise obtained without authorization, upon
27 learning of the person having been arrested using his
28 identity, may, upon verified petition to the chief judge of
29 the circuit wherein the arrest was made, have a court order
30 entered nunc pro tunc by the chief judge to correct the
31 arrest record, conviction record, if any, and all official
32 records of the arresting authority, the Department, other
33 criminal justice agencies, the prosecutor, and the trial
34 court concerning such arrest, if any, by removing his name

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

20 (c) Whenever a person who has been convicted of an
21 offense is granted a pardon by the Governor which
22 specifically authorizes expungement, he may, upon verified
23 petition to the chief judge of the circuit where the person
24 had been convicted, any judge of the circuit designated by
25 the Chief Judge, or in counties of less than 3,000,000
26 inhabitants, the presiding trial judge at the defendant's
27 trial, may have a court order entered expunging the record of
28 arrest from the official records of the arresting authority
29 and order that the records of the clerk of the circuit court
30 and the Department be sealed until further order of the court
31 upon good cause shown or as otherwise provided herein, and
32 the name of the defendant obliterated from the official index
33 requested to be kept by the circuit court clerk under Section
34 16 of the Clerks of Courts Act in connection with the arrest

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

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

29 (d) Notice of the order of expungement and sealing of
30 records in relation to supervision and a petition for
31 petition-for subsections (a), (b), and (c) shall be served
32 upon the State's Attorney or prosecutor charged with the duty
33 of prosecuting the offense, the Department of State Police,
34 the arresting agency and the chief legal officer of the unit

1 of local government affecting the arrest. Unless the State's
2 Attorney or prosecutor, the Department of State Police, the
3 arresting agency or such chief legal officer objects to the
4 petition within 30 days from the date of the notice, the
5 court shall enter an order granting or denying the petition.
6 The clerk of the court shall promptly mail a copy of the
7 order to the person, the arresting agency, the prosecutor,
8 the Department of State Police and such other criminal
9 justice agencies as may be ordered by the judge.

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

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

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

1 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00;
2 91-357, eff. 7-29-99.)

3 Section 10. The Unified Code of Corrections is amended
4 by changing Section 5-6-3.1 as follows:

5 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

6 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

7 (a) When a defendant is placed on supervision, the court
8 shall enter an order for supervision specifying the period of
9 such supervision, and shall defer further proceedings in the
10 case until the conclusion of the period.

11 (b) The period of supervision shall be reasonable under
12 all of the circumstances of the case, but may not be longer
13 than 2 years, unless the defendant has failed to pay the
14 assessment required by Section 10.3 of the Cannabis Control
15 Act or Section 411.2 of the Illinois Controlled Substances
16 Act, in which case the court may extend supervision beyond 2
17 years. Additionally, the court shall order the defendant to
18 perform no less than 30 hours of community service and not
19 more than 120 hours of community service, if community
20 service is available in the jurisdiction and is funded and
21 approved by the county board where the offense was committed,
22 when the offense (1) was related to or in furtherance of the
23 criminal activities of an organized gang or was motivated by
24 the defendant's membership in or allegiance to an organized
25 gang; or (2) is a violation of any Section of Article 24 of
26 the Criminal Code of 1961 where a disposition of supervision
27 is not prohibited by Section 5-6-1 of this Code. The
28 community service shall include, but not be limited to, the
29 cleanup and repair of any damage caused by violation of
30 Section 21-1.3 of the Criminal Code of 1961 and similar
31 damages to property located within the municipality or county
32 in which the violation occurred. Where possible and

1 reasonable, the community service should be performed in the
2 offender's neighborhood.

3 For the purposes of this Section, "organized gang" has
4 the meaning ascribed to it in Section 10 of the Illinois
5 Streetgang Terrorism Omnibus Prevention Act.

6 (c) The court may in addition to other reasonable
7 conditions relating to the nature of the offense or the
8 rehabilitation of the defendant as determined for each
9 defendant in the proper discretion of the court require that
10 the person:

11 (1) make a report to and appear in person before or
12 participate with the court or such courts, person, or
13 social service agency as directed by the court in the
14 order of supervision;

15 (2) pay a fine and costs;

16 (3) work or pursue a course of study or vocational
17 training;

18 (4) undergo medical, psychological or psychiatric
19 treatment; or treatment for drug addiction or alcoholism;

20 (5) attend or reside in a facility established for
21 the instruction or residence of defendants on probation;

22 (6) support his dependents;

23 (7) refrain from possessing a firearm or other
24 dangerous weapon;

25 (8) and in addition, if a minor:

26 (i) reside with his parents or in a foster
27 home;

