



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-EIGHTH GENERAL ASSEMBLY

42ND LEGISLATIVE DAY

TUESDAY, APRIL 30, 2013

12:23 O'CLOCK P.M.

SENATE
Daily Journal Index
42nd Legislative Day

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The Senate met pursuant to adjournment.
 Senator John M. Sullivan, Rushville, Illinois, presiding.
 Prayer by Pastor David Anderson, Modesto Christian Church, Modesto, Illinois.
 Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Thursday, April 25, 2013, be postponed, pending arrival of the printed Journal.
 The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

Personal Information Protection Act Annual Report, submitted the by Department of Human Services.

Progress on the Installation of Fiber-Optic Network Conduit, submitted by the Department of Transportation.

Anti-Predatory Lending Database Semi-Annual Summary Report, May 1, 2013, submitted by the Department of Financial and Professional Regulation.

Interagency Committee on Employees with Disabilities 2012 Annual Report, submitted by the Department of Human Rights and the Department of Human Services.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Committee amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to House Bill 83
 Senate Committee Amendment No. 1 to House Bill 513
 Senate Committee Amendment No. 1 to House Bill 1288
 Senate Committee Amendment No. 1 to House Bill 1604
 Senate Committee Amendment No. 1 to House Bill 1868
 Senate Committee Amendment No. 1 to House Bill 2269
 Senate Committee Amendment No. 1 to House Bill 2661
 Senate Committee Amendment No. 1 to House Bill 2777
 Senate Committee Amendment No. 1 to House Bill 3014
 Senate Committee Amendment No. 1 to House Bill 3120
 Senate Committee Amendment No. 1 to House Bill 3190
 Senate Committee Amendment No. 2 to House Bill 3190

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to House Bill 496
 Senate Floor Amendment No. 1 to House Bill 1017

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT STATE OF ILLINOIS

[April 30, 2013]

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

April 26, 2013

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 2-10, I am canceling Session scheduled Friday, May 3, 2013. Session will reconvene Monday, May 6, 2013 at 3:00 p.m.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno
Democrat Caucus Members
Tim Mapes

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

April 29, 2013

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 3, 2013 as the 3rd Reading deadline for the following Senate Bills:

2,3,4,5,6,7,8,11,12,13,14,15,16,17,18,19,34,41,43,68,69,112,113,115,116,117,172,202,
203,207,208,209,210,273,274,332,334,335,337,339,340,449,450,495,496,580,581,624,
627,628,629,630,712,713,725,726,733,738,739,740,848,849,851,852,926,927,928,1002,
1003,1004,1007,1042,1045,1046,1047,1098,1099,1117,1118,1132,1133,1137,1138,1148,
1149,1159,1171,1190,1204,1238,1245,1255,1275,1284,1285,1286,1301,1307,1341,1344,
1361,1365,1368,1377,1378,1382,1413,1428,1442,1443,1448,1454,1476,1533,1536,1544,
1588,1616,1626,1630,1633,1634,1639,1641,1643,1678,1702,1708,1709,1714,1724,1727,
1739,1760,1762,1816,1879,1898,1912,1918,1934,1935,1948,1952,1977,1984,1985,1987,
1989,1990,1992,1997,2002,2011,2012,2016,2017,2020,2021,2048,2060,2069,2070,2171,
2179,2226,2252,2253,2269,2277,2278,2279,2280,2325,2340,2345,2360,2361,2363,2366,
2393,2400 and 2404.

Sincerely,
s/John J. Cullerton
John J. Cullerton

[April 30, 2013]

Senate President

cc: Senate Republican Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

April 30, 2013

Mr. Tim Anderson
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator John Mulroe to temporarily replace Senator Martin Sandoval as a member of the Senate Transportation Committee. This appointment will automatically expire upon adjournment of the Senate Transportation Committee.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

COMMUNICATION FROM THE MINORITY LEADER

CHRISTINE RADOGNO
SENATE REPUBLICAN LEADER · 41st DISTRICT

April 30, 2013

Mr. Tim Anderson
Secretary of the Senate
401 State House
Springfield, Illinois 62706

Dear Mr. Secretary:

Pursuant to the provisions of Senate Rule 3-2(c), I hereby appoint Senator Jim Oberweis to temporarily replace Senator Dave Syverson as a member of the Senate Executive Committee. In addition, I hereby appoint Senator Kyle McCarter to temporarily replace Senator Dave Luechtefeld as a member of the Senate Executive Committee. These appointments are effective immediately and will automatically expire at 1:00 p.m. on April 30, 2013.

Sincerely,
s/Christine Radogno
Christine Radogno
Senate Republican Leader

cc: Senate President John Cullerton
Assistant Secretary of the Senate Scott Kaiser

[April 30, 2013]

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 266

Offered by Senator LaHood and all Senators:
Mourns the death of William "Bill" Edwin Palmatier of Peoria.

SENATE RESOLUTION NO. 267

Offered by Senators Collins - Kotowski - Koehler and all Senators:
Mourns the death of Catherine Gladys Martin of Carlyle.

