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HOW TO CLEAR YOUR ILLINOIS CRIMINAL RECORD



For our Springfield office, contact us at:

Expungement Unit

P.O. Box 5240

Springfield, IL 62705-5240

Or call us at:

Toll-Free: (866) 431-4907

Fax: (217) 782-5385

Or email:

expungement.springfield@osad.state.il.us

For our Chicago Office, contact us at:

Expungement Unit

P.O. Box 64895

Chicago, IL 60664-0895

Or call us at:

Toll-Free: (866) 787-1776

Fax: (312) 793-2278

Or email:

expungement.chicago@osad.state.il.us

Or visit our expungement website at: <http://state.il.us/defender/exp.html>

**THE OFFICE OF THE STATE APPELLATE
DEFENDER CANNOT PROVIDE LEGAL SERVICES
FOR YOUR EXPUNGEMENT OR SEALING.**

Getting an Attorney:

The law was designed to let people clear their records without needing to hire an attorney. However, should you want or need an attorney, you may hire one. If you are unable to hire an attorney due to financial hardship, please contact one of the attorneys on the “Attorney List” included with this packet. This list is continually updated. Call the Office of the State Appellate Defender at 1(866) 431-4907 or go to our website at <http://state.il.us/defender/exp.html> if you need an updated list. Most people, however, are going to file for their expungement or sealing without the assistance of an attorney. This Instruction Guide is designed to assist you through the process. Be patient, read everything and hang in there.

DISCLAIMER: The attorney list is made up of attorneys who have agreed to be listed. The Office of the State Appellate Defender does not endorse or recommend any attorney on the “Attorney List.”

GENERAL OVERVIEW

What the law does:

Section 5 of the Criminal Identification Act (20 ILCS 2630/5), allows qualifying arrests, supervisions and convictions to be either expunged or sealed. **Only those individuals who have never been convicted of a criminal offense or municipal ordinance violation are eligible to expunge records. If you have ever been convicted of a criminal offense or a municipal ordinance violation, your records may still be eligible for sealing, but you cannot expunge any records, regardless of the outcome of the individual case.**

Only criminal records prosecuted and maintained by the State of Illinois are affected. Federal and out-of-state convictions do not fall under the Illinois law.

SPECIAL NOTE REGARDING FELONY CONVICTIONS

The only felony convictions which qualify for sealing are Class 4 Drug Possession under Section 4 of the Cannabis Control Act or Section 402 of the Controlled Substances Act and Class 4 Prostitution convictions under 720 ILCS 5/11-14. Certain special felony probations, such as TASC probation or First Offender drug probations under Section 10 of the Cannabis Control Act, Section 410 of the Controlled Substances Act and Section 70 of the Methamphetamine Control and Community Protection Act are not considered convictions and **may** be eligible for expungement or sealing. **For all other felony convictions, the only way to clear the record is pursuant to a Pardon from the Governor authorizing expungement of the record (see Page 11).**

ATTENTION COOK COUNTY DEFENDANTS

Cook County defendants **must** use the Cook County forms and procedures. To get the proper forms and procedures, or if you have questions about your Cook County expungement or sealing, please contact our Chicago office at: 1(866) 787-1776 (toll-free) or email: expungement.chicago@osad.state.il.us

You can also get the Cook County forms from the Cook County Circuit Clerk at any of the six Cook County Municipal District Court-houses, or you can download the forms from their website at: www.cookcountyclerkofcourt.org

BEFORE YOU GET STARTED:

Getting your record expunged or sealed can be a confusing and lengthy process. This is especially true if you, like most people, are going it alone in court without an attorney. Proceeding to court without an attorney to represent you is called “*pro se*” (sounds like “pro-say”). Doing the legwork before filing your paperwork in court will reduce your chances of errors and frustration. We suggest the following steps before you get started.

1. Read this entire packet and take notes before you file.

The Criminal Identification Act (*i.e.*, the expungement law) is complicated. This packet is designed to assist you through a legal process that you might find daunting. If you are patient and take your time, you will find that most, if not all, of your questions will be answered. Take notes. You should find the Definitions, the Frequently Asked Questions and the Myths and Misconceptions sections helpful.

2. Get your *complete* criminal history.

Whether you can get your record expunged or sealed is dependent on your *entire* criminal record. You must have the following information for every case:

- a. The date of your arrest; and
- b. The law enforcement agency or agencies that arrested you; and
- c. The charges that were brought against you, if any; and
- d. The “disposition” of each case and charge. The “disposition” is the final outcome of the case. Types of dispositions include terms such as “nolle prosequi,” “supervision,” “probation,” “time served.” These are all dispositions and each mean something different; and
- e. The date each case was completed. For example, if you were sentenced to probation, you must know the date your probation was terminated.