28 (ii) attend school;

29 (iii) attend a non-residential program for
30 youth;

31 (iv) contribute to his own support at home or
32 in a foster home; and

33 (9) make restitution or reparation in an amount not
34 to exceed actual loss or damage to property and pecuniary

1 loss or make restitution under Section 5-5-6 to a
2 domestic violence shelter. The court shall determine the
3 amount and conditions of payment;

4 (10) perform some reasonable public or community
5 service;

6 (11) comply with the terms and conditions of an
7 order of protection issued by the court pursuant to the
8 Illinois Domestic Violence Act of 1986 or an order of
9 protection issued by the court of another state, tribe,
10 or United States territory. If the court has ordered the
11 defendant to make a report and appear in person under
12 paragraph (1) of this subsection, a copy of the order of
13 protection shall be transmitted to the person or agency
14 so designated by the court;

15 (12) reimburse any "local anti-crime program" as
16 defined in Section 7 of the Anti-Crime Advisory Council
17 Act for any reasonable expenses incurred by the program
18 on the offender's case, not to exceed the maximum amount
19 of the fine authorized for the offense for which the
20 defendant was sentenced;

21 (13) contribute a reasonable sum of money, not to
22 exceed the maximum amount of the fine authorized for the
23 offense for which the defendant was sentenced, to a
24 "local anti-crime program", as defined in Section 7 of
25 the Anti-Crime Advisory Council Act;

26 (14) refrain from entering into a designated
27 geographic area except upon such terms as the court finds
28 appropriate. Such terms may include consideration of the
29 purpose of the entry, the time of day, other persons
30 accompanying the defendant, and advance approval by a
31 probation officer;

32 (15) refrain from having any contact, directly or
33 indirectly, with certain specified persons or particular
34 types of person, including but not limited to members of

1 street gangs and drug users or dealers;

2 (16) refrain from having in his or her body the
3 presence of any illicit drug prohibited by the Cannabis
4 Control Act or the Illinois Controlled Substances Act,
5 unless prescribed by a physician, and submit samples of
6 his or her blood or urine or both for tests to determine
7 the presence of any illicit drug;

8 (17) refrain from operating any motor vehicle not
9 equipped with an ignition interlock device as defined in
10 Section 1-129.1 of the Illinois Vehicle Code. Under this
11 condition the court may allow a defendant who is not
12 self-employed to operate a vehicle owned by the
13 defendant's employer that is not equipped with an
14 ignition interlock device in the course and scope of the
15 defendant's employment.

16 (d) The court shall defer entering any judgment on the
17 charges until the conclusion of the supervision.

18 (e) At the conclusion of the period of supervision, if
19 the court determines that the defendant has successfully
20 complied with all of the conditions of supervision, the court
21 shall discharge the defendant and enter a judgment dismissing
22 the charges.

23 (f) Discharge and dismissal upon a successful conclusion
24 of a disposition of supervision shall be deemed without
25 adjudication of guilt and shall not be termed a conviction
26 for purposes of disqualification or disabilities imposed by
27 law upon conviction of a crime. The expungement and sealing
28 of arrest and court records of a person who has successfully
29 concluded a disposition of supervision is governed by Section
30 5 of the Criminal Identification Act. Two--years--after--the
31 discharge--and--dismissal--under--this--Section,--unless--the
32 disposition--of--supervision--was--for--a--violation--of--Sections
33 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois
34 Vehicle--Code--or--a--similar--provision--of--a--local--ordinance,--or

1 for a violation of Sections 12-3.2 or 16A-3 of the Criminal
2 Code of 1961, in which case it shall be 5 years after
3 discharge and dismissal, a person may have his record of
4 arrest sealed or expunged as may be provided by law.
5 However, any defendant placed on supervision before January
6 1, 1980, may move for sealing or expungement of his arrest
7 record as provided by law, at any time after discharge and
8 dismissal under this Section. A person placed on supervision
9 for a sexual offense committed against a minor as defined in
10 subsection (g) of Section 5 of the Criminal Identification
11 Act or for a violation of Section 11-501 of the Illinois
12 Vehicle Code or a similar provision of a local ordinance
13 shall not have his or her record of arrest sealed or
14 expunged.