SENATE RESOLUTION NO. 268

Offered by Senator Link and all Senators:
Mourns the death of Rudolph J. "Rudy" Grom of Kenosha, formerly of Waukegan.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Hunter offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 269

WHEREAS, The Republic of China (Taiwan) marked its centennial in 2011 and is the 18th-largest trading economy in the world(as of 2012) and has achieved economic and social stability; and

WHEREAS, In 2012, Taiwan ranked as the United States' 11th-largest trading partner in the world and is the United States' 16th-largest export market, with U.S. exports to Taiwan in 2012 worth U.S. \$24.4 billion, and is the United States' 11th-largest source of imports; and

WHEREAS, In the last 2 decades, Taiwan has been praised as a beacon of democracy for Asia, having successfully completed its parliamentary elections and its 5th direct, popular presidential election on January 14, 2012, electing to a second term, President Ma Ying-jeou, who was inaugurated on May 20, 2012; and

WHEREAS, Taiwan has taken great steps forward to enter the world arena as a trusted partner; for each year since 2009, Taiwan has participated as an observer in the World Health Assembly of the World Health Organization (WHO); and

WHEREAS, Last fall the government of the United States announced the inclusion of Taiwan in the U.S. Visa Waiver Program; effective November 1, 2012, Taiwan became the 37th member to receive visa-free travel privileges to the United States and only the 5th Asian country with visa-free status (behind Japan, South Korea, Singapore, and Brunei); it is expected that more Taiwanese will come to the United States for business and tourism, increasing spending of tourist dollars and facilitating business, trade, and investment in the United States, thus contributing to the U.S. and local economies and strengthening bilateral relations and ties with the individual states, including Illinois; moreover, Taiwan is grateful to the United States, and to the Illinois State legislators, for its support in this effort; and

WHEREAS, The State of Illinois has a strong economic and cultural relationship with Taiwan since establishing sister-state relations on August 27, 1992; in 2012, Illinois ranked 5th among U.S. states in the value of overall exports to Taiwan, were worth almost \$952 million U.S.; the Illinois economy has benefited from Taiwan's consistently large imports of Illinois agricultural products, which in 2012 were worth \$554 million U.S. and comprised more than 58% of Illinois' total exports to Taiwan; and

WHEREAS, Taiwan is the world's 6th-largest market for United States agricultural goods, with Taiwan having sent 26 agricultural missions to the United States between 1978 and 2011; these missions

[April 30, 2013]

have enhanced the mutually beneficial trade relations and permanent friendship between the 2 countries, and promoted ties between Taiwan and Illinois, which hosted the Taiwan soybean and corn delegation in 2011 in Springfield and Rockford; and

WHEREAS, International airline safety and security have been major global concerns since 2001; Taiwan, a key transport hub in the Asia-Pacific region, has more than one million flights per year passing through the Taipei Flight Information Region and has one of the world's largest airports by cargo volume, Taoyuan International Airport Taiwan; Taiwan seeks meaningful participation with observer status in the International Civil Aviation Organization (ICAO), but has not been accorded it and is not a member, leaving a gap in the aviation security and navigation system; Taiwan can be a valuable and constructive partner to the ICAO in the global strategy to address airline safety and security based on effective international cooperation, while Taiwan's participation in that international organization can also narrow the security gap, reduce the exposure to threats, and increase aviation safety; and

WHEREAS, The Taiwan government continually seeks to demonstrate its willingness to contribute its resources and know-how to the international community, such as its swift delivery of humanitarian assistance to Haiti following the 2010 earthquake in that country; the aid was expedited by the United States, which generously aided Taiwan in rescue and recovery after Typhoon Morakot; Taiwan also seeks to contribute to peace, freedom, and security in the world as a responsible stakeholder and peaceable nation of 23 million citizens through the Republic of China's policies, such as "flexible diplomacy" in foreign affairs and its pragmatic approach to relations with mainland China, as demonstrated by the historic passage in 2010 and implementation in 2011 of the Economic Cooperation Framework Agreement between Taipei and Beijing; and

WHEREAS, The Taiwan government highly values its relations with the United States and regards strengthening Taiwan-U.S. relations as a top policy priority and is gratified that the United States and Taiwan have resumed high-level talks under the bilateral Trade and Investment Framework Agreement (TIFA), an important platform to resolve trade and commerce issues; the bilateral regard for talk, which deputy U.S. trade representative hailed after the meeting completed on March 10, 2013, in Taipei as a "big success" and his counterpart in Taiwan said lay "a solid foundation for future collaboration in areas of mutual interest", as both sides are committed to working together to raise trade, investment, and the bilateral relationship "to the next level", which is expected to help forge closer relations between the 2 countries and create a win-win environment for more Taiwanese trade and investment with individual states, including Illinois; and

WHEREAS, Taiwan seeks greater regional integration in the Asia-Pacific region and promotion of bilateral investment and trade relations with the United States, welcomes the opportunity presented by the United States' "pivot to Asia" and announcement in 2011 (at the meeting of leaders at the Asia-Pacific Economic Cooperation forum) of the United States' intent to not only join the Trans-Pacific Partnership (TPP), the proposed 21st century trade agreement between the U.S. and 8 other Asia-Pacific Rim countries, but to expand TPP membership in the future to include other countries, such as Taiwan; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, we designate the date of August 27, 2013, as Taiwan Relations Day in the State of Illinois in recognition of the 21st anniversary of Illinois sister statehood with the Republic of China (Taiwan); and be it further

RESOLVED, That we welcome resumption of U.S.-Taiwan trade talks, and express support for Taiwan's efforts to secure entry into the Trans-Pacific Partnership (TPP), to promote its bilateral investment and trade relations with the United States and facilitate its economic and other ties with Illinois and the individual states; and be it further

RESOLVED, That to increase Taiwan's international space and the degree to which Taiwan benefits from and contributes to global efforts to enhance international airline safety and security, we reaffirm our support for the meaningful participation of Taiwan in the International Civil Aviation Organization (ICAO) with observer status; and be it further

RESOLVED, That suitable copies of this resolution be presented to United States Secretary of State

[April 30, 2013]

John F. Kerry, ICAO Secretary General Raymond Benjamin, and the Taipei Economic and Cultural Office in Chicago.

INTRODUCTION OF BILLS

SENATE BILL NO. 2580. Introduced by Senator Bush, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2581. Introduced by Senator Manar, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 11, sponsored by Senator Collins, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 125, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1539, sponsored by Senator Muñoz, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2754, sponsored by Senator McCann, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3011, sponsored by Senator Harris, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3139, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3207, sponsored by Senator Righter, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3349, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Assignments.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Kotowski, **Senate Bill No. 1639** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was postponed in the Committee on Executive.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1639

AMENDMENT NO. 2. Amend Senate Bill 1639 by replacing everything after the enacting clause with the following:

"Section 5. The Animal Welfare Act is amended by changing Section 3.15 as follows:

(225 ILCS 605/3.15)

Sec. 3.15. Disclosures for dogs and cats being sold by pet shops.

[April 30, 2013]

(a) Prior to the time of sale, every pet shop operator must, to the best of his or her knowledge, provide to the consumer the following information on any dog or cat being offered for sale:

- (1) The retail price of the dog or cat, including any additional fees or charges.
- (2) The breed, age, date of birth, sex, and color of the dog or cat.
- (3) The date and description details of any inoculation or medical treatment that the dog or cat received while

under the possession of the pet shop operator.

(4) The name and business address of both the dog or cat breeder and the facility where the dog or cat was born. If the dog or cat breeder is located in the State, then the breeder's license number. If the dog or cat breeder also holds a license issued by the United States Department of Agriculture, the breeder's federal ~~license identification~~ number.

(5) ~~(Blank). Any known congenital or hereditary diseases of the parents of the dog or cat, or the parents' other offspring.~~

(6) If eligible for registration with a pedigree registry, then the name and registration numbers of the sire and dam and the address of the pedigree registry where the sire and dam are registered.

(7) If the dog or cat was returned by a customer, then the date and reason for the return.

(8) The following written statement: "A copy of our policy regarding warranties, refunds, or returns is available upon request. Customers may be entitled to a remedy under subsections (l) through (l) of this Section in addition to any other remedies available at law."

(9) The pet shop operator's license number issued by the Illinois Department of Agriculture.

(b) The information required in subsection (a) shall be provided to the customer in written form by the pet shop operator and shall have an acknowledgement of disclosures form, which must be signed by the customer and the pet shop operator at the time of sale. The acknowledgement of disclosures form shall include the following:

(1) A blank space for the dated signature and printed name of the pet shop operator, which shall be immediately beneath the following statement: "I hereby attest that all of the above information is true and correct to the best of my knowledge."

(2) A blank space for the customer to sign and print his or her name and the date, which shall be immediately beneath the following statement: "I hereby attest that this disclosure was posted on or near the cage of the dog or cat for sale and that I have read all of the disclosures. I further understand that I am entitled to keep a signed copy of this disclosure."

(c) A copy of the disclosures and the signed acknowledgement of disclosures form shall be provided to the customer at the time of sale and the original copy shall be maintained by the pet shop operator for a period of 2 years from the date of sale. A copy of the pet store operator's policy regarding warranties, refunds, or returns shall be provided to the customer.

(d) A pet shop operator shall post in a conspicuous place in writing on or near the cage of any dog or cat available for sale the information required by subsection (a) of this Section 3.15.

(e) If there is an outbreak of distemper, parvovirus, or any other contagious and potentially life-threatening disease, the pet shop operator shall notify the Department immediately upon becoming aware of the disease. If the Department issues a quarantine, the pet shop operator shall notify, in writing and within 2 business days of the quarantine, each customer who purchased a dog or cat during the 2-week period prior to the outbreak and quarantine.

(f) A customer who purchased a dog or cat from a pet shop is entitled to a remedy under this Section if:

(1) within 21 days after the date of sale, a licensed veterinarian states in writing that (A) the dog or cat possesses a disease or illness that adversely affects the health of the dog or cat and the disease existed in the dog or cat on or before the date of delivery to the customer or (B) the dog or cat has died from a disease that existed in the dog or cat on or before the date of delivery to the customer; or

(2) within one year after the date of sale, a licensed veterinarian states in writing that the dog or cat possesses a congenital or hereditary condition that adversely affects the health of the dog or cat or requires either hospitalization or a non-elective surgical procedure or has died of a congenital or hereditary condition. Internal or external parasites may not be considered to adversely affect the health of the dog unless the presence of the parasites makes the dog or cat clinically ill. The veterinarian's statement shall include:

(A) the customer's name and address;

(B) a statement that the veterinarian examined the dog or cat;

(C) the date or dates that the dog or cat was examined;

(D) the breed and age of the dog or cat, if known;

(E) a statement that the dog or cat has or had a disease, illness, or congenital or hereditary condition that is subject to remedy; and

(F) the findings of the examination or necropsy, including any lab results or copies of the results.

(g) A customer entitled to a remedy under subsection (f) of this Section may:

(1) return the dog or cat to the pet shop for a full refund of the purchase price;

(2) exchange the dog or cat for another dog or cat of comparable value chosen by the customer;

(3) retain the dog or cat and be reimbursed for reasonable veterinary fees for diagnosis and treatment of the dog or cat, not to exceed 2 times the purchase price of the dog or cat; or

(4) if the dog or cat is deceased, be reimbursed for the full purchase price of the dog or cat plus reasonable veterinary fees associated with the diagnosis and treatment of the dog or cat, not to exceed 2 times the purchase price of the dog or cat.

For the purposes of this subsection (g), veterinary fees shall be considered reasonable if (i) the services provided are appropriate for the diagnosis and treatment of the disease, illness, or congenital or hereditary condition and (ii) the cost of the services is comparable to that charged for similar services by other licensed veterinarians located in close proximity to the treating veterinarian.

(h) Unless the pet shop contests a reimbursement required under subsection (g) of this Section, the reimbursement shall be made to the customer no later than 10 business days after the pet shop operator receives the veterinarian's statement under subsection (f) of this Section.

(i) To obtain a remedy under this Section, a customer shall:

(1) notify the pet shop as soon as reasonably possible and not to exceed 3 business days after a diagnosis by a licensed veterinarian of a disease, illness, or congenital or hereditary condition of the dog or cat for which the customer is seeking a remedy;

(2) provide to the pet shop a written statement provided for under subsection (f) of this Section by a licensed veterinarian within 5 business days after a diagnosis by the veterinarian;

(3) upon request of the pet shop, take the dog or cat for an examination by a second licensed veterinarian; the customer may either choose the second licensed veterinarian or allow the pet shop to choose the second veterinarian, if the pet shop agrees to do so. The party choosing the second veterinarian shall assume the cost of the resulting examination; and

(4) if the customer requests a reimbursement of veterinary fees, provide to the pet shop an itemized bill for the disease, illness, or congenital or hereditary condition of the dog or cat for which the customer is seeking a remedy.

(j) A customer is not entitled to a remedy under this Section if:

(1) the illness or death resulted from: (A) maltreatment or neglect by the customer; (B) an injury sustained after the delivery of the dog or cat to the customer; or (C) an illness or disease contracted after the delivery of the dog or cat to the customer;

(2) the customer does not carry out the recommended treatment prescribed by the veterinarian who made the diagnosis; or

(3) the customer does not return to the pet shop all documents provided to register the dog or cat, unless the documents have already been sent to the registry organization.

(k) A pet shop may contest a remedy under this Section by having the dog or cat examined by a second licensed veterinarian pursuant to paragraph (3) of subsection (i) of this Section if the dog or cat is still living. If the dog or cat is deceased, the pet shop may choose to have the second veterinarian review any records provided by the veterinarian who examined or treated the dog or cat for the customer before its death.

If the customer and the pet shop have not reached an agreement within 10 business day after the examination of the medical records and the dog or cat, if alive, or the dog's or cat's medical records, if deceased, by the second veterinarian, then:

(1) the customer may bring suit in a court of competent jurisdiction to resolve the dispute; or

(2) if the customer and the pet shop agree in writing, the parties may submit the dispute to binding arbitration.

If the court or arbiter finds that either party acted in bad faith in seeking or denying the requested remedy, then the offending party may be required to pay reasonable attorney's fees and court costs of the adverse party.

(l) This Section shall not apply to any adoption of dogs or cats, including those in which a pet shop or other organization rents or donates space to facilitate the adoption.

(Source: P.A. 96-1470, eff. 1-1-11.)"

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Biss, **Senate Bill No. 1898** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Transportation, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1898

AMENDMENT NO. 1. Amend Senate Bill 1898 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 1-100 as follows:
(625 ILCS 5/1-100) (from Ch. 95 1/2, par. 1-100)
Sec. 1-100. Short Title. This Act may be cited as the ~~the~~ Illinois Vehicle Code.
Portions of this Act may likewise be cited by a short title as follows:
Chapters 2, 3, 4 and 5: the Illinois Vehicle Title & Registration Law.
Chapter 6: the Illinois Driver Licensing Law.
Chapter 7: the Illinois Safety and Family Financial Responsibility Law.
Chapter 11: the Illinois Rules of the Road.
Chapter 12: the Illinois Vehicle Equipment Law.
Chapter 13: the Illinois Vehicle Inspection Law.
Chapter 14: the Illinois Vehicle Equipment Safety Compact.
Chapter 15: the Illinois Size and Weight Law.
Chapter 17: the Illinois Highway Safety Law.
Chapter 18a: the Illinois Commercial Relocation of Trespassing Vehicles Law.
Chapter 18b: the Illinois Motor Carrier Safety Law.
Chapter 18c: the Illinois Commercial Transportation Law.
Chapter 18d: The Illinois Commercial Safety Towing Law.
(Source: P.A. 95-562, eff. 7-1-08.)".

Senate Floor Amendment No. 2 was postponed in the Committee on Judiciary.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1245** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Assignments.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1245

AMENDMENT NO. 2. Amend Senate Bill 1245 by replacing everything after the enacting clause with the following:

"Section 5. The Public Safety Employee Benefits Act is amended by changing Section 1 as follows:
(820 ILCS 320/1)
Sec. 1. Short title. This Act may be cited as the ~~the~~ Public Safety Employee Benefits Act.
(Source: P.A. 90-535, eff. 11-14-97.)".

Senate Floor Amendment No. 3 was held in the Committee on Assignments.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 1004** having been printed, was taken up, read by title a second time.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1004

[April 30, 2013]

AMENDMENT NO. 1. Amend Senate Bill 1004 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Identification Act is amended by changing Section 5.2 as follows:
(20 ILCS 2630/5.2)

Sec. 5.2. Expungement and sealing.

(a) General Provisions.

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

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

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

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

(C) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. An order of supervision successfully completed by the petitioner is not a conviction. An order of qualified probation (as defined in subsection (a)(1)(J)) successfully completed by the petitioner is not a conviction. An order of supervision or an order of qualified probation that is terminated unsatisfactorily is a conviction, unless the unsatisfactory termination is reversed, vacated, or modified and the judgment of conviction, if any, is reversed or vacated.

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

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

(F) As used in this Section, "last sentence" means the sentence, order of supervision, or order of qualified probation (as defined by subsection (a)(1)(J)), for a criminal offense (as defined by subsection (a)(1)(D)) that terminates last in time in any jurisdiction, regardless of whether the petitioner has included the criminal offense for which the sentence or order of supervision or qualified probation was imposed in his or her petition. If multiple sentences, orders of supervision, or orders of qualified probation terminate on the same day and are last in time, they shall be collectively considered the "last sentence" regardless of whether they were ordered to run concurrently.

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

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

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

(J) "Qualified probation" means an order of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 5-6-3.3 of the Unified Code of Corrections, 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, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act. For the purpose of this Section, "successful completion" of an order of qualified probation under Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act and Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act means that the probation was terminated satisfactorily and the judgment of conviction was vacated.

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

(L) "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.

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

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

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

(A) the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of: (i) any sexual offense committed against a minor; (ii) Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or (iii) Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, unless the arrest or charge is for a misdemeanor violation of subsection (a) of Section 11-503 or a similar provision of a local ordinance, that occurred prior to the offender reaching the age of 25 years and the offender has no other conviction for violating Section 11-501 or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance.

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

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

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

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

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

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

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

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

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

(ii) the charge is brought along with another charge as a part of one case and

the charge results in acquittal, dismissal, or conviction when the conviction was reversed or vacated, and another charge brought in the same case results in a disposition for a misdemeanor offense that is eligible to be sealed pursuant to subsection (c) or a disposition listed in paragraph (i), (iii), or (iv) of this subsection;

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

(iv) the charge is for a Class 4 felony offense listed in subsection (c)(2)(F) or the charge is amended to a Class 4 felony offense listed in subsection (c)(2)(F). Records of arrests which result in the petitioner being charged with a Class 4 felony offense listed in subsection (c)(2)(F), records of charges not initiated by arrest for Class 4 felony offenses listed in subsection (c)(2)(F), and records of charges amended to a Class 4 felony offense listed in (c)(2)(F) may be sealed, regardless of the disposition, subject to any waiting periods set forth in subsection (c)(3);

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

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

(b) Expungement.

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

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

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

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

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

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

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

(i-5) Those arrests or charges that resulted in orders of supervision for a misdemeanor violation of subsection (a) of Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, that occurred prior to the offender reaching the age of 25 years and the offender has no other conviction for violating Section 11-501 or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not be eligible for expungement until the petitioner has reached the age of 25 years.

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

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

(3) 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.

(4) Whenever a person has been arrested for or convicted of any offense, in the name of a person whose identity he or she 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 or her 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 or her 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 circuit court clerk 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.

(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 petitioner's trial to have a court order entered to seal the records of the circuit court clerk 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 circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

(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 petitioner 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.

(7) Nothing in this Section 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 70 of the Methamphetamine Control and Community Protection Act, Section 5-6-3.3 of the Unified Code of Corrections, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012, 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.

(8) If a petitioner has been granted a certificate of innocence under Section 2-702 of the Code of Civil Procedure, the court that grants the certificate of innocence shall also enter an order expunging the conviction for which the petitioner has been determined to be innocent, notwithstanding the presence of additional felony charges or criminal convictions present on the petitioner's record. Subsection (b) of Section 5-5-4 of the Unified Code of Corrections does not prevent the court from entering the expungement order for a petitioner who has been granted a certificate of innocence under Section 2-702 of the Code of Civil Procedure. The court shall execute the expungement according to the process established in subsection (h) of Section 2-702 of the Code of Civil Procedure. The procedures established in subsection (d) do not govern or control this paragraph (8). The effect of the order shall be to restore the person to the status he or she occupied prior to the arrest, plea, or conviction for which he or she was determined to be innocent. No person as to whom the order has been entered shall be held thereafter, under any provision of law, to be guilty of perjury or otherwise giving a false statement due to his or her failure to recite or acknowledge the arrest, plea, trial, conviction, or expungement in response to any inquiry made of him or her for any purpose whatsoever.

(c) Sealing.

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

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

(A) All arrests resulting in release without charging;

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

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

(D) Arrests or charges not initiated by arrest resulting in convictions unless

excluded by subsection (a)(3);

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

(F) Arrests or charges not initiated by arrest resulting in Class 4 felony convictions for the following offenses:

- (i) Section 11-14 of the Criminal Code of 1961 or the Criminal Code of 2012;
- (ii) Section 4 of the Cannabis Control Act;
- (iii) Section 402 of the Illinois Controlled Substances Act;
- (iv) the Methamphetamine Precursor Control Act; and
- (v) the Steroid Control Act.

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

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

(B) Records identified as eligible under subsection (c)(2)(C) may be sealed (i) 3 years after the termination of petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has never been convicted of a criminal offense (as defined in subsection (a)(1)(D)); or (ii) 4 years after the termination of the petitioner's last sentence (as defined in subsection (a)(1)(F)) if the petitioner has ever been convicted of a criminal offense (as defined in subsection (a)(1)(D)).

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

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

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

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

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

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

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

(3) Drug test. The petitioner must attach to the petition proof that the petitioner has passed a test taken within 30 days before the filing of the petition showing the absence within his or her body of all illegal substances as defined by the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Cannabis Control Act if he or she is petitioning to seal felony records pursuant to clause (c)(2)(E), (c)(2)(F)(ii)-(v), or (e-5) or if he or she is petitioning to expunge felony records of a qualified probation pursuant to clause (b)(1)(B)(iv).

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

(5) Objections.

(A) Any party entitled to notice of the petition may file an objection to the petition. All objections shall be in writing, shall be filed with the circuit court clerk, and shall state with specificity the basis of the objection.

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

(6) Entry of order.

(A) 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 petitioner's trial, if any, shall rule on the petition to expunge or seal as set forth in this subsection (d)(6).

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

(7) Hearings. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties entitled to notice of the petition of the hearing date at least 30 days prior to the hearing, and shall hear evidence on whether the petition should or should not be granted, and shall grant or deny the petition to expunge or seal the records based on the evidence presented at the hearing.

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

(9) Effect of order.

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

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

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner 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; and

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

(B) Upon entry of an order to expunge records pursuant to (b)(2)(B)(i) or (b)(2)(C), or both:

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

(ii) the records of the circuit court clerk shall be impounded until further order of the court upon good cause shown and the name of the petitioner 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;

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

(iv) records impounded 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 a similar offense or for the purpose of sentencing for any subsequent felony, and to the Department of Corrections upon conviction for any offense; and

(v) in response to an inquiry for such records from anyone not authorized by law

to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(C) Upon entry of an order to seal records under subsection (c), the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal the records (as defined in subsection (a)(1)(K)). In response to an inquiry for such records from anyone not authorized by law to access such records the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

(10) Fees. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal records. Notwithstanding any provision of the Clerks of Courts Act to the contrary, the circuit court clerk may charge a fee equivalent to the cost associated with the sealing or expungement of records by the circuit court clerk. From the total filing fee collected for the petition to seal or expunge, the circuit court clerk shall deposit \$10 into the Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to serve the petition to seal or expunge on all parties. The circuit court clerk shall collect and forward the Department of State Police portion of the fee to the Department and it shall be deposited in the State Police Services Fund.

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

(12) Motion to Vacate, Modify, or Reconsider. The petitioner or any party entitled to notice may file a motion to vacate, modify, or reconsider the order granting or denying the petition to expunge or seal within 60 days of service of the order.

(e) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he or she 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, 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 circuit court clerk 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 or she 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 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 circuit court clerk shall promptly mail a copy of the order to the person who was pardoned.

(e-5) Whenever a person who has been convicted of an offense is granted a certificate of eligibility for sealing by the Prisoner Review Board which specifically authorizes sealing, he or she 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 petitioner's trial, have a court order entered sealing the record of arrest from the official records of the arresting authority and order that the records of the circuit court clerk 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 petitioner 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 or she had been granted the certificate 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 this Act or to the arresting authority, a law enforcement agency, 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 sealing, the circuit court clerk shall promptly mail a copy of the order to the person who was granted the certificate of eligibility for sealing.

(f) Subject to available funding, the Illinois Department of Corrections shall conduct a study of the impact of sealing, especially on employment and recidivism rates, utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211. At the request of the Illinois Department of Corrections, records of the Illinois Department of Employment Security shall be utilized

as appropriate to assist in the study. The study shall not disclose any data in a manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2010.

(Source: P.A. 96-409, eff. 1-1-10; 96-1401, eff. 7-29-10; 96-1532, eff. 1-1-12; 96-1551, Article 1, Section 905, eff. 7-1-11; 96-1551, Article 2, Section 925, eff. 7-1-11; 97-443, eff. 8-19-11; 97-698, eff. 1-1-13; 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150, eff. 1-25-13.)

Section 10. The Unified Code of Corrections is amended by changing Section 5-5-4 as follows:
(730 ILCS 5/5-5-4) (from Ch. 38, par. 1005-5-4)

Sec. 5-5-4. Resentences.

(a) Where a conviction or sentence has been set aside on direct review or on collateral attack, the court shall not impose a new sentence for the same offense or for a different offense based on the same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied unless the more severe sentence is based upon conduct on the part of the defendant occurring after the original sentencing. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(b) If a conviction or sentence 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, excluding where the court has granted the defendant a certificate of innocence and an expungement under Section 2-702 of the Code of Civil Procedure, the court shall enter an order 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 Department of State Police 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 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 of State Police may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, 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 whose records were expunged and sealed.

(Source: P.A. 93-210, eff. 7-18-03.)

Section 15. The Code of Civil Procedure is amended by changing Section 2-702 as follows:
(735 ILCS 5/2-702)

Sec. 2-702. Petition for a certificate of innocence that the petitioner was innocent of all offenses for which he or she was incarcerated.

(a) The General Assembly finds and declares that innocent persons who have been wrongly convicted of crimes in Illinois and subsequently imprisoned have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

(b) Any person convicted and subsequently imprisoned for one or more felonies by the State of Illinois which he or she did not commit may, under the conditions hereinafter provided, file a petition for certificate of innocence in the circuit court of the county in which the person was convicted. The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which

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he or she was incarcerated.

(c) In order to present the claim for certificate of innocence of an unjust conviction and imprisonment, the petitioner must attach to his or her petition documentation demonstrating that:

(1) he or she has been convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence; and

(2) his or her judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either he or she was found not guilty at the new trial or he or she was not retried and the indictment or information dismissed; or the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois; and

(3) his or her claim is not time barred by the provisions of subsection (i) of this Section.

(d) The petition shall state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State of Illinois, and the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction. The petition shall be verified by the petitioner.

(e) A copy of the petition shall be served on the Attorney General and the State's Attorney of the county where the conviction was had. The Attorney General and the State's Attorney of the county where the conviction was had shall have the right to intervene as parties.

(f) In any hearing seeking a certificate of innocence, the court may take judicial notice of prior sworn testimony or evidence admitted in the criminal proceedings related to the convictions which resulted in the alleged wrongful incarceration, if the petitioner was either represented by counsel at such prior proceedings or the right to counsel was knowingly waived.

(g) In order to obtain a certificate of innocence the petitioner must prove by a preponderance of evidence that:

(1) the petitioner was convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(2)(A) the judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the indictment or information dismissed; or (B) the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated. Upon entry of the certificate of innocence or pardon from the Governor stating that such pardon was issued on the ground of innocence of the crime for which he or she was imprisoned, (1) the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address. Upon entry of the certificate of innocence, and (2) the court shall enter an order requiring the arresting agency, the Department of State Police, and any other agency as ordered by the court to expunge, as defined by subsection (a)(1)(E) of Section 5.2 of the Criminal Identification Act, the records of arrest and conviction for the offense that the petitioner was found to be innocent, within 60 days of the date of service. The order shall also expunging or sealing the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court regarding the arrest and conviction for the offense be impounded and Department of State Police 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 but the order shall not affect any index issued by the circuit court clerk before the entry of the order. If a person is pardoned by the Governor based on the grounds of innocence for the crime for which he or she was imprisoned, the individual must file for an expungement as provided in Section 5.2 of the Criminal Identification Act.

(i) Any person seeking a certificate of innocence under this Section based on the dismissal of an

indictment or information or acquittal that occurred before the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the effective date of this amendatory Act of the 95th General Assembly. Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or information or acquittal that occurred on or after the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the dismissal.

(j) The decision to grant or deny a certificate of innocence shall be binding only with respect to claims filed in the Court of Claims and shall not have a res judicata effect on any other proceedings.

(Source: P.A. 95-970, eff. 9-22-08; 96-1550, eff. 7-1-11.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

LEGISLATIVE MEASURES FILED

The following Committee amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to Senate Resolution 172

The following Committee amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 3 to Senate Bill 34

Senate Committee Amendment No. 4 to Senate Bill 34

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 580

Senate Floor Amendment No. 2 to Senate Bill 1132

Senate Floor Amendment No. 3 to Senate Bill 1739

Senate Floor Amendment No. 3 to Senate Bill 1898

The following Committee amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to House Bill 100

Senate Committee Amendment No. 1 to House Bill 490

Senate Committee Amendment No. 1 to House Bill 1652

Senate Committee Amendment No. 1 to House Bill 2311

Senate Committee Amendment No. 1 to House Bill 2832

Senate Committee Amendment No. 1 to House Bill 3111

Senate Committee Amendment No. 1 to House Bill 3319

Senate Committee Amendment No. 1 to House Bill 3388

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 496

Senate Floor Amendment No. 1 to House Bill 2535

At the hour of 12:34 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

[April 30, 2013]

At the hour of 12:46 o'clock p.m., the Senate resumed consideration of business.
 Senator Sullivan, presiding.

Senator Silverstein asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Althoff asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Senate Committee Amendment No. 1 to House Bill 3120.**

Criminal Law: **Senate Committee Amendment No. 1 to House Bill 3014.**

Education: **Senate Committee Amendment No. 1 to House Bill 490; Senate Floor Amendment No. 1 to House Bill 496; Senate Floor Amendment No. 2 to House Bill 496; Senate Floor Amendment No. 1 to Senate Bill 580; Senate Committee Amendment No. 1 to House Bill 1868.**

Energy: **Senate Floor Amendment No. 3 to Senate Bill 1469.**

Environment: **Senate Committee Amendment No. 1 to House Bill 3319.**

Executive: **Senate Committee Amendment No. 3 to Senate Bill 34; Senate Committee Amendment No. 4 to Senate Bill 34; Senate Committee Amendment No. 1 to House Bill 83; Senate Floor Amendment No. 2 to Senate Bill 1132; Senate Committee Amendment No. 1 to House Bill 1288; Senate Committee Amendment No. 1 to House Bill 2311.**

Higher Education: **Senate Committee Amendment No. 1 to House Bill 513.**

Human Services: **Senate Floor Amendment No. 1 to House Bill 1191; Senate Floor Amendment No. 1 to House Bill 2535.**

Insurance: **Senate Committee Amendment No. 1 to House Bill 2962.**

Judiciary: **Senate Floor Amendment No. 3 to Senate Bill 1898; Senate Committee Amendment No. 1 to House Bill 2269; Senate Committee Amendment No. 1 to House Bill 2832; Senate Committee Amendment No. 1 to House Bill 3111.**

Labor and Commerce: **Senate Floor Amendment No. 4 to Senate Bill 1708.**

Licensed Activities and Pensions: **Senate Floor Amendment No. 1 to Senate Bill 450.**

Local Government: **Senate Floor Amendment No. 2 to Senate Bill 1204; Senate Committee Amendment No. 1 to House Bill 1562.**

Public Health: **Senate Committee Amendment No. 1 to House Bill 2661; Senate Committee Amendment No. 1 to House Bill 2777; Senate Committee Amendment No. 1 to House Bill 3190; Senate Committee Amendment No. 2 to House Bill 3190.**

Revenue: **Senate Committee Amendment No. 1 to House Bill 1604.**

[April 30, 2013]

State Government and Veterans Affairs: **Senate Committee Amendment No. 1 to House Bill 1555.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported that the Committee recommends that **Senate Bill No. 1739** be re-referred from the Committee on Executive to the Committee on Assignments.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported the following House Bills have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **House Bill No. 1650.**

Criminal Law: **House Bills Numbered 1063, 1814, 1816, 3010 and 3243.**

Education: **House Bills Numbered 1446, 2322 and 3379.**

Environment: **House Bills Numbered 702 and 2036.**

Executive: **House Bills Numbered 1, 962, 996, 1047, 1929 and 2418.**

Higher Education: **House Bill No. 2674.**

Human Services: **House Bill No. 2765.**

Insurance: **House Bill No. 3300.**

Judiciary: **House Bills Numbered 2659 and 2787.**

Licensed Activities and Pensions: **House Bill No. 2993.**

Local Government: **House Bills Numbered 2454 and 2716.**

Public Health: **House Bills Numbered 2199 and 2423.**

Revenue: **House Bill No. 1079.**

State Government and Veterans Affairs: **House Bills Numbered 2947 and 3049.**

Transportation: **House Bill No. 2776.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Public Health: **Senate Resolution No. 237.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported that the Committee recommends that **House Bill No. 1070** be re-referred from the Committee on Energy to the Committee on Agriculture and Conservation.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported that the Committee recommends that **House Bill No. 2585** be re-referred from the Committee on Criminal Law to the Committee on Transportation.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported that the Committee recommends that **Senate Bills numbered 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 31, 46, 52, 103, 112, 113, 115, 116, 117, 172, 203, 207, 208, 209, 210, 272, 273, 274, 332, 334, 335, 337, 339, 495, 496, 576, 581, 624, 627, 628, 629, 630, 712, 713, 725, 726, 733, 738, 739, 740, 822, 847, 849, 851, 852, 926, 927, 928, 1007, 1045, 1046, 1047, 1098, 1099, 1118, 1133, 1137, 1138, 1148, 1149, 1164, 1269, 1290, 1332, 1346, 1352, 1353, 1403, 1407, 1408, 1432, 1469, 1471, 1514, 1551, 1567, 1571, 1594, 1610, 1615, 1681, 1711, 1740, 1779, 1788, 1795, 1855, 1868, 1873, 1874, 1877, 1896, 1909, 1945, 1967, 1969, 1983, 1985, 1987, 1989, 1990, 1991, 1992, 1997, 2002, 2011, 2012, 2016, 2017, 2020, 2021, 2026, 2042, 2043, 2048, 2060, 2069, 2070, 2082, 2107, 2141, 2153, 2191, 2224, 2232, 2240, 2251, 2258, 2319, 2321, 2337 and 2375** be re-referred to the Committee on Assignments.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, to which was referred **Senate Bill No. 1739**, reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 1739** was returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, to which was referred **House Bill No. 1225**, reported the same back with the recommendation that the bill be placed on the order of second reading without recommendation to committee.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 30, 2013 meeting, reported that the following Legislative Measure has been approved for consideration:

Senate Resolution 256

The foregoing resolution was placed on the Secretary's Desk.

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet at 2:00 o'clock p.m.:

Education in Room 400

The Chair announced the following committees to meet at 3:00 o'clock p.m.:

Judiciary in Room 212

Human Services in Room 409

COMMITTEE MEETING ANNOUNCEMENTS FOR MAY 1, 2013

The Chair announced the following committees to meet at 9:00 o'clock a.m.:

Local Government in Room 212

Criminal Law in Room 409

The Chair announced the following committee to meet at 11:00 o'clock a.m.:

[April 30, 2013]

Labor and Commerce in Room 212

At the hour of 1:07 o'clock p.m., Senator Muñoz, presiding, and the Chair announced the Senate stand adjourned until Wednesday, May 1, 2013, at 12:00 o'clock noon.