3. Get the titles and addresses of the legal entities involved in your case.

Before you fill out your paperwork, you must have the titles and addresses of all legal entities involved in your case, even if you were never prosecuted. Those entities are:

- a. The “arresting authority.”

This is simply the law enforcement agency that arrested you, if any. Usually it is a police department or sheriff’s department. You do not need the name of the individual officer who arrested you.

Places to get your criminal history:

- the arresting agency
- the circuit clerk of the court where your case was handled

- the Illinois State Police, Bureau of Identification

260 North Chicago Street

Joliet, IL 60432

(815) 740-5160

- The FBI,

U.S. Department of Justice

1000 Custer Hollow Road

Clarksburg, WV 26306

(304) 625-3878

Requests to the FBI must be made in writing and mention specifically that you are entitled to a copy of your arrest records under the Freedom of Information Act. Be certain to include your name, address, date and place of birth, and fingerprints.

Contact as many agencies as is necessary to make certain that your record is complete and accurate. The more times you have been arrested, the more work you will need to do in order to get a complete record.

(continued on next page)

Using an Internet “Background Check” Company to obtain your criminal record is not recommended for the purpose of expungement or sealing. The records produced by such companies are often expensive, incomplete and inaccurate.

Instead, go directly to the source—the agencies listed on page 3 under the heading, “Places to Get Your Criminal History.”



- b. The “chief legal officer of the unit of local government that affected the arrest.”

This is usually the attorney who represents the municipality or county that arrested you. (It is NOT the Sheriff or the Chief of Police.) This attorney usually is called the “Corporation Counsel,” “Village Attorney” or “City Attorney.” For example, if you were arrested by the Springfield Police Department, you will need the name of the Corporation Counsel for the City of Springfield. If you were arrested by the County Sheriff’s Department, you will need the name and address of the State’s Attorney for the county.

- c. The State’s Attorney or prosecutor that prosecuted your case.

You will need to know the address for the State’s Attorney or prosecutor responsible for prosecuting the case. You only need the office and the address—you do not need the name of the particular individual who prosecuted your case. If you are unclear about which office prosecuted your case, check your paperwork from the circuit court. This will almost always be the State’s Attorney’s Office in the county where the case occurred.

- d. The Illinois State Police.

The law requires that the Illinois State Police receive notice of your petition to expunge or seal, even if you were never charged. Here is their address:

Illinois State Police, Bureau of Identification
260 N. Chicago Ave
Joliet, Illinois 60432

4. Get your ID#, if possible.

This is called the “SID” number and it is assigned to defendants when they get fingerprinted. If you did not get fingerprinted, you won’t have a “SID” number. **If you cannot locate your ID number, you can file your paperwork without it.**

5. Get the filing fee and the Illinois State Police fee together.

You will be charged a fee to file your petition. This fee will vary from county to county. If you are indigent, go to “What if I Can’t Afford the Filing Fee?” on page 6 of this guide for more information. The Illinois State Police and the arresting authority may also charge you a fee to have your record sealed or expunged. **Contact the circuit clerk’s office in the appropriate county to determine the filing fee for your petition.**

DEFINITIONS:

The following terms are important for you to understand as you go through this process.

Adjudication—formal court judgment.

Conviction—a final judgment of guilt by the court. A conviction includes terms such as: Probation (except “710,” “1410,” “Section 10,” “Section 410,” “40-10,” or “TASC” probation), Conditional Discharge, Fine (without the term “supervision”), Time Served, Jail Time, Finding of Guilty by a judge or jury (without the term “supervision”), PG/FG (pleaded guilty/found guilty).

Criminal Identification Act—the expungement and sealing law for Illinois. It can be found at 20 ILCS 2630/0.01 *et seq.* Section 5 of the Act deals with expungement and sealing eligibility.

Denial/Denied—this means that the Court has denied something, such as your Petition to Expunge.

Disposition—the final order of the court on your criminal case.

Expungement—there is no definition of “expungement” in the Illinois Compiled Statutes. However, a working definition is that when a record gets “expunged,” it is as if the crime never occurred. Each law enforcement agency expunges, or destroys, their records.

Felony—a crime that may be punished by imprisonment for more than one year in a state prison. More serious than a misdemeanor.

Illinois Compiled Statutes—the written law of Illinois. It is abbreviated as “ILCS.”

Indigent—poor; a poor person.

Misdemeanor—a crime that may be punished by confinement in county jail for a term of up to one year.

Municipal Ordinance—a law or regulation of a city or local government.

Objection—this is a protest made by the State against your Petition. It means that the State doesn’t want your record expunged or sealed. The State has 30 days to object to a Petition to Expunge. The State has 90 days to object to a Petition to Seal. An objection is not the same as a denial.

Petition—a written request to the court.

Petitioner—a person who makes a written request to the court.