15 (g) A defendant placed on supervision and who during the
16 period of supervision undergoes mandatory drug or alcohol
17 testing, or both, or is assigned to be placed on an approved
18 electronic monitoring device, shall be ordered to pay the
19 costs incidental to such mandatory drug or alcohol testing,
20 or both, and costs incidental to such approved electronic
21 monitoring in accordance with the defendant's ability to pay
22 those costs. The county board with the concurrence of the
23 Chief Judge of the judicial circuit in which the county is
24 located shall establish reasonable fees for the cost of
25 maintenance, testing, and incidental expenses related to the
26 mandatory drug or alcohol testing, or both, and all costs
27 incidental to approved electronic monitoring, of all
28 defendants placed on supervision. The concurrence of the
29 Chief Judge shall be in the form of an administrative order.
30 The fees shall be collected by the clerk of the circuit
31 court. The clerk of the circuit court shall pay all moneys
32 collected from these fees to the county treasurer who shall
33 use the moneys collected to defray the costs of drug testing,
34 alcohol testing, and electronic monitoring. The county

1 treasurer shall deposit the fees collected in the county
2 working cash fund under Section 6-27001 or Section 6-29002 of
3 the Counties Code, as the case may be.

4 (h) A disposition of supervision is a final order for
5 the purposes of appeal.

6 (i) The court shall impose upon a defendant placed on
7 supervision after January 1, 1992, as a condition of
8 supervision, a fee of \$25 for each month of supervision
9 ordered by the court, unless after determining the inability
10 of the person placed on supervision to pay the fee, the court
11 assesses a lesser fee. The court may not impose the fee on a
12 minor who is made a ward of the State under the Juvenile
13 Court Act of 1987 while the minor is in placement. The fee
14 shall be imposed only upon a defendant who is actively
15 supervised by the probation and court services department.
16 The fee shall be collected by the clerk of the circuit court.
17 The clerk of the circuit court shall pay all monies collected
18 from this fee to the county treasurer for deposit in the
19 probation and court services fund pursuant to Section 15.1 of
20 the Probation and Probation Officers Act.

21 (j) All fines and costs imposed under this Section for
22 any violation of Chapters 3, 4, 6, and 11 of the Illinois
23 Vehicle Code, or a similar provision of a local ordinance,
24 and any violation of the Child Passenger Protection Act, or a
25 similar provision of a local ordinance, shall be collected
26 and disbursed by the circuit clerk as provided under Section
27 27.5 of the Clerks of Courts Act.

28 (k) A defendant at least 17 years of age who is placed
29 on supervision for a misdemeanor in a county of 3,000,000 or
30 more inhabitants and who has not been previously convicted of
31 a misdemeanor or felony may as a condition of his or her
32 supervision be required by the court to attend educational
33 courses designed to prepare the defendant for a high school
34 diploma and to work toward a high school diploma or to work

1 toward passing the high school level Test of General
2 Educational Development (GED) or to work toward completing a
3 vocational training program approved by the court. The
4 defendant placed on supervision must attend a public
5 institution of education to obtain the educational or
6 vocational training required by this subsection (k). The
7 defendant placed on supervision shall be required to pay for
8 the cost of the educational courses or GED test, if a fee is
9 charged for those courses or test. The court shall revoke
10 the supervision of a person who wilfully fails to comply with
11 this subsection (k). The court shall resentence the
12 defendant upon revocation of supervision as provided in
13 Section 5-6-4. This subsection (k) does not apply to a
14 defendant who has a high school diploma or has successfully
15 passed the GED test. This subsection (k) does not apply to a
16 defendant who is determined by the court to be
17 developmentally disabled or otherwise mentally incapable of
18 completing the educational or vocational program.

19 (l) The court shall require a defendant placed on
20 supervision for possession of a substance prohibited by the
21 Cannabis Control Act or Illinois Controlled Substances Act
22 after a previous conviction or disposition of supervision for
23 possession of a substance prohibited by the Cannabis Control
24 Act or Illinois Controlled Substances Act or a sentence of
25 probation under Section 10 of the Cannabis Control Act or
26 Section 410 of the Illinois Controlled Substances Act and
27 after a finding by the court that the person is addicted, to
28 undergo treatment at a substance abuse program approved by
29 the court.

30 (m) The court shall require a defendant placed on
31 supervision for a violation of Section 3-707 of the Illinois
32 Vehicle Code or a similar provision of a local ordinance, as
33 a condition of supervision, to give proof of his or her
34 financial responsibility as defined in Section 7-315 of the

1 Illinois Vehicle Code. The proof shall be maintained by the
2 defendant in a manner satisfactory to the Secretary of State
3 for a minimum period of one year after the date the proof is
4 first filed. The Secretary of State shall suspend the
5 driver's license of any person determined by the Secretary to
6 be in violation of this subsection.

7 (Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98;
8 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 90-784, eff.
9 1-1-99; 91-127, eff. 1-1-00; 91-696, eff. 4-13-00; 91-903,
10 eff. 1-1-01.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.