

SURVEY OF ILLINOIS LAW: SECTION 5.2 OF THE CRIMINAL IDENTIFICATION ACT: THE EXPUNGEMENT AND SEALING OF ILLINOIS CRIMINAL RECORDS

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I. INTRODUCTION

This survey of the Illinois Criminal Identification Act (the Act) covers the impact of employment on recidivism rates, resources available to a defendant seeking to clear their record, and a brief history of the Act and its recent revisions. Said revisions have resulted in an increase in persons who are eligible to have their record expunged and/or sealed. This survey is intended to provide practitioners with an efficient review of resources, the law, and the process.

II. PREAMBLE

Employment can play a meaningful role in reducing recidivism for Illinoisans with a criminal record.¹ Recidivism, according to the Illinois Department of Corrections (IDOC), is defined as “someone released from

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Andrew would like to dedicate this Article to his children Katie, Jake, and Tessa.

¹ DAVID B. MUHLHAUSEN, NAT’L INST. OF JUSTICE, NCJ 251554, AN OVERVIEW OF OFFENDER REENTRY 4 (2018), <https://www.ncjrs.gov/pdffiles1/nij/251554.pdf>.

prison being returned to prison within 3 years.”² The return to prison is due to the person committing a new crime or for violation of their supervised release.³ As of the year 2000, the Illinois recidivism rate was at 54 percent.⁴ By 2013, the Illinois prison population had ballooned to nearly 50,000 inmates as of result of crime rates, arrest patterns, sentencing practices, and the recidivism rate.⁵ By the end of 2017, the Illinois prison population had decreased to around 41,000 inmates.⁶ This decrease was due to an overall reduction in crime and arrests, a lower likelihood of being sentenced to prison upon conviction for a felony, and a lower recidivism rate.⁷ As a result, nearly 9,000 individuals re-entered society.⁸ Additionally, Illinois has approximately 26,000 parolees.⁹ Today, Illinois’s recidivism rates stand at about 43 percent.¹⁰

According to the FBI, nearly 76 million Americans have a criminal record.¹¹ Nationally, these citizens experience a 27% unemployment rate¹² compared to a rate of 3.9% for the rest of the population.¹³ One way to assist these citizens in obtaining employment is to have their criminal records cleared through the process of expungement and sealing.

However, “[w]ithout assistance from civil legal aid attorneys and public defenders equipped to handle the legal hurdles of reentry, many ex-offenders . . . end[] up on the docket of the same public defender who helped them on the very offense for which they were originally incarcerated.”¹⁴ A recent

² DAVID OLSON, DON STEMEN & CARLY MCCABE, CENTER FOR CRIMINAL JUSTICE RESEARCH, POLICY & PRACTICE: THE RISE (AND PARTIAL FALL) OF ILLINOIS’ PRISON POPULATION 2 (June 2018), <https://www.luc.edu/media/lucedu/criminaljustice/pdfs/prisonpopulationgrowthbulletinune20183.pdf>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 1.

⁷ *Id.* at 6-8.

⁸ *Id.* at 1.

⁹ ILL. DEPT. OF CORRECTIONS, FISCAL YEAR 2017 ANNUAL REPORT 81 (2017), <https://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY2017%20IDOC%20Annual%20Report%20FINAL.pdf>.

¹⁰ *Illinois Results First: The High Cost of Recidivism*, ILL. SENT’G POL’Y ADVISORY COUNCIL, at 4 (Summer 2018), http://www.icjia.state.il.us/spac/pdf/Illinois_Result_First-The_High_Cost_of_Recidivism_2018.pdf.

¹¹ *March 2019 Next Generation Identification (NGI) System Fact Sheet*, FED. BUREAU INV. (Nov. 2018), <https://www.fbi.gov/file-repository/ngi-monthly-fact-sheet>.

¹² Lucius Couloute & Daniel Kopf, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People*, PRISON POL’Y INITIATIVE (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

¹³ *Labor Force Statistics from the Current Population Survey*, BUREAU LAB. STAT. (Feb. 6, 2019, 11:06 PM), <https://data.bls.gov/timeseries/lms14000000>.

¹⁴ Cynthia Works, *Reentry—The Tie That Binds Civil Legal Aid Attorneys and Public Defenders*, 37 J. POVERTY L. & POL’Y 328, 330 (2003), <http://povertylaw.org/clearinghouse/articles/reentry%E2%80%94tie-binds-civil-legal-aid-attorneys-and-public-defenders>.

study by the University of Michigan found that for people who are recipients of having their record cleared, there is a:

“significant increase in employment and average wages.” . . . Most of the gain is observed in the first year after recipients’ [receive their expungements], during which recipients’ probability of employment rises steadily by a total of about 6.5 percentage points Over the same one-year period, recipients’ average quarterly wages rose by about 22%. This increase is too large to be fully attributed to the gain in employment probability—the implication is that [expungement] recipients are often able to find higher-paying jobs, in addition to increasing their chances of finding work in the first place.^{15, 16}

In 2017, the Lawyers Trust Fund of Illinois¹⁷ awarded five Illinois Legal Aid Organizations 3 million dollars through the newly established Ready to Work Initiative.¹⁸ The goal of these grants was to “assist individuals who are unable to land a job due to obstacles like a criminal record, loss of a driver’s license, difficulty obtaining an occupational license, lack of access to transportation, and child care issues.”¹⁹ The organizations partnered with local workforce development agencies and other social service providers to focus legal help to individuals seeking employment.²⁰

As a result of this funding, the legal organizations were able to dedicate staff to provide representation for a variety of legal issues that are barriers to employment. However, despite the breadth of issues the grant was designed to address, the sealing and expungement of criminal records proved to be the legal issue of greatest need for clients seeking employment. This funding, combined with the changes in the law, enabled more individuals to clear their records, making it more likely that their criminal records will not be an

¹⁵ *Michigan Set-Asides Found to Increase Wages and Reduce Recidivism*, COLLATERAL CONSEQUENCES RESOURCE CTR. (Feb. 27, 2018), <http://ccresourcecenter.org/2018/02/27/michigan-set-asides-found-to-increase-wages-and-reduce-recidivism/>.

¹⁶ Some resources cited in this section were gathered and reviewed by Casey Chiappetta. See Casey Chiappetta, *Key Studies and Data about Legal Aid and Reducing Barriers to Employment*, JUST. GOV’T PROJECT (Mar. 4, 2019), <https://www.american.edu/spa/jpo/toolkit/upload/Law-Enforcement-3-4-19.pdf>.

¹⁷ LTF was established by the Chicago and Illinois State Bar Associations in 1983. Subsequently the Illinois Supreme Court designated LTF to administer the Interest on Lawyers Trust Account (IOLTA) program and make grants to support the provision of legal aid throughout Illinois. See *About*, LTF.ORG, <http://ltf.org/about/> (last visited Feb. 18, 2019).

¹⁸ The Legal Aid services awarded were Cabrini Green Legal Aid, Illinois Legal Aid Online, Legal Assistance Foundation, Land of Lincoln Legal Aid, and Prairie State Legal Services. See *Ready to Work and Mortgage Foreclosure Legal Assistance Grants*, LAW. TR. FUND ILL., <http://ltf.org/ltf-grants/ready-to-work-initiative-and-mortgage-foreclosure-legal-assistance-grants/> (last visited Feb. 6, 2019).

¹⁹ *Id.*

²⁰ *Id.*

impediment to employment. What follows are brief accounts of three such individuals who were able to clear their record.

Several years ago, Paul was arrested and charged with attempted murder. After a legal battle that lasted for several years, a jury found Paul not guilty. Since then, Paul has done his best to move on with his life. However, he was continuously reminded of his traumatic arrest and trial every time he applied for a job and was turned away because of his criminal record. Eventually, Paul sought help through legal aid. A legal aid attorney prepared a petition to have his record expunged. The expungement was permissible because Paul had been acquitted of his attempted murder charge. With his record expunged, Paul no longer had to relive his harrowing experience with every new job application and has a greater likelihood of success in obtaining employment.²¹

Sue came to legal aid seeking assistance with a sealing. At the time, she was receiving public benefits for her two children and was working a part-time minimum wage job. Additionally, her driver's license was suspended for unpaid fines related to traffic violations. The lack of a driver's license made her dependent on family for transportation and significantly limited her employment options. A legal aid attorney filed a petition to seal three of her convictions. The convictions qualified to be sealed, as they were not an excluded offense and Sue had surpassed her three-year waiting period after completion of her last sentence. An order to seal was entered in those three cases. Sue's legal aid attorney also applied for a Miller Foundation Grant²² to pay the client's outstanding fines, so that she could get her driver's license reinstated. The Miller Foundation approved the grant, and the fines were paid. With her license reinstated and record cleared, Sue's employment opportunities were greatly expanded.²³

Thirteen years ago, Emily was convicted of a crime. In the years that followed her conviction, Emily obtained a business management degree. However, Emily was unable to secure a job in that field due to her criminal record. A legal aid attorney represented Emily to seal her record. The Court granted Emily's request, allowing her a greater likelihood of being able to use her degree and obtain a job.²⁴

²¹ Account provided by The Lawyer's Trust Fund of Illinois.

²² BARBARA & STEPHEN MILLER FOUND., <https://thebsmfoundation.org/> (last visited Feb. 6, 2019) ("The Barbara and Stephen Miller Foundation seeks to help low-income individuals whose path to self-sufficiency is blocked by a specific, identifiable obstacle. In providing emergency grant funds of \$1,000 or less, the foundation serves as a safety net resource to sustain those in need of one-time assistance when facing an unexpected financial burden.").

²³ Account provided by The Lawyer's Trust Fund of Illinois.

²⁴ Account provided by The Lawyer's Trust Fund of Illinois.

These stories are illustrative of the work legal aid is doing across the state to clear criminal records. Despite these efforts, the “justice gap”²⁵ for Illinoisans and the number of self-represented litigants continues to grow. Nearly one-third of Illinois residents, some 4 million people, live at or near the federal poverty level.²⁶ These residents likely cannot afford an attorney when civil legal issues arise. This creates a significant burden on legal aid organizations and the courts, resulting in many Illinois residents lacking meaningful access to our courts. “In 2015, [the Administrative Office of Illinois Courts (AOIC)] statistics show[] that 93 of the 102 counties in Illinois reported that more than half of their civil cases had at least one self-represented litigant.”²⁷

The Illinois Supreme Court Commission on Access to Justice was established by the Illinois Supreme Court in June 2012 to “promote, facilitate, and enhance equal access to justice with an emphasis on access to the Illinois civil courts and administrative agencies for all people, particularly the poor and vulnerable.”²⁸ Innovative projects were implemented to make the civil justice system more user-friendly and accessible for the growing number of people who are coming to the courts without lawyers. The Civil Justice Division within the AOIC was charged with supporting several multi-dimensional initiatives to improve access to justice throughout the state.²⁹

One such innovative project was the establishment of a statewide committee to draft easy-to-understand civil practice forms to be used by self-represented litigants and practitioners. Subcommittees were established for multiple areas of law, gathering experts from around the State to assist in the drafting of these forms. One of the subcommittees was established to draft and monitor forms for expungement and sealing. The forms and

²⁵ The “justice gap” is the difference “between the civil legal needs” of low-income Americans and “the resources available to meet those needs.” *2017 Justice Gap Report*, LSC, <https://www.lsc.gov/media-center/publications/2017-justice-gap-report> (last visited Apr. 20, 2019). The Legal Services Corporation’s 2017 Justice Gap Report found that, each year, “86% of the civil legal problems [encountered] by low-income Americans . . . receive inadequate or no legal help.” *Id.* “[Seventy-one percent] of low-income households experienced at least one civil legal problem, including problems with health care, housing conditions, disability access, veterans’ benefits, and domestic violence.” *Id.* Additionally, “low-income Americans will approach LSC-funded legal aid organizations for support with an estimated 1.7 million problems. These Americans will only receive limited or no legal help for more than half of these problems due to a lack of resources.” *Id.*

²⁶ KATIE BUITRAGO, AMY RYNELL & SAMANTHA TUTTLE, *CYCLE OF RISK: THE INTERSECTION OF POVERTY, VIOLENCE, AND TRAUMA* 4 (Mar. 2017), https://www.heartlandalliance.org/povertyreport/wp-content/uploads/sites/26/2017/03/FINAL_PR17_3_14.pdf.

²⁷ ILL. SUP. CT. COMMISSION ON ACCESS TO JUST., *ADVANCING ACCESS TO JUSTICE IN ILLINOIS* 13 (May 2017), http://www.illinoiscourts.gov/SupremeCourt/Committees/ATJ_Comm/ATJ_Comm Strategic_Plan.pdf.

²⁸ *Id.* at 12; *see also* ILL. SUP. CT. R. 10-100.

²⁹ *Access to Justice*, ILL. CTS., <http://www.illinoiscourts.gov/CivilJustice/AccessToJustice.asp> (last visited Feb. 6, 2019).

instructions³⁰ produced by this subcommittee provide the self-represented litigant and the practitioner a comprehensive how-to guide in acquiring a copy of the defendant's criminal record, interpreting the criminal record, applying the law to the record, drafting the petition, filing the case with the court, and obtaining an order to expunge and/or seal a criminal record.³¹ Further, the committee is tasked with updating these forms to stay current with the law as it evolves.

III. HISTORY OF THE CRIMINAL IDENTIFICATION ACT

The history of the Criminal Identification Act has been one of expansion. However, with the expansion of the law came barriers that placed significant limits on those individuals eligible to seal their record. In recent years several of those barriers have been removed. The following outlines significant steps in the history of the Act.

For nearly 90 years Illinois law has recognized the idea that a person who was arrested and not charged or not convicted of a charge is eligible to expunge their record. In 1931, the Illinois General Assembly created the Bureau of Identification and Investigation.³² Local law enforcement sent identifying information to the Bureau about defendants when they were arrested. If the defendant was released without being convicted, the Bureau would return the information to the defendant.³³ Therefore, law enforcement records were automatically expunged, unless a person was convicted of the offense.³⁴

Forty years later, the General Assembly also permitted the circuit clerk's records to be expunged when the defendant was charged with a crime but not convicted.³⁵ However, the General Assembly added the provision that a record may only be expunged if the defendant had not "previously been convicted of any criminal or municipal ordinance violation" and that the "Chief Judge may in his discretion enter an order expunging said arrest record."³⁶ This provision meant defendants would now have to petition the court to have their records expunged. In 1971, the law was amended to also permit felony charges leading to acquittal or dismissal to be expunged.³⁷

³⁰ *Standardized State Forms*, ILL. CTS., <http://www.illinoiscourts.gov/Forms/approved/expungement/expungement.asp> (last visited Feb. 6, 2019).

³¹ *Id.*

³² ILL. REV. STAT (1931), ch. 38 ¶ 780a.

³³ ILL. REV. STAT (1931), ch. 38 ¶ 780e.

³⁴ Beth A. Johnson, *Expungement and Sealing: A Lawyer's Guide*, in IICLE: ILL. INST. FOR CONTINUING LEGAL EDU., CRIMINAL RECORDS (ILLINOIS): EXPUNGEMENT AND OTHER RELIEF (2016).

³⁵ ILL. REV. STAT (1969) ch. 38 ¶ 206-5.

³⁶ *Id.*

³⁷ *Id.*

In 2004, Illinois saw its first sealing law. The law established that only convictions for certain nonviolent offenses, nonsexual misdemeanors, and municipal ordinance violations were eligible to be sealed.³⁸ A year later, the General Assembly also permitted the sealing of class 4 felony offenses for prostitution and drug possession.³⁹

The first comprehensive expungement and sealing statute was enacted in 2010.⁴⁰ The statute set out what is eligible and not eligible to be sealed and expunged. It excluded from eligibility supervision or convictions for: sexual offenses against a minor; driving under the influence, reckless driving; and minor traffic offenses.⁴¹ Additionally, if a person committed sex crimes; criminal sexual abuse; violated of an order of protection; committed an act of violence; abused animals; and/or had to register as a sex offender, and such offense also resulted in supervision, qualified probation, or conviction, sealing the offense would not be possible.⁴² Felony offenses, regardless of disposition, remained excluded unless: the charge was amended to a misdemeanor and authorized to be sealed; the charge resulted in first offender probation; or the charge was a class 4 felony offense for prostitution or certain drug offenses.⁴³

Expungement was permitted if: the matter was not excluded, the person had never been convicted of a criminal offense, a conviction was vacated, or the defendant successfully completed supervision or qualified probation.⁴⁴ All records that were eligible to be expunged were also eligible to be sealed.⁴⁵ Misdemeanor convictions could be sealed unless they were excluded.⁴⁶

The Act established that there were no waiting periods for an arrest without charge, an acquittal, or dismissal of the charge.⁴⁷ However, orders of supervision under the Illinois Vehicle Code required a five-year waiting period after successful completion of the supervision.⁴⁸ All other matters were permitted to be expunged two years after successful completion of the supervision.⁴⁹ If the matter resulted in an order of qualified probation, then the waiting period was five years after the successful termination of the probation.⁵⁰ A person who was convicted of a crime and was a first time offender had to wait three years after the termination of their last sentence to

³⁸ 730 ILL. COMP. STAT. 5/3-3-2(a)(10) (2005).

³⁹ *Id.* § 5/3-3-2(a)(11).

⁴⁰ 20 ILL. COMP. STAT. 2630/5.2 (2010).

⁴¹ *Id.* §§ 2630/5.2(a)(3)(A)-(B).

⁴² *Id.* §§ 2630/5.2(a)(3)(C)(i-v).

⁴³ *Id.* §§ 2630/5.2(a)(3)(D)(i-iii).

⁴⁴ *Id.* §§ 2630/5.2(b)(1)(A)-(B).

⁴⁵ *Id.* §§ 2630/5.2(c)(2)(A)-(C).

⁴⁶ *Id.* § 2630/5.2(c)(2)(D).

⁴⁷ *Id.* § 2630/5.2(b)(2)(A).

⁴⁸ *Id.* § 2630/5.2(b)(2)(B)(i).

⁴⁹ *Id.* § 2630/5.2(b)(2)(B)(ii).

⁵⁰ *Id.* § 2630/5.2(b)(2)(C).

be eligible to seal their record. If they had previously been convicted of a criminal offense, they would have to wait four years after completion of their last sentence to seal their record.⁵¹

The General Assembly amended the Act in 2013 and 2015.⁵² The amendments provided that any arrest or misdemeanor charge resulting in supervision from reckless driving is eligible to be expunged or sealed if the incident happened prior to the defendant's twenty-fifth birthday, and if there were no records of other reckless driving or driving under the influence convictions.⁵³ The General Assembly excluded the sealing of convictions for battery of the unborn, domestic battery, and violations of stalking, or civil no contact orders.⁵⁴

In 2017, the most significant amendments to the Act went into effect.⁵⁵ The amendments eliminated the provision that only permitted a person to seek expungement of their record so long as they have never been convicted of a criminal offense.⁵⁶ Additionally, the General Assembly eliminated 20 ILCS 2630/5.2(a)(3)(D) (2017), which previously provided for the exclusion of most felony convictions. The amendment provided that "arrest or charges not initiated by arrest resulting in felony conviction were eligible."⁵⁷ The General Assembly added that a conviction or supervision, for felony public indecency⁵⁸ and offenses under the Humane Care for Animal Act⁵⁹ could not be sealed and "[c]onvictions requiring public registration under the Arsonist Registration Act, the Sex Offender Registration Act, or the Murderer and Violent Offender Against Youth Registration Act may not be sealed until the petitioner is no longer required to register under that relevant Act."⁶⁰

In 2018, the General Assembly went one step further by addressing fines, fees, and restitution as part of a defendant's sentence.⁶¹ The amendment modified the definition of the word "terminate" to establish that a sentence is terminated notwithstanding any outstanding financial legal

⁵¹ *Id.* § 2630/5.2(b)(2)(B)(i).

⁵² Act effective Jan. 1, 2013, 2012 ILL. LAWS P.A. 97-698 (amending 20 ILL. COMP. STAT. 2630/5.2); Act effective Jan. 1, 2015, 2014 ILL. LAWS P.A. 098-1009 (amending 20 ILL. COMP. STAT. 2630/5.2).

⁵³ 20 ILL. COMP. STAT. 2630/5.2(b)(2)(B)(i-5) (2013); *id.* § 2630/5.2(c)(3)(D).

⁵⁴ *Id.* § 2630/5.2(a)(3)(C)(iii).

⁵⁵ Act effective Jan. 1, 2017, 2016 ILL. LAWS P.A. 099-0881 (amending 20 ILL. COMP. STAT. 2630/5.2); Act effective Aug. 24, 2017, 2017 ILL. LAWS P.A. 100-0284 (amending 20 ILL. COMP. STAT. 2630/5.2).

⁵⁶ See 20 ILL. COMP. STAT. 2630/5.2(b)(1)(A) *amended by* Act effective Jan. 1, 2017, 2016 ILL. LAWS P.A. 099-0881 (amending 20 ILL. COMP. STAT. 2630/5.2).

⁵⁷ 20 ILL. COMP. STAT. 2630/5.2(c)(2)(F) (2017).

⁵⁸ *Id.* § 2630/5.2(a)(3)(C)(i).

⁵⁹ *Id.* § 2630/5.2(a)(3)(C)(iv).

⁶⁰ 20 ILL. COMP. STAT. 2630/5.2 (c)(3)(C) (2017).

⁶¹ Act effective Aug. 10, 2018, 2018 ILL. LAWS P.A. 100-0776 (amending 20 ILL. COMP. STAT. 2630/52).

obligation,⁶² and that the court shall not deny a petition for sealing due to the defendant's outstanding legal financial obligations, excluding restitution.⁶³ The culmination of the statute's history brings us to the statute as it stands today.

IV. SURVEY OF 20 ILL. COMP. STAT. 2630/5.2

This section includes a survey of key provisions of Section 5.2 of the Criminal Identification Act. The survey will first cover eligibility for expungement and sealing, followed by what is excluded from being expunged and/or sealed. Thereafter, all waiting periods will be addressed. The pre-hearing, hearing and post-hearing procedure will also be examined followed by a brief explanation of the impact of pardons and certificates of eligibility.

There are six important details to recognize while reading this survey. First, the Act is based on the outcome of an arrest or a charge, and not the arrest or charge itself. For example, if a defendant is arrested, charged, and convicted of domestic battery, then that defendant is not eligible to have their record for that conviction sealed. However, if the defendant is arrested and charged with domestic battery, but that charge is later amended, and the defendant is convicted of battery, then the defendant would be eligible to have the battery conviction sealed after the relevant waiting period. Second, the Act covers municipal ordinance violations⁶⁴ by stating that an offense is or is not eligible, and then adding "or any similar provision of a local ordinance."⁶⁵ Most offenses covered by the Act that have a companion local ordinance is also covered by the Act. Therefore, the phrase "or any similar provision of a municipal or local ordinance" or "a similar provision of a local ordinance" has been removed from this survey for simplicity. Third, the Act often will refer to a provision of the Act and provide "unless otherwise excluded."⁶⁶ This language means that somewhere else in the Act the provision or offense referenced may have already been excluded, and therefore is also excluded from the section in question. Exclusions are covered in one section of the survey; therefore, this language has also been removed for simplicity. Fourth, all arrests not resulting in a charge are

⁶² "'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. A sentence is terminated notwithstanding any outstanding financial legal obligation . . ." 20 ILL. COMP. STAT. 2630/5.2(a)(1)(M) (2018).

⁶³ *Id.* § 2630/5.2(d)(6)(C).

⁶⁴ "'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." *Id.* § 2630/5.2(a)(1)(H) (2019).

⁶⁵ *E.g., id.* § 2630/5.2(a)(1)(G)-(H).

⁶⁶ *E.g., id.* § 2630/5.2(c)(2)(F).

eligible to be expunged, regardless of the reason for the arrest. Further, there is no waiting period to expunge such arrests. Fifth, the definition section⁶⁷ has not been provided in this survey, however, many definitions, as defined by the Act, can be found in the footnotes. Lastly, the statute routinely refers to “the Department,” which refers to the Illinois State Police Bureau of Identification.⁶⁸ The Bureau maintains most criminal history records for the State.⁶⁹

A. Expungement

To expunge is to “physically destroy the records or return them to the petitioner⁷⁰ and to obliterate the petitioner's name from any official index⁷¹ and public record.”⁷² The term expungement is used widely throughout our judicial system when referring to the overall concept of cleaning up one’s criminal record. Often, clients have a misconception that their entire record can be expunged. However, expungement, within this context, is limited to a person’s criminal record that did not result in a conviction. Even so, this process has significant value to the client. As noted above, law enforcement and the Illinois judicial system no longer automatically expunge a person's record when their arrest does not result in a charge, or their charge does not result in a conviction. Therefore, a person's criminal record includes these arrests and charges. While these are not convictions, the record can still influence an employer’s decision whether to hire a person. Take the story of Paul, discussed earlier, who was acquitted of attempted murder. His acquittal was still part of his criminal record. Therefore, employers could see what this man had been accused of. As a result, his employment opportunities were significantly impacted. The expungement process can remove these arrests and charges from his record.

⁶⁷ See *id.* § 2630/5.2(a)(1) (The definitions are not specifically reviewed in this article but may be referenced in the footnotes when appropriate.).

⁶⁸ *Id.* § 2630/1.

⁶⁹ The Bureau of Identification, located in Joliet, promotes public safety by collecting, maintaining, and providing accurate, timely, and complete criminal history information to the entire Illinois community. Records relating to more than five million fingerprint files help to ensure the identification of individuals and potential suspects through the use of the advanced Automated Fingerprint Identification System (“AFIS”). See *Division of Administration*, ILL. ST. POLICE, http://www.isp.state.il.us/aboutisp/deptorg_doa.cfm (last visited May 9, 2019).

⁷⁰ “‘Petitioner’ means an adult or a minor prosecuted as an adult who has applied for relief under this Section” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(I) (2019).

⁷¹ See *Clerks of Courts Act*, 705 ILL. COMP. STAT. 105/16 (2019).

⁷² 20 ILL. COMP. STAT. 2630/5.2(a)(1)(E) (2019).

A person may petition the circuit court⁷³ to expunge the records of arrests and charges,⁷⁴ resulting in: acquittal, dismissal, or arrest without charging; a conviction which was vacated or reversed; an order of supervision⁷⁵ successfully completed by the petitioner; or an order of qualified probation⁷⁶ successfully completed by the petitioner.⁷⁷

When a *victim*⁷⁸ of identity thefts' offender has been arrested for using the victim's name, the victim may seek to have the court correct the arrest and/or conviction record.⁷⁹ All official records concerning such arrests shall remove the victim's name from such records and shall insert the name of the offender. 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 removed on the official index.⁸⁰

The *victim* of a criminal sexual assault, predatory criminal sexual assault of a child, or criminal sexual abuse may request that the State's Attorney of the county in which a conviction occurred seek an order to seal the records of the circuit court clerk in connection with the trial court proceedings concerning the offense committed against the victim.⁸¹ However, the records of the arresting authority and the Department of State

⁷³ “‘Court’ means a circuit court of Illinois and includes a judge thereof.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(iii) (2019); 730 ILL. COMP. STAT. 5/5-1-6 (2019).

⁷⁴ “‘Charge’ means a written statement presented to a court accusing a person of the commission of an offense and includes complaint, information and indictment.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(ii) (2019); 730 ILL. COMP. STAT. 5/5-1-3 (2019).

⁷⁵ “‘Supervision’ means a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(xiv) (2019); 730 ILL. COMP. STAT. 5/5-1-21(2018).

⁷⁶ Under 20 ILL. COMP. STAT. 2630/5.2(a)(1)(J) (2019),
 “‘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 or 5-6-3.4 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.

⁷⁷ 20 ILL. COMP. STAT. 2630/5.2(b)(1) (2019).

⁷⁸ “‘Victim’ shall have the meaning ascribed to the term ‘crime victim’ in subsection (a) of Section 3 of the Rights of Crime Victims and Witnesses Act.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(xv) (2019); 725 ILL. COMP. STAT. 120/3(a) (2019); 730 ILL. COMP. STAT. 5/5-1-22 (2019) (emphasis added).

⁷⁹ 20 ILL. COMP. STAT. 2630/5.2(b)(4) (2019).

⁸⁰ *Id.*

⁸¹ *Id.* § 2630/5.2(b)(5) (emphasis added).

Police shall not be sealed. If the trial court finds good cause, it may permit public inspection of the clerk's records.⁸²

If a conviction has been set aside on direct review or collateral attack, and the court determines by clear and convincing evidence that the petitioner was factually innocent⁸³ of the charge, the court shall enter an expungement order for the conviction.⁸⁴ If the petitioner has been granted a certificate of innocence,⁸⁵ the court that grants the certificate shall also enter an order expunging the conviction.

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 1987.⁸⁶

B. Sealing

To 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.”⁸⁷ The petitioner's name shall also be obliterated from the official index required to be kept by the circuit court clerk.⁸⁸

The stories of Sue and Emily, previously referenced, illustrate why sealing a record is important. Even after years of not committing any crime and receiving an education, Emily could not obtain a job in her field. Employers' rules regarding background checks did not consider the amount of time that had elapsed since her last conviction or that she had obtained a college degree. Sue had two small children and was dependent on public benefits. She was trying to make ends meet by working a part-time minimum wage job. Her criminal history and lack of a driver's license prohibited her from obtaining employment that would move her beyond a part-time minimum wage salary. Her work record did not translate into better employment opportunities likely due to her criminal record. As reflected by these women, the sealing of a criminal record can change lives.

Unless otherwise prohibited, the court may seal any record that is also eligible to be expunged⁸⁹ and may seal convictions for most misdemeanors

⁸² *Id.*

⁸³ See 730 ILL. COMP. STAT. 5/5-4 (2019) (describing sentencing).

⁸⁴ 20 ILL. COMP. STAT. 2630/5.2(b)(6) (2019).

⁸⁵ Petitioner was innocent of all offenses for which he or she was incarcerated. 735 ILL. COMP. STAT. 2/702 (2019); 735 ILL. COMP. STAT. 2/702(h) (2019).

⁸⁶ 20 ILL. COMP. STAT. 2630/5.2(b)(3) (2019) (This article does not cover the process by which someone may expunge or seal their juvenile record.).

⁸⁷ 20 ILL. COMP. STAT. 2630/5.2(a)(1)(K) (2019).

⁸⁸ *Id.*

⁸⁹ *Id.* §§ 2630/5.2(c)(2)(A)-(C), (E).

and felonies.⁹⁰ The Act also permits the immediate sealing of criminal records in certain circumstances. For example, arrests or charges “resulting in acquittal or dismissal with prejudice . . . occur[ring] after January 1, 2018 . . . may be sealed immediately if a petition is filed with the . . . clerk on the same day and during the same hearing” as the above finding.⁹¹ The records may be sealed immediately after entry of the final disposition of a case, notwithstanding the disposition of other charges in the same case.⁹² When there is such a disposition, the court shall notify the defendant⁹³ of the right and procedure to have the record immediately sealed.⁹⁴

Further, a trafficking victim⁹⁵ is eligible for immediate sealing of their criminal record upon the completion of their last sentence if their participation in the underlying offense was a direct result of human trafficking.⁹⁶ Additionally, the petition must contain a statement that the petitioner is a victim of human trafficking at the time of the offense and their participation in the offense was a direct result of the trafficking.⁹⁷

When a person receives a disposition of a criminal matter that is eligible to be sealed, the court shall notify the person of the right to have the records sealed and the procedures for doing so.⁹⁸ Once a person has a felony conviction sealed, they may not have a subsequent felony conviction sealed.⁹⁹ Further, the court may, upon conviction for a subsequent felony, unseal the prior felony conviction previously sealed by the court.¹⁰⁰

C. Exclusion

The statute excludes certain offenses,¹⁰¹ including petty offenses that are not criminal in nature,¹⁰² for both expungement and sealing. Prior to the

⁹⁰ *Id.* §§ 2630/5.2(c)(2)(D), (F).

⁹¹ *Id.* § 2360/5.2(g)(2).

⁹² *Id.* § 2360/5.2(g)(3).

⁹³ “‘Defendant’ means a person charged with an offense.” *Id.* § 2360/5.2(a)(1)(iv) (2019); 730 ILL. COMP. STAT. 5/5-1-7 (2019).

⁹⁴ 20 ILL. COMP. STAT. 2630/5.2(g)(1)-(4) (2019).

⁹⁵ See 720 ILL. COMP. STAT. 5/10-9(a)(10) (2019) (a “‘trafficking victim’ means a person subjected to” involuntary servitude, involuntary sexual servitude of a minor, or trafficking of persons).

⁹⁶ See *id.* § 5/10-9 (2012); “Trafficking Victims Protection” 22 U.S.C. § 7105 (2018).

⁹⁷ 20 ILL. COMP. STAT. 2630/5.2(h)(2) (2019).

⁹⁸ *Id.* § 2630/5.2(c)(5).

⁹⁹ *Id.* § 2630/5.2(c)(4).

¹⁰⁰ *Id.*

¹⁰¹ “‘Offense’ means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this State or by any law, local law or ordinance of a political subdivision of this State, or by any order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.” *Id.* § 2630/5.2(a)(1)(A)(ix) (2019); 730 ILL. COMP. STAT. 5/5-1-15 (2019).

¹⁰² “‘Petty Offense’ means any offense for which a sentence of imprisonment is not an authorized disposition.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(xi) (2019); 730 ILL. COMP. STAT. 5/5-1-17 (2019).

expansion of the Act in 2017, the list of excluded offenses not eligible for sealing was extensive. However, the 2017 amendment has limited those exclusions to a brief straightforward list. For example, the court is not permitted to order a sealing or expungement for arrests or charges that result in an order of supervision or conviction for the following:¹⁰³ any sexual offense committed against a minor;¹⁰⁴ driving while under the influence of alcohol, drugs, or intoxicating compounds;¹⁰⁵ or reckless driving.^{106, 107} Further, the court is not permitted to expunge or seal records of minor traffic offenses¹⁰⁸ unless the petitioner was arrested and released without charging.¹⁰⁹

Additionally, the court is not permitted to seal¹¹⁰ sex offenses¹¹¹ (except for solicitation of a sexual act¹¹² or a misdemeanor violation of public indecency¹¹³), criminal sexual abuse,¹¹⁴ any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act,¹¹⁵ domestic battery,¹¹⁶ violation of an order of protection,¹¹⁷ violation of the Stalking No Contact Order Act,¹¹⁸ violation of the Civil No Contact Order Act,¹¹⁹ battery of an unborn child,¹²⁰ dog fighting,¹²¹ and class A misdemeanors or felony offenses under the Humane Care for Animals Act.¹²²

¹⁰³ 20 ILL. COMP. STAT. 2630/5.2(a)(3)(A) (2019).

¹⁰⁴ “A 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.” *Id.* § 2630/5.2(a)(1)(L).

¹⁰⁵ 625 ILL. COMP. STAT. 5/11-501 (2019).

¹⁰⁶ There is an exception if the arrest or charge is for a misdemeanor violation of reckless driving that occurred prior to the offender reaching the age of 25 and they have no other conviction for reckless driving or driving under the influence. *See* 20 ILL. COMP. STAT. 2630/5.2(b)(2)(i-5) (2019); *id.* § 2630/5.2(c)(3)(D) (2019).

¹⁰⁷ 625 ILL. COMP. STAT. 5/11-503.

¹⁰⁸ “‘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.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(G) (2019).

¹⁰⁹ *Id.* § 2630/5.2(a)(3)(B).

¹¹⁰ *Id.* § 2630/5.5(a)(3)(C).

¹¹¹ 720 ILL. COMP. STAT. 5/11 (1961); 720 ILL. COMP. STAT. 5/11 (2012).

¹¹² 720 ILL. COMP. STAT. 5/11-14 (1961); 720 ILL. COMP. STAT. 5/11-14 (2012).

¹¹³ 720 ILL. COMP. STAT. 5/11-30 (2012).

¹¹⁴ 720 ILL. COMP. STAT. 12/15 (1961); 720 ILL. COMP. STAT. 11/1.50 (2012).

¹¹⁵ 730 ILL. COMP. STAT. 150/1 (2019).

¹¹⁶ 720 ILL. COMP. STAT. 12/3.2 (1961); 720 ILL. COMP. STAT. 12/3.2 (2012).

¹¹⁷ 720 ILL. COMP. STAT. 12/30 (1961); 720 ILL. COMP. STAT. 12/3.4 (2012).

¹¹⁸ 740 ILL. COMP. STAT. 21/125 (2019).

¹¹⁹ 740 ILL. COMP. STAT. 22/219 (2019).

¹²⁰ 720 ILL. COMP. STAT. 12/3.1 (1961); 720 ILL. COMP. STAT. 12/3.1 (2012).

¹²¹ 720 ILL. COMP. STAT. 26/5 (1961); 720 ILL. COMP. STAT. 48/1 (2012).

¹²² 510 ILL. COMP. STAT. 70 (2019).

D. Waiting Periods

A waiting period is a length of time that a person must wait after they have completed their last sentence¹²³ before they may seek to have eligible records and offenses expunged or sealed.¹²⁴ The calculation of a waiting period begins with the completion date of the individuals last sentence from “any jurisdiction” and not only Illinois’ jurisdictions.¹²⁵ Waiting periods are designed to provide an assurance to the court that the petitioner is not likely to commit another offense after their record is expunged or sealed. In general, waiting periods for convictions is three years.¹²⁶ As the IDOC definition of recidivism indicates, if a defendant is going to commit another offense it usually occurs within three years of their last conviction or release from prison.¹²⁷ Therefore, an average waiting period of three years provides a reliable basis for the court that a defendant is not likely to commit another offense if they have been successful in completing a waiting period. Orders of supervision or convictions for minor traffic offenses shall not affect a petitioner’s eligibility to expunge or seal records or have an impact on their waiting period eligibility.¹²⁸

1. No Waiting Period

First, there is “no waiting period” to either expunge or seal a record if the arrest resulted in a release without charging, or if the arrest or charge resulting in an acquittal or dismissal.¹²⁹ Further, there is no waiting period to expunge or seal a record where a conviction has been reversed or vacated.¹³⁰

¹²³ As defined by statute:

“[L]ast 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.

20 ILL. COMP. STAT. 2630/5.2(a)(1)(F) (2019).

¹²⁴ See *id.* §§ 2630/5.2(b)(2), (c)(3).

¹²⁵ See *id.* § 2630/5.2(a)(1)(F) (emphasis added).

¹²⁶ *Id.* § 2630/5.2(c)(3)(C).

¹²⁷ Olson, *supra* note 2.

¹²⁸ 20 ILL. COMP. STAT. 2630/5.2(a)(2) (2019); see also 20 ILL. COMP. STAT. 2630/5.2(a)(1)(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.”).

¹²⁹ 20 ILL. COMP. STAT. 2630/5.2(b)(2)(A) (2019); *id.* § 2630/5.2(c)(3)(A).

¹³⁰ 20 ILL. COMP. STAT. 2630/5.2(b)(2)(A); *id.* § 2630/5.2(c)(3)(A).

A trafficking victim may “petition for immediate sealing . . . upon completion of his or her sentence”¹³¹

2. Supervision

An order of supervision,¹³² successfully completed by the petitioner, may be expunged five years after the successful completion of supervision for:¹³³ criminal sexual abuse,¹³⁴ domestic battery,¹³⁵ operating an uninsured motor vehicle,¹³⁶ operating a vehicle when the registration has been suspended for noninsurance,¹³⁷ display of a false insurance card,¹³⁸ a scrap processor of metal who has not properly kept records.¹³⁹ If the supervision was for reckless driving¹⁴⁰ having occurred prior to the petitioner turning twenty-five and the petitioner has no other convictions for reckless driving, or driving under the influence,¹⁴¹ the offense shall be eligible to be expunged or sealed when the petitioner has reached the age of twenty-five.¹⁴² All other orders of supervision are eligible for expungement two years after the successful completion of the supervision.¹⁴³ Orders of supervision unsuccessfully completed may be sealed two years after the termination of petitioner's last sentence.¹⁴⁴ However, orders of supervision that are unsuccessfully completed for excluded offenses are not eligible to be sealed.¹⁴⁵

¹³¹ 20 ILL. COMP. STAT. 2630/5.2(h) (2019).

¹³² “‘Supervision’ means a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered.” 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(xiv) (2019); 730 ILL. COMP. STAT. 5/5-1-21 (2019).

¹³³ 20 ILL. COMP. STAT. 2630/5.2(b)(2)(i) (2019).

¹³⁴ 720 ILL. COMP. STAT. 12/15 (1961); 720 ILL. COMP. STAT. 11/1.50 (2012).

¹³⁵ 720 ILL. COMP. STAT. 12/3.2 (1961); 720 ILL. COMP. STAT. 12/3.2 (2012).

¹³⁶ 625 ILL. COMP. STAT. 5/3-707 (2019).

¹³⁷ *Id.* § 5/3-708. If the petitioner is not charged with a misdemeanor for operating an uninsured vehicle or operating a vehicle when the registration has been suspended for noninsurance, then the charge will be considered a minor traffic offense and will not be eligible for sealing or expungement.

¹³⁸ *Id.* §§ 5/3-708, 3-710.

¹³⁹ *Id.* § 5/5-401.3.

¹⁴⁰ 625 ILL. COMP. STAT. 5/11-503 (2019).

¹⁴¹ *Id.* § 5/11-501.

¹⁴² 20 ILL. COMP. STAT. 2630/5.2(b)(2)(i-5) (2019); *id.* § 2630/5.2(c)(3)(D).

¹⁴³ 20 ILL. COMP. STAT. 2630/5.2(b)(2)(ii).

¹⁴⁴ *Id.* § 2630/5.2(a)(1)(F).

¹⁴⁵ *See id.* § 2630/5.2(a)(3); *see also id.* § 2630/5.2(a)(1)(C).

3. *Qualified Probation*

An order of qualified probation,¹⁴⁶ successfully completed by the petitioner, may be expunged five years after the satisfactory termination of the probation.¹⁴⁷ If not successfully completed, the same may be sealed three years after the termination of the petitioner's last sentence.¹⁴⁸

4. *Convictions*

Convictions for both misdemeanor and felonies may be sealed three years after the termination of the petitioner's last sentence.¹⁴⁹ A "conviction means a [] sentence entered upon a plea [], verdict or finding of guilty of an offense, rendered by a [] jury or by a court []. 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 [] reversed, vacated, or modified []." ¹⁵⁰ A "[m]isdemeanor means any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed." ¹⁵¹ A "[f]elony means an offense for which a sentence to death or to a term of imprisonment in a penitentiary for one year or more is provided." ¹⁵² Convictions requiring public registration under the Arsonist Registration Act,¹⁵³ the Sex Offender Registration Act,¹⁵⁴ or the Murderer and Violent Offender Against Youth

¹⁴⁶ See generally 20 ILL. COMP. STAT. 2630/5.2(a)(1)(J) (2019) (defining qualified probation in this instance as:

"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 or 5-6-3.4 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.).

¹⁴⁷ *Id.* § 2630/5.2(b)(2)(C).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* § 2630/5.2(c)(3)(C).

¹⁵⁰ *Id.* § 2630/5.2(a)(1)(C).

¹⁵¹ *Id.* § 2630/5.2(a)(1)(A)(viii); 730 ILL. COMP. STAT. 5/5-1-14 (2019).

¹⁵² 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(v) (2019); 730 ILL. COMP. STAT. 5/5-1-9 (2019).

¹⁵³ Arsonist Registration Act, 730 ILL. COMP. STAT. 148/50 (2019).

¹⁵⁴ Sex Offender Registration, 730 ILL. COMP. STAT. 150/3 (2019).

Registration Act¹⁵⁵ may not be sealed until the petitioner is no longer required to register under that relevant Act.¹⁵⁶

5. *The Education Exception to a Waiting Period*

If the petitioner wishes to seal an order of supervision, qualified probation, or a misdemeanor or felony conviction, the waiting period after petitioner's last sentence is waived if the petitioner earned a high school diploma, associate's degree, career certificate, vocational technical certification, bachelor's degree, or passed the high school level Test of General Educational Development, during the period of the petitioner's sentence, aftercare release, or mandatory supervised release.¹⁵⁷ This exception only applies to a petitioner who has not completed the same educational goal prior to the period of his or her sentence.¹⁵⁸ Further, the court has discretion to deny someone who is eligible for this exception.¹⁵⁹ If the court does deny eligibility, then the standard waiting periods apply to any subsequently filed petition.¹⁶⁰

This provision of the statute is especially important for citizens reentering society after serving a sentence of incarceration. If the citizen is eligible, this exception would permit the person to petition the court immediately upon completion of their last sentence instead of having to wait three years.¹⁶¹ The result is a more level playing field when competing for housing and jobs. It is vital that those organizations who assist these citizens in reentering society, such as the One Stop Business and Employment Center,¹⁶² and probationary departments recognize the importance of this

¹⁵⁵ Murderer and Violent Offender Against Youth Registration Act, 730 ILL. COMP. STAT. 154/10 (2019); 730 ILL. COMP. STAT. 154.

¹⁵⁶ 20 ILL. COMP. STAT. 2630/5.2(c)(3)(C) (2019).

¹⁵⁷ See 730 ILL. COMP. STAT. 2630/5.2(c)(3)(E) (2019); see also 730 ILL. COMP. STAT. 5/5-1-19 (defining a sentence as "the disposition imposed by the court on a convicted defendant."). 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(xiii) (2019); 730 ILL. COMP. STAT. 5/5-1-19.

¹⁵⁸ 730 ILL. COMP. STAT. 2630/5.2(c)(3)(E) (2019).

¹⁵⁹ See *id.*

¹⁶⁰ See *id.*

¹⁶¹ See *id.*

¹⁶² See ONE STOP BUS. & EMP. CTR., <http://www.siwd.org/americanjobcenter/> (last visited Feb. 23, 2019); S. ILL. WORKFORCE DEV. BD.: AM. JOBS CTR., <http://www.siwd.org> (last visited Feb. 23, 2019).

exception.¹⁶³ While a person is on parole,¹⁶⁴ they may be able to complete one of the educational requirements which would make them eligible to seal their record when their parole has concluded.¹⁶⁵

E. Procedure

The procedure to file a petition to expunge or seal, prosecute the petition, and implement an order to expunge or seal is essentially the same for both remedies.¹⁶⁶

1. Pre-Hearing Procedure

Petitions requesting the expungement, sealing, and immediate sealing of criminal records should be filed with the clerk of the court in the county where the arrests occurred or where the charges were brought.¹⁶⁷ If arrests occurred or charges were brought in multiple jurisdictions, a petition must be filed in each of those jurisdictions.¹⁶⁸ The petitioner must pay the applicable fee, except no fee shall be required if the petitioner has obtained a court order waiving fees.¹⁶⁹ Further, when the petitioner is represented by a civil legal aid organization, fees are waived pursuant to 735 ILCS 5/5-105.5(b).¹⁷⁰

The petition for expungement, sealing, and immediate sealing shall be verified and contain the petitioner's name, date of birth, and current address.¹⁷¹ For each arrest or charge to be sealed or expunged, the case

¹⁶³ See *American Job Centers Program Description*, BENEFITS.GOV, <https://www.benefits.gov/benefit/87> (last visited Feb. 23, 2019) (The website states:

American Job Centers are at the heart of the workforce investment system under the Workforce Innovation and Opportunity Act (WIOA). These centers provide an integrated array of high-quality services so that workers, job seekers, and businesses can conveniently find the help they need under one roof in easy to reach locations. American Job Centers are designed to help businesses find qualified workers and help job seekers obtain employment and training services to enhance their careers. These services include assessment of skills, abilities, aptitudes and needs; assistance with Unemployment Insurance; access to employment services such as the states' job board and labor market information; career counseling; job search and job placement assistance; and information on training, education and related supportive services such as day care and transportation. Eligible individuals can obtain more intensive services and training. American Job Centers are convenient to most communities in the United States.).

¹⁶⁴ 20 ILL. COMP. STAT. 2630/5.2(a)(1)(A)(x) (2019) (adopting the same definition of parole as defined in 730 ILL. COMP. STAT. 5/5-1-16, meaning "the conditional and revocable release of a person committed to the Department of Corrections under the supervision of a parole officer").

¹⁶⁵ See *id.*

¹⁶⁶ See 20 ILL. COMP. STAT. 2630/5.2(d) (2019).

¹⁶⁷ *Id.* § 2630/5.2(d)(1).

¹⁶⁸ *Id.*

¹⁶⁹ See ILL. SUP. CT. R. 298 (codifying the procedure to apply for a waiver of court fees); see also 20 ILL. COMP. STAT. 2630/5.2(d)(1) (2019); 20 ILL. COMP. STAT. 2630/5.2(g)(5)(I) (2019).

¹⁷⁰ See *People v. Lewis*, 2011 IL App (5th) 110279, ¶ 7.

¹⁷¹ 20 ILL. COMP. STAT. 2630/5.2(d)(2), (g)(5)(B) (2019).

number, the date of arrest (if any), and the identity of the arresting authority must be included.¹⁷² If the petitioner has received a certificate of eligibility for sealing, the certificate must be attached to the petition.¹⁷³

If the petitioner seeks to expunge an order for Qualified Probation or seal a felony conviction under the Illinois Controlled Substances Act,¹⁷⁴ the Methamphetamine Control and Community Protection Act,¹⁷⁵ or the Cannabis Control Act,¹⁷⁶ a clean drug test¹⁷⁷ passed within 30 days before the filing of the petition must be attached to the petition.¹⁷⁸ If the petition is for an immediate sealing, no such drug test is required.¹⁷⁹

It is the duty of the circuit court clerk to serve a copy of the petition on the State's Attorney, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.¹⁸⁰ If the petition is for immediate sealing, only service on the State's Attorney in open court is required.¹⁸¹ It is the responsibility of the petitioner to draft a notice providing for the names and addresses to the circuit clerk for which service is required.¹⁸²

The above parties have 60 days, after service of a petition, to file a written objection stating a basis for the objection to the petition.¹⁸³ However, parties entitled to notice are not permitted to object if the Governor has pardoned the petitioner and authorized an expungement.¹⁸⁴ If the petitioner seeks to have a record of arrest expunged and the offender has been convicted of a criminal offense, the State's Attorney may object to the expungement on the grounds that the record contains specific relevant information aside from the mere fact of the arrest.¹⁸⁵ However, if the petitioner is a trafficking victim and is seeking to immediately seal the petitioner's record, the petitioner is entitled to a hearing if an objection is filed alleging that the petitioner is not permitted to an immediate sealing.¹⁸⁶

¹⁷² See *id.* § 2630/5.2(g)(5)(B).

¹⁷³ See *id.* § 2630/5.2(d)(2).

¹⁷⁴ 720 ILL. COMP. STAT. 570 (2019).

¹⁷⁵ *Id.* § 646.

¹⁷⁶ *Id.* § 550.

¹⁷⁷ The requisite clean drug test is defined by the Illinois Controlled Substances Act 720 ILL. COMP. STAT. 570 (2018), the Methamphetamine Control and Community Protection Act 720 ILL. COMP. STAT. 646 (2018), and the Cannabis Control Act 720 ILL. COMP. STAT. 550 (2018).

¹⁷⁸ 20 ILL. COMP. STAT. 2630/5.2(d)(3) (2019).

¹⁷⁹ *Id.* § 2630/5.2(g)(5)(C).

¹⁸⁰ *Id.* § 2630/5.2(d)(4).

¹⁸¹ *Id.* § 2630/5.2(g)(5)(D).

¹⁸² See *id.* §§ 2630/5.2(d)(1), (d)(4) (The statute does not specifically state that the petitioner bears the responsibility of providing the circuit court clerk the names and addresses of the parties entitled to service, but it can be reasonably inferred.).

¹⁸³ *Id.* §§ 2630/5.2(d)(5)(A)-(B).

¹⁸⁴ *Id.* § 2630/5.2(d)(5)(A).

¹⁸⁵ *Id.* § 2630/5.2(b)(1.5).

¹⁸⁶ *Id.* § 2630/5.2(h)(3).

2. *Hearing Procedure*

The court has discretion to grant or deny petitions to expunge and seal.¹⁸⁷ If the court has not received an objection from a party entitled to notice, the court may enter an order granting or denying the petition.¹⁸⁸ However, the court shall not deny a petition for sealing because the petitioner has not satisfied an outstanding legal financial obligation including, but not limited to, any costs, assessment, fine, or fee in connection with the offense.¹⁸⁹ An outstanding legal financial obligation does not include any court-ordered restitution to a victim,¹⁹⁰ unless the restitution has been converted to a civil judgment.¹⁹¹ However, nothing in the statute prevents the court from sealing an offense in which the defendant still has an obligation to pay under an order of restitution.¹⁹² Further, the court may use the same method of collecting on said restitution order as they would on an order to collect fines or fees.¹⁹³

If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties of the hearing date at least 30 days prior to the hearing.¹⁹⁴ The court shall hear evidence on whether the petition should be granted or denied based on: the strength of the evidence supporting the defendant's conviction; the reasons for retention of the conviction records by the State; the petitioner's age, criminal record history, and employment history; the period of time between the petitioner's arrest on the charge resulting in the conviction and the filing of the petition; and the specific adverse consequences the petitioner may be subject to if the petition is denied.¹⁹⁵

Petitions for immediate sealing shall be ruled on in the same hearing in which the final disposition of the case is entered.¹⁹⁶ If an objection is filed by the State's Attorney regarding a request for an immediate sealing for a trafficking victim, the court shall hear evidence to determine whether the petitioner was a victim of human trafficking at the time of the offense and if their participation in the offense was a direct result of human trafficking.¹⁹⁷

¹⁸⁷ See *People v. Howard*, 233 Ill. 2d 213, 220, 225, 909 N.E.2d 724, 729, 731 (2009) (explaining that courts are required to enter an order but does not require a specific disposition, which means courts have discretion to either grant or deny petitions).

¹⁸⁸ See 20 ILL. COMP. STAT. 2630/5.2(d)(6)(A)-(B) (2019).

¹⁸⁹ *Id.* § 2630/5.2(d)(6)(C).

¹⁹⁰ See Unified Code of Corrections, Restitutions, 730 ILL. COMP. STAT. 5/5-5-6 (2019) (defining court ordered restitution to a victim).

¹⁹¹ 20 ILL. COMP. STAT. 2630/5.2(d)(6)(C) (2019).

¹⁹² *Id.* §§ 2630/5.2(d)(9)(E-F).

¹⁹³ *Id.*

¹⁹⁴ *Id.* § 2630/5.2(d)(7).

¹⁹⁵ *Id.* §§ 2630/5.2(d)(7)(A)-(E).

¹⁹⁶ *Id.* §§ 2630/5.2(g)(5)(E)-(F).

¹⁹⁷ See *id.* § 2630/5.2(h)(3).

In practice, courts have discretion to schedule a hearing even if there are no objections filed. Further, under their discretionary power, courts may elicit the opinion of the State at said hearing as to whether they have any objections to the entry of an order to seal or expunge a record. Practitioners should be prepared that the courts may permit objections to be raised and heard outside of the 60-day time limit.

3. *Post-Hearing Procedure*

“After entering an order to expunge or seal records, the court must provide copies of the order to the Department of State Police . . . the petitioner, the State's Attorney . . . the arresting agency, and to the chief legal officer of the unit of local government effecting the arrest.”¹⁹⁸

When the court enters an order to expunge records for an arrest or charges resulting in an acquittal, dismissal, or a conviction which was vacated or reversed, or for an order of supervision that is not excluded, the records shall be expunged.¹⁹⁹ Said records shall be expunged within 60 days of the date of service of the order on the arresting agency, the Department, and any other agency as ordered by the court, unless a motion to vacate, modify, or reconsider the order is filed.²⁰⁰ However, the records of the circuit court clerk shall be impounded, and the name of the petitioner obliterated on the official index.²⁰¹ Also, 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.²⁰²

Orders to expunge records for supervision for operating an uninsured motor vehicle,²⁰³ operating a vehicle when the registration has been suspended for noninsurance,²⁰⁴ display of a false insurance card,²⁰⁵ a scrap processor of metal who has not properly kept records,²⁰⁶ criminal sexual abuse,²⁰⁷ domestic battery,²⁰⁸ qualified probation,²⁰⁹ or after the granting of a

¹⁹⁸ *Id.* § 2630/5.2(d)(8).

¹⁹⁹ See generally *id.* § 2630/5.2(a)(1)(E) (2019) (defining expungement of records in this manner: “Expunge” means to physically destroy[ing] the records or return[ing] 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).

²⁰⁰ *Id.* §§ 2630/5.2(d)(9)(A)(i), (d)(12).

²⁰¹ *Id.* § 2630/5.2(d)(9)(A).

²⁰² *Id.*

²⁰³ 625 ILL. COMP. STAT. 5/3-707 (2018).

²⁰⁴ *Id.* § 5/3-708.

²⁰⁵ *Id.* § 5/3-710.

²⁰⁶ *Id.* § 5/5-401.3.

²⁰⁷ 720 ILL. COMP. STAT. 5/11-1.50 (2018).

²⁰⁸ *Id.* § 5/12-3.2.

²⁰⁹ 20 ILL. COMP. STAT. 2630/5.2 (a)(1)(J) (2019).

certificate of eligibility for expungement,²¹⁰ shall only be expunged²¹¹ 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.²¹² The records of the circuit court clerk shall be impounded, and the name of the petitioner obliterated on the official index.²¹³ Further, the records shall be impounded by the Department within 60 days of the date of service of the order, unless a motion to vacate, modify, or reconsider the order is filed.²¹⁴ “[R]ecords impounded by the Department may be disseminated . . . 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”²¹⁵ “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.”²¹⁶

Upon entry of an order to seal or an order to immediately seal²¹⁷ records, the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal²¹⁸ the records.²¹⁹ “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.”²²⁰

The Department shall send written notice to the petitioner of its compliance with each order to expunge, seal, and immediately seal²²¹ records within 60 days of the date of service of that order.²²² If a motion to vacate, modify, or reconsider is filed, the Department shall send written notice to the petitioner within 60 days of service of the order resolving the motion if that

²¹⁰ *Id.* § 2630/5.2(e-6).

²¹¹ *Id.* § 2630/5.2(a)(1)(E).

²¹² *Id.* § 2630/5.2(d)(9)(B)(i); *id.* § 2630/5.2(d)(9)(B-5)(i); *id.* § 2630/5.2(d)(12).

²¹³ 20 ILL. COMP. STAT. § 2630/5.2(d)(9)(B)(ii); *id.* § 2630/5.2(d)(9)(B-5)(ii).

²¹⁴ *Id.* § 2630/5.2(d)(9)(B)(iii); *id.* § 2630/5.2(d)(9)(B-5)(iii); *id.* § 2630/5.2(d)(12) (2019).

²¹⁵ *Id.* § 2630/5.2(d)(9)(B)(iv); *id.* § 2630/5.2(d)(9)(B-5)(iv).

²¹⁶ *Id.* § 2630/5.2(d)(9)(B)(v); *id.* § 2630/5.2(d)(9)(B-5)(v).

²¹⁷ *Id.* § 2630/5.2(g)(5)(H).

²¹⁸ See generally *id.* § 2630/5.2(a)(1)(K) (2019) (defining sealing of records in this manner:

“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.

²¹⁹ *Id.* § 2630/5.2(d)(9)(C).

²²⁰ *Id.*

²²¹ *Id.* § 2630/5.2(g)(5)(H).

²²² *Id.* § 2630/5.2(d)(9)(D).

order requires the Department to expunge or seal records.²²³ In the event of an appeal from the circuit court, the Department shall send written notice to the petitioner of its compliance with an Appellate Court or Supreme Court judgment to expunge or seal records within 60 days of the issuance of the court's mandate.²²⁴ "The notice is not required while any motion to vacate, modify, or reconsider, or any appeal or petition for discretionary appellate review, is pending."²²⁵

"[T]he court may order that a sealed judgment²²⁶ or other court record necessary to demonstrate the amount of any legal financial obligation . . . be made available for the limited purpose of collecting the financial obligations owed by the petitioner in the criminal proceeding for which those records have been sealed."²²⁷ These records "shall not be entered into the official index required to be kept by the circuit court clerk . . . and shall be immediately re-impounded upon the collection of the outstanding financial obligation."²²⁸ Further, "a circuit court clerk may access a sealed record for the limited purpose of collecting payment for any legal financial obligations in the criminal proceedings for which those records have been sealed."²²⁹

The Department and the circuit clerk may also charge the petitioner a fee equivalent to the cost of processing any order to expunge, seal or immediately seal records, unless a fee waiver was approved.²³⁰

For purposes of an appeal, any court order to expunge, seal, or immediately seal a record shall be a final order 30 days after service of the order on the petitioner and all parties entitled to notice of the petition.²³¹

The petitioner or any party entitled to notice may file a motion to vacate, modify, or reconsider²³² the order granting or denying the petition to expunge, seal, or immediately seal within 60 days of service of the order.²³³ "If filed more than 60 days after service of the order, a petition to vacate, modify, or reconsider shall comply with subsection (c) of Section 2-1401 of the Code of Civil Procedure."^{234, 235} "Upon filing of a motion to vacate,

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ 730 ILL. COMP. STAT. 5/5-1-12 (2018) (defining "[j]udgment" [as] an adjudication by the court that the defendant is guilty or not guilty, and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the court").

²²⁷ 20 ILL. COMP. STAT. 2630/5.2(d)(9)(E) (2019).

²²⁸ *Id.*

²²⁹ *Id.* § 2630/5.2(d)(9)(F).

²³⁰ *Id.* § 2630/5.2(d)(10); *see also* ILL. SUP. CT. R. 298; 20 ILL. COMP. STAT. § 2630/5.2(d)(1); *id.* §. 2630/5.2(g)(5)(I).

²³¹ 20 ILL. COMP. STAT. § 2630/5.2(d)(11); *id.* § 2630/5.2(g)(5)(J) (emphasis added).

²³² 735 ILL. COMP. STAT. 5/2-1203 (2018).

²³³ 20 ILL. COMP. STAT. 2630/5.2(d)(12) (2019); *id.* § 2630/5.2(g)(5)(K) (emphasis added).

²³⁴ 20 ILL. COMP. STAT. 2630/5.2(d)(12) (2019); *id.* § 2630/5.2(g)(5)(K).

²³⁵ As provided by Section 2-1401 of the Code of Civil Procedure:

modify, or reconsider, notice of the motion shall be served upon the petitioner and all parties entitled to notice of the petition.”²³⁶

An order granting a petition under the expungement, sealing, or immediate sealing, “shall not be considered void because it fails to comply with the provisions of this Section or because of any error asserted in a motion to vacate, modify, or reconsider.”²³⁷ “The circuit court retains jurisdiction to determine whether the order is voidable and to vacate, modify, or reconsider its terms” based on said motions.²³⁸

Unless a court has entered a stay of an order granting a petition to seal or immediately seal, all parties entitled to notice of the petition must fully comply with the terms of the order within 60 days of service of the order.²³⁹ Compliance is required even if a party files a motion to vacate, modify, or reconsider, or if the order is being appealed.²⁴⁰

If a party has filed a motion to vacate, modify, reconsider, or is appealing an order to expunge, “and unless a court has entered a stay of that order, the parties entitled to notice . . . must seal, *but need not expunge*, the records until there is a final order on the motion for relief or, in the case of an appeal, the issuance of that court's mandate.”²⁴¹

F. Pardons and Certificates of Eligibility

“Whenever a person who has been convicted of an offense is granted a pardon by the Governor” or “a certificate of eligibility for expungement by the Prisoner Review Board” and the pardon or certificate “authorizes expungement,” the person may seek to have the record expunged.²⁴² An order may be “entered expunging the record of arrest” and sealing the records of the circuit court clerk and the Department, and “the name of the defendant” shall also be “obliterated from the official index requested to be kept by the circuit court clerk”²⁴³ “All records sealed by the Department may be disseminated by the Department only to the arresting authority, the State's

Except as provided in Section 20b of the Adoption Act and Section 2-32 of the Juvenile Court Act of 1987 or in a petition based upon Section 116-3 of the Code of Criminal Procedure of 1963, the petition must be filed not later than 2 years after the entry of the order or judgment. Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.

735 ILL. COMP. STAT. 5/2-1401(c) (2018).

²³⁶ 20 ILL. COMP. STAT. 2630/5.2(d)(12) (2019).

²³⁷ *Id.* § 2630/5.2(d)(13).

²³⁸ *Id.*

²³⁹ *Id.* § 2630/5.2(d)(14); *id.* § 2630/5.2(g)(5)(M).

²⁴⁰ 20 ILL. COMP. STAT. 2630/5.2(d)(14) (2019).

²⁴¹ *Id.* § 2630/5.2(d)(15) (emphasis added).

²⁴² *Id.* §§ 2630/5.2(e), (e-6).

²⁴³ *Id.* § 2630/5.2(e).

Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony.”²⁴⁴ Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.²⁴⁵ “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 or granted a certificate of eligibility for an expungement.”²⁴⁶ If 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,” all of the above applies except that the record of arrest shall be sealed and not *expunged*.²⁴⁷

V. CONCLUSION

Recidivism rates in Illinois have dropped in recent years and with the amendments to Section 5.2 of the Criminal Identification Act, it is hoped that the rates will continue to decline.²⁴⁸ Part of that decline can be attributed to individuals being able to remove their criminal record as a barrier to employment through the process of expungement and sealing of their criminal record.²⁴⁹ The State has provided resources to self-represented litigants, such as easy to use and understand forms, to aid in this process. The history of the Act illustrates Illinois’ continuing efforts in expanding the parameters of the law.

To paraphrase Abraham Lincoln, it is our duty to not only improve a person’s condition, but to assist in making improvements for all.²⁵⁰ Legal advocates throughout the State have been working on improvements for all by leading the charge in expanding the Illinois’ expungement and sealing statute. Their efforts have resulted in Illinois being at the forefront of states expanding access to criminal record clearance.²⁵¹ Additionally, legal advocates continue to work to improve upon their client’s condition by filing petitions to clear their client’s criminal record. Beth Johnson, Legal Director of Chicago’s Cabrini Green Legal Aid, is one of the Illinois legal advocates who has been on the frontlines of this fight.²⁵² She sums up the expanded Act in this way, “This is the greatest expansion of sealing relief in Illinois

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.* § 2630/5.2(e-5) (emphasis added).

²⁴⁸ ILL. SENT’G POL’Y ADVISORY COUNCIL, *supra* note 10.

²⁴⁹ *Michigan Set-Asides*, *supra* note 15.

²⁵⁰ Lewis E. Lehrman, *The Party of Lincoln: The Legacy of the First Republican President*, LEHRMAN INSTITUTE (Feb. 16, 2004), <https://lehrmaninstitute.org/history/essays4.html>.

²⁵¹ *Clean Slate Clearinghouse State Highlights: Illinois*, CLEAN SLATE (Mar. 2, 2018), <https://cleanslateclearinghouse.org/news/clean-slate-clearinghouse-state-highlights-illinois/>.

²⁵² *Id.*

history. We anticipate that this law will change the futures of thousands of individuals who felt there was no hope.”²⁵³ Beth, and others like her, are making that hope a reality for individuals across Illinois.

²⁵³ *Id.*