Sealed—there is no definition of “sealed” in the Illinois Compiled Statutes. However, a good working definition is that when a record gets “sealed,” your file remains intact but under seal. The records can be labeled as “sealed.” Most of the general public will not have access to the record. However, law enforcement will still have access to your records.

Supervision—a court order holding the case open for a specific period of time, usually between six months to two years. During that time, no judgment of guilt is entered. If all the conditions of supervision are followed, the case is dismissed and no conviction is ever entered against the defendant.

Frequently Asked Questions:

Where do I file my petition?

The Petition must be filed in the county where you were arrested or where the charge was brought.

Do I need a lawyer?

No, you can file your petition *pro se* (without an attorney). However, you may hire one if you want to. There is a list of attorneys included in the packet accompanying this Instruction Guide who may be able to represent you at a reduced fee or for no fee. However, any lawyer licensed in Illinois may represent you.

How much does it cost?

Getting your record expunged or sealed will cost you a filing fee at the courthouse plus \$60 for the Illinois State Police. Some local law enforcement agencies may also charge a processing fee. Filing fees vary from county to county.

What if I can't afford the filing fee?



You can still file your petition, as long as you file it with a fee waiver application. Sometimes these are called “In Forma Pauperis” forms or “Application to Sue as a Poor Person” forms. Not every jurisdiction will have such a form. If they do not, try the form provided with this packet. If the judge determines that you do not qualify to file as an indigent, then you will have to pay the fee.

What if the circuit clerk refuses to accept my petition because I can't afford the filing fee?

The law does require the circuit clerk to accept your petition, AS LONG AS you file it with an “In Forma Pauperis” form or “Application to Sue as a Poor Person” form (one is included with the court forms accompanying this Instruction Guide). Keep in mind, however, that if the judge determines that you are able to pay the fee, you will have to pay it or your petition will be dismissed.

FAQs, continued

How long does it take?

At least a few months. The State gets 30 days to object to a Petition to Expunge. For a sealing petition, the State gets 90 days to object. How long your case will take also depends on the size of the jurisdiction you are in, whether there is an objection to your Petition and how long it takes to get your case on the docket. If the judge orders your record expunged or sealed, it can take up to 3 months for the State Police to process the order.

What is a pardon?

A pardon is a type of executive clemency granted by the governor. It is considered to be an extraordinary remedy and is rarely granted. It only applies to cases which have resulted in a conviction. For more information, contact the Prisoner Review Board (even if you never went to prison) at (217) 782-7273.

What is the difference between expunging and sealing?

Here are working definitions:

Expunged: the agencies will destroy their record or remove all mention of your name from the public record.

Sealed: your file remains intact but under seal. The records can be labeled as “sealed.” Most of the general public will not have access to the contents of the record. However, law enforcement will still have access to your records.

Do I need to get a copy of my record?

Yes. Some jurisdictions require you to attach your record, or your “rap sheet,” to your petition. Also, you should check your record for accuracy.

What is the difference between a “rap sheet” and a “disposition”?

A “rap sheet” comes from the police department and will include all of your arrests. A “disposition” comes from the circuit clerk’s office.

FAQs, continued:

I was found not guilty. Do I still need to have my record expunged?

Yes. Your criminal record contains all your arrests, whether you were found guilty or not.

I was pressured into pleading guilty even though I was innocent. Isn't that a reason to expunge?

No. Once you pleaded guilty, any presumption of innocence was waived.

What is a conviction?

Any finding of guilt which results in regular probation, conditional discharge, fine, time served or sentence of incarceration.

What is NOT a conviction?

Supervision, Nolle Prosequi (NP), Stricken Off with Leave to Reinstate (SOL), No Probable Cause Found (FNPC), Dismissed, Not Guilty or successful completion of special first offender drug probation or TASC probation.

Who is the Chief Legal Officer of the local unit of government affecting the Arrest?

This is the attorney for the municipality, village, city or county that handled the arrest. For example, if you were arrested by the Springfield Police Department, then the unit of local government that affected the arrest would be the City of Springfield. The Chief Legal Officer for the City of Springfield is the corporation counsel. If, on the other hand, you were arrested by the Sangamon County Sheriff's Department, then the Chief Legal Officer would be the State's Attorney for Sangamon County.

I live out of town. Can I do this by mail?

Possibly. Many jurisdictions have a process in place to accept filings by mail. Contact the circuit clerk of the court you are filing in and ask what their procedures are for taking expungement or sealing petitions by mail.

I've been given a hearing date. Do I have to appear in court?

Yes. It is, after all, your case. Sometimes, a judge will allow an attorney to appear on your behalf. By and large, however, you should expect

FAQs, continued:

that you need to appear in court or risk having your petition dismissed.

Once my record is expunged or sealed, do I have to tell employers about it?

No, and it is against the law for employers or potential employers (except those specifically allowed by law) to ask you whether you ever had any records expunged or sealed.

BUT if you have filed for your record to be expunged or sealed and the court has not ruled on it yet, you still have to disclose your criminal history on a job application if you are asked.

How will I know when it is expunged or sealed?

You will get a response in the mail from the Court, the arresting authority and/or the Illinois State Police.

Once my record is expunged or sealed, do I have to disclose it when I get an occupational license or certificate?

No, unless the law requires it. A list of regulated licenses in the State of Illinois can be found at the Illinois Department of Financial and Professional Regulation's website:
<http://www.idfpr.com>
 (This is NOT a list of licenses which will require disclosure of an expunged or sealed record).

My case can be both expunged and sealed. Can I seal it now and expunge it later?

Yes.

What if my petition is denied?

You can do one of two things. Within the first 30 days after your Petition is denied, you can petition the judge to reconsider, or you may file a Notice of Appeal and take your case to the Appellate Court. The circuit clerk should have those forms.

COMMON MYTHS AND MISCONCEPTIONS ABOUT EXPUNGEMENT

The most common myth about expungement is that your record will automatically “go away” after time.

Unfortunately, this simply is not true. Once you are arrested, you have a record. This is so even if your case was dismissed, or if you received supervision or if you were found not guilty.

Fair or not, the burden is upon you. You have to take the steps necessary to have your record expunged or sealed.

Myth: “After several years, my record is automatically expunged.”

Truth: There is no such thing as an “automatic” expungement. Once you get arrested, you will have an arrest record, even if you were never charged, or if the case was dismissed and *even if you were found not guilty*.

Myth: “All non-violent felonies can be expunged or sealed.”

Truth: The vast majority of felony convictions cannot be expunged or sealed. The only exceptions are simple Class 4 drug possession and prostitution. For all other felony convictions, you will need to get a pardon and an expungement from the governor. That information is available from the Prisoner Review Board at (217) 782-7273 or at: <http://www.state.il.us/prb/prbexclmex.htm>

Myth: “My case was dismissed so there isn’t anything to expunge.”

Truth: Once you are arrested, you have a record. If you want the record of your arrest expunged, you must be proactive and take it upon yourself to expunge the record.

Myth: “I was wrongly arrested to begin with and I shouldn’t have to pay the filing fee to get my arrest expunged.”

Truth: The Criminal Identification Act makes no distinction between “good” arrests and “bad” arrests. It specifically states that “a person whose records have been expunged or sealed is not entitled to remission of any fines, costs, or other money paid as a consequence of the sealing or expungement.” 20 ILCS 2630/12(b). If you feel that you were wrongly accused or charged, you should contact an attorney regarding the issue.

Misconception: “They told me that if I completed my supervision, I wouldn’t have a record. So how come I still have a record?”

Truth: You were likely told that you wouldn’t have a *conviction* on your record. Supervision is not considered by the courts to be a conviction, so if you completed it, you don’t have a conviction on your record. However, you still have a record—namely, the arrest and the charges.

Myths and Misconceptions, continued:

Misconception: “The Circuit Clerk’s office was supposed to help me. But when I got there, they wouldn’t answer my questions about the forms or help me fill them out.”

Truth: The Clerks Act absolutely forbids any clerk from giving legal advice. Legal advice includes telling you whether you qualify for an expungement or a sealing and how to fill out the forms. The clerks CAN tell you what is in your court file, including the disposition of your case, as well as local procedures for filing and the relevant fees.

A quick word on Felonies:

Most felony arrests and convictions cannot be either expunged or sealed. There are a few exceptions, however.

Arrests and convictions for Class 4 felony drug possession and Class 4 felony prostitution cases may qualify to be sealed. Also, if you do not have a conviction on your record for anything, felony arrests that do not result in a conviction may be expunged. Go to the Expungement evaluation worksheet for more information.

If you have been convicted of one crime and are later arrested for a felony which does not result in a conviction, the second arrest is not eligible for either expungement or sealing. Likewise, felony convictions (except prostitution and simple drug possession) cannot be expunged or sealed unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon which authorizes expungement, you may call the Prisoner Review Board at (217) 782-7273. Or go to their website at:

<http://www.state.il.us/prb/prbexclemex.htm>

Cases which do not fall under the Criminal Identification Act:

The Criminal Identification Act was designed to expunge and seal criminal records. **It does not apply to traffic tickets, divorces, orders of protection or other civil matters.** For example, if somebody had an order of protection entered against you, that cannot be expunged. Likewise, simple traffic tickets do not qualify to be either expunged or sealed. If you have other questions, contact an attorney.

What if I was charged as a juvenile?

Juvenile expungement is very different from adult expungement. If you were ever charged as a juvenile in the State of Illinois, contact the Office of the State Appellate Defender at either our Springfield or our Chicago offices (contact information is on the front page of this Instruction Guide.) A juvenile expungement packet will be sent to you at no cost.

Juvenile expungement information is also available on our website at:

<http://state.il.us/defender/exp.html>

FOR RECORDS WITHOUT ANY CONVICTIONS:

Records without convictions may qualify to be either expunged or sealed. In most instances, you are better off getting your record expunged if you can. The expungement process is explained in Steps 1 through 8. The sealing process is explained in Steps 9 through 10.

Expungement

•**Step 1**—Look to see if you were placed on Supervision.

Yes, I was placed on Supervision. Go to **Step 2**.

No, I was not placed on Supervision. Go to **Step 6**.

•**Step 2**—Look to see whether you were placed on Supervision for one of the following misdemeanors:

Driving under the influence; or

Any sexual offense committed against a minor under 18 years of age. Sexual offense committed against a minor includes, but is not limited to, the offense of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

If Yes, your record does not qualify to be expunged through the court system unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon, you may call the Prisoner Review Board at (217) 782-7273 or go to their website at: <http://www.state.il.us/prb/prbexcleemex.htm>

If no, continue to **Step 3**.

•**Step 3**—Look to see whether you were placed on Supervision for one of the following misdemeanors:

625 ILCS 3-707 Operating an Uninsured Motor Vehicle,

625 ILCS 3-708 Suspended Registration for Noninsurance,

625 ILCS 3-710 Displaying of False Insurance,

625 ILCS 401.3 Failure of Scrap Dealer to Keep Records,

625 ILCS 11-503 Reckless Driving,

720 ILCS 5/12-3.2 Domestic Battery,

720 ILCS 5/12-15 Criminal Sexual Abuse (if the victim was 18 years of age or older),

720 ILCS 5/16A-3 Retail Theft

If yes, go to **Step 4**.

If no, you were placed on supervision for something else, go to **Step 5**.

•**Step 4.**—If you were placed on supervision for one of the misdemeanors listed in **Step 3**, what date was your supervision successfully discharged?

___/___/___
mm/dd/yyyy

Has it been at least 5 years since that date?

If it has been at least **5 years** since the supervision was discharged **AND** there are no charges pending against you right now, you may qualify to have your record expunged. You will need to fill out Packet A.

If it has not been 5 years, you will need to wait until 5 years have passed before you will qualify to have your record expunged. You may want to consider having your record sealed, instead. Go to **Step 9** to see if you qualify.

•**Step 5**—If you were placed on supervision for something other than the offenses listed in Step 3, and **except for:**

Driving under the influence; or
Any sexual offense committed against a minor under 18 years of age

what date was your supervision successfully discharged?

___/___/___
mm/dd/yyyy

Has it been at least 2 years since that date?

If it has been at least **2 years** since the supervision was discharged **AND** there are no charges pending against you right now, you may qualify to have your record expunged. You will need to fill out Packet A.

If it has not been 2 years, you will need to wait until 2 years have passed before you will qualify to have your record expunged.

•**Step 6**—Were you placed on Section 10, 410 or 40-10 probation (also called, “710,” “1410” or “TASC” probation) for drug possession?

If yes, go to **Step 7**.

If no, you were acquitted (found not guilty), or released without being convicted (the case was dismissed), go to **Step 8**.

•**Step 7**—If you were placed on Section 10, Section 410 or Section 40-10 probation (also called, “710,” “1410” or “TASC” probation) for drug possession, what date was your probation successfully terminated?

___/___/___
mm/dd/yyyy

Has it been at least 5 years since that date?

If it has been at least **5 years** since the probation was successfully terminated **AND** there are no charges pending against you right now, you may qualify to have your record expunged. You will need to fill out Packet A.

If it has not been 5 years, you will need to wait until 5 years have passed before you will qualify to have your record expunged.

•**Step 8**—If you were acquitted (found not guilty), or released without being convicted (the case was dismissed), then you may petition the court to have your case expunged. There is no waiting period. You will need to fill out Packet A.

Sealing

•**Step 9**—Did you receive supervision for one of the following crimes:

- 625 ILCS 11-501 DUI
- 720 ILCS 5/26-5 Dog Fighting, or
- a misdemeanor violation of Article 11 of the Criminal Code of 1961, except for prostitution. Non-sealable offenses include:
 - 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult,
 - 720 ILCS 5/11-7 Adultery, or
 - 720 ILCS 5/11-8 Fornication, or
 - 720 ILCS 5/11-9 Public Indecency, or
 - 720 ILCS 5/11-13 Marrying a Bigamist, or
 - 720 ILCS 5/11-14.1 Solicitation of a Sexual Act, or
 - 720 ILCS 5/11-15 Soliciting for a Prostitute, or
 - 720 ILCS 5/11-17 Keeping a Place of Prostitution, or
 - 720 ILCS 5/11-18 Patronizing a Prostitute, or
 - 720 ILCS 5/11-19 Pimping, or
 - 720 ILCS 5/11-20 Obscenity, or
 - 720 ILCS 5/11-21 Distribution of Harmful Material

•a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act (740 ILCS 45/2), which includes:

- 720 ILCS 5/12-1 Assault, or
- 720 ILCS 5/12-2 Aggravated Assault, or
- 720 ILCS 5/12-3 Battery, or
- 720 ILCS 5/12-3.2 Domestic Battery, or
- 720 ILCS 5/12-15 Criminal Sexual Abuse, or
- 720 ILCS 5/12-5 Reckless Conduct, or
- 720 ILCS 5/12-30 Violation of an Order of Protection, or
- 510 ILCS 70/1 a misdemeanor violation of the Humane Care for Animals Act, or
- 730 ILCS 150/1 any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

If Yes, your record does not qualify to be sealed through the court system unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon, you may call the Prisoner Review Board at (217) 782-7273 or go to their website at: <http://www.state.il.us/prb/prbexcleemex.htm>

No, I received supervision for something else, including prostitution. Go to **Step 10**.

No, I was acquitted (found not guilty), or released without being convicted (the case was dismissed), or convicted but the conviction was reversed. Go back to **Step 8**.

•**Step 10**—What date was your supervision successfully discharged?

___/___/___
mm/dd/yyyy

Has it been 3 years since that date?

If yes, if it has been at least 3 years since that date **AND** you haven't been convicted or placed on supervision since that date, and there are no charges pending against you right now, you may have your case sealed. You will need to complete Packet B.

If it has not been 3 years, you will need to wait until 3 years have passed before you will qualify to have your record sealed.

Remember: If you have no convictions on your record, you might get to choose whether you want your record expunged or sealed. For example, if you have a supervision for misdemeanor retail theft, you can have it *sealed* three (3) years after you finish the supervision, *expunged* five (5) years after you finish the supervision, or both. The choice is up to you.

FOR RECORDS WITH CONVICTIONS:

This section applies to everybody who has a conviction on their record. Some people may have both convictions and non-convictions on their record. Some, all or none of your record may qualify for a sealing. You should go through all of the steps for each arrest.

The process for sealing a conviction is explained in Steps 1 through 8. The process for sealing a non-conviction is explained in Steps 9 through 11.

If the offense you are looking to seal resulted in a conviction:

•**Step 1**—Look to see if you were convicted of a felony:

Yes, I was convicted of a felony.

Go to **Step 2**.

No, I was not convicted of a felony.

Go to **Step 7**.

•**Step 2**—Were you convicted of Class 4 felony prostitution or Class 4 felony drug possession ?

Yes, I was convicted of Class 4 felony prostitution.

Go to **Step 3**

Yes, I was convicted of Class 4 felony drug possession

Go to **Step 4**

No, I was convicted of another kind of felony.

Your conviction does not qualify to be sealed through the court system unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon, you may call the Prisoner Review Board at (217) 782-7273 or go to their website at: <http://www.state.il.us/prb/prbexcleme.htm>

•**Step 3**.—Prostitution. If you were convicted of Class 4 felony prostitution, what date did you finish your probation, parole or other sentence?

___/___/___

mm/dd/yyyy

If it has been at least 4 years since that date **AND** you haven't been convicted or placed on supervision since the probation was discharged, and there are no charges pending against you

right now, you may have your case sealed. You will need to complete Packet C--“Petition to Seal Conviction” and “Order to Seal Conviction.”

If it has not been 4 years, you will need to wait until 4 years have passed before you will qualify to have your record sealed.

•**Step 4**—Class 4 Felony Drug Possession. If you were convicted of Class 4 felony drug possession, what was your sentence?

Was it First Offender Probation under Section 10 (cannabis), Section 410 (controlled substance) (these are sometimes called “710” or “1410” probation) or Section 70 (methamphetamine) probation? If so, go to **Step 5**.

Was it jail time, regular probation, or conditional discharge? If so, go to **Step 6**.

•**Step 5**—If you received one of the types of probation listed in **Step 4**, what date did you successfully finish your probation?

___/___/___
mm/dd/yyyy

Has it been **4 years** since the **successful** termination of probation?

If yes, **AND** you haven’t been convicted or placed on supervision since the probation was discharged, and there are no charges pending against you right now, you may have your case sealed. You will need to fill out Packet D (see drug test requirement on Page 23).

If it has not yet been 4 years since you successfully completed your First Offender probation, then you will need to wait until that date before you will be eligible to seal the record.

•**Step 6**—If you got regular probation, conditional discharge or jail time, what date did you finish your probation, parole or other sentence?

___/___/___
mm/dd/yyyy

If it has been at least 4 years since that date, you may have your record sealed. Complete Packet D (see drug test requirement on Page 23).

If it has not been 4 years, you will need to wait until 4 years have passed before you will qualify to have your record sealed.

•**Step 7**–If you were convicted of a misdemeanor (or a similar provision of a municipal ordinance), was it one of the following crimes?

- 625 ILCS 11-501 DUI
- 720 ILCS 5/26-5 Dog Fighting, or
- a misdemeanor violation of Article 11 of the Criminal Code of 1961, except for prostitution. Non-sealable offenses include:
 - 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult,
 - 720 ILCS 5/11-7 Adultery, or
 - 720 ILCS 5/11-8 Fornication, or
 - 720 ILCS 5/11-9 Public Indecency, or
 - 720 ILCS 5/11-13 Marrying a Bigamist, or
 - 720 ILCS 5/11-14.1 Solicitation of a sexual act, or
 - 720 ILCS 5/11-15 Soliciting for a prostitute, or
 - 720 ILCS 5/11-17 Keeping a Place of Prostitution, or
 - 720 ILCS 5/11-18 Patronizing a Prostitute, or
 - 720 ILCS 5/11-19 Pimping, or
 - 720 ILCS 5/11-20 Obscenity, or
 - 720 ILCS 5/11-21 Distribution of Harmful Material
- a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act (740 ILCS 45/2), which includes:
 - 720 ILCS 5/12-1 Assault, or
 - 720 ILCS 5/12-2 Aggravated Assault, or
 - 720 ILCS 5/12-3 Battery, or
 - 720 ILCS 5/12-3.2 Domestic Battery, or
 - 720 ILCS 5/12-15 Criminal Sexual Abuse, or
 - 720 ILCS 5/12-5 Reckless Conduct, or
 - 720 ILCS 5/12-30 Violation of an Order of Protection, or
 - 510 ILCS 70/1 a misdemeanor violation of the Humane Care for Animals Act, or
 - 730 ILCS 150/1 any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

If yes, your conviction does not qualify to be sealed through the court system unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon, you may call the Prisoner Review Board at (217) 782-7273 or go to their website at: <http://www.state.il.us/prb/prbexcleme.htm>

If no, your record might qualify for a sealing. Go to **Step 8**.

•**Step 8**—What date did you finish your probation, parole or other sentence?

___/___/___
mm/dd/yyyy

Has it been 4 years since that date?

If yes, if it has been at least 4 years since that date **AND** you haven't been convicted or placed on supervision since the probation was discharged, and there are no charges pending against you right now, you may have your case sealed. You will need to complete Packet C.

If it has not been 4 years, you will need to wait until 4 years have passed before you will qualify to have your record sealed.

If the offense you wish to seal did not result in a conviction:

•**Step 9**—For the arrest in question, did you receive supervision for:

- 625 ILCS 11-501 DUI
- 720 ILCS 5/26-5 Dog Fighting, or
- a misdemeanor violation of Article 11 of the Criminal Code of 1961, except for prostitution. Non-sealable offenses include:
 - 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult,
 - 720 ILCS 5/11-7 Adultery, or
 - 720 ILCS 5/11-8 Fornication, or
 - 720 ILCS 5/11-9 Public Indecency, or
 - 720 ILCS 5/11-13 Marrying a Bigamist, or
 - 720 ILCS 5/11-14.1 Solicitation of a sexual act, or
 - 720 ILCS 5/11-15 Soliciting for a prostitute, or
 - 720 ILCS 5/11-17 Keeping a Place of Prostitution, or
 - 720 ILCS 5/11-18 Patronizing a Prostitute, or
 - 720 ILCS 5/11-19 Pimping, or
 - 720 ILCS 5/11-20 Obscenity, or
 - 720 ILCS 5/11-21 Distribution of Harmful Material
- a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act (740 ILCS 45/2), which includes:
 - 720 ILCS 5/12-1 Assault, or
 - 720 ILCS 5/12-2 Aggravated Assault, or
 - 720 ILCS 5/12-3 Battery, or
 - 720 ILCS 5/12-3.2 Domestic Battery, or

- 720 ILCS 5/12-15
 - 720 ILCS 5/12-5
 - 720 ILCS 5/12-30
 - 510 ILCS 70/1
 - 730 ILCS 150/1
- Criminal Sexual Abuse, or
 Reckless Conduct, or
 Violation of an Order of Protection, or
 a misdemeanor violation of the Humane
 Care for Animals Act, or
 any offense or attempted offense that would
 subject a person to registration under the Sex
 Offender Registration Act.

If Yes, your record does not qualify to be sealed through the court system unless you receive a pardon which specifically authorizes expungement. For information on how to receive a pardon, you may call the Prisoner Review Board at (217) 782-7273 or go to their website at: <http://www.state.il.us/prb/prbexcleme.htm>

No, I received supervision for something else. Go to **Step 10**.

No, I was acquitted (found not guilty), or released without being convicted (the case was dismissed), or convicted but the conviction was reversed. Go to **Step 11**.

•**Step 10**—If you were placed on supervision for something else:

What date did you finish your supervision?

___/___/___
 mm/dd/yyyy

Has it been 3 years since that date?

If yes, if it has been at least 3 years since that date **AND** you have not been convicted of a felony or misdemeanor or placed on supervision within **3 years** after you were acquitted, released, had your conviction reversed or successfully discharged from supervision, then you may have your records sealed. You will need to fill out Packet B.

If no, it has not been 3 years, you will need to wait until 3 years have passed before you will qualify to have your record sealed.

•**Step 11**—If you meet the following criteria, your arrest record may qualify for immediate sealing:

- 1) You were arrested for Class 4 felony drug possession or prostitution as described in this Instruction Guide, or you were arrested for a misdemeanor offense other than the following:

- 625 ILCS 11-501 DUI
- 720 ILCS 5/26-5 Dog Fighting, or
- a misdemeanor violation of Article 11 of the Criminal Code of 1961, except for prostitution. Non-sealable offenses include:
 - 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult,
 - 720 ILCS 5/11-7 Adultery, or
 - 720 ILCS 5/11-8 Fornication, or
 - 720 ILCS 5/11-9 Public Indecency, or
 - 720 ILCS 5/11-13 Marrying a Bigamist, or
 - 720 ILCS 5/11-14.1 Solicitation of a sexual act, or
 - 720 ILCS 5/11-15 Soliciting for a prostitute, or
 - 720 ILCS 5/11-17 Keeping a Place of Prostitution, or
 - 720 ILCS 5/11-18 Patronizing a Prostitute, or
 - 720 ILCS 5/11-19 Pimping, or
 - 720 ILCS 5/11-20 Obscenity, or
 - 720 ILCS 5/11-21 Distribution of Harmful Material
- a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act (740 ILCS 45/2), which includes:
 - 720 ILCS 5/12-1 Assault, or
 - 720 ILCS 5/12-2 Aggravated Assault, or
 - 720 ILCS 5/12-3 Battery, or
 - 720 ILCS 5/12-3.2 Domestic Battery, or
 - 720 ILCS 5/12-15 Criminal Sexual Abuse, or
 - 720 ILCS 5/12-5 Reckless Conduct, or
 - 720 ILCS 5/12-30 Violation of an Order of Protection, or
 - 510 ILCS 70/1 a misdemeanor violation of the Humane Care for Animals Act, or
 - 730 ILCS 150/1 any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

- 2) You were acquitted (found not guilty), or released without conviction (the case was dismissed), or convicted but the conviction was reversed.
- 3) You do not have any currently pending charges against you, and you are not currently serving a sentence, probation or supervision on another offense.

If you meet all of these criteria, you may be eligible for immediate sealing of your record. Please use Packet B, unless your arrest was for Class 4 felony drug possession, in which case you will need to use Packet E. Keep in mind that if you have no convictions on your record at all, you would likely be better served by filing a petition to expunge (Packet A). However, if you have a previous conviction, and are therefore ineligible for expungement, but you meet the above criteria, you may be immediately eligible for sealing. **Remember that, if the arrest you are seeking to seal was for any felony offense other than Class 4 felony drug possession or prostitution, your arrest cannot be sealed.** If your arrest was for one of the misdemeanor offenses listed above, the Cook County Circuit Court has recently ruled that such arrests that do not result in conviction or supervision are sealable. Other courts may disagree. If you

have questions regarding arrests for the misdemeanor offenses listed on the previous page, please contact either office of the State Appellate Defender Expungement Program at the toll-free numbers listed on the front cover of this booklet.

Drug Test Requirement for Class 4 Felony Drug Possession Cases

The law requires that you attach proof that you have passed a drug test to your petition to seal a Class 4 felony drug possession (or first offender drug probation) case. The drug test must have been taken within 30 days prior to the filing of your petition. The Criminal Identification Act does not specify what type of drug test must be attached to the petition to seal. Therefore, it is recommended that you get a drug test from your physician or from a state agency that is willing to give such a test. The important thing about the drug test is that it be administered by a person or agency that would be willing to vouch for its authenticity in court. There will likely be a fee for the drug test.

A Final Word

The law relating to expungement and sealing of criminal records in Illinois is complex and can be difficult to interpret. Not all courts view the provisions of the Criminal Identification Act in exactly the same manner. The information in this Instruction Guide is based on the interpretation of the Office of the State Appellate Defender, using known Circuit Court, Appellate Court and Illinois Supreme Court rulings, as well as the language of the statute itself. While the purpose of these materials is to assist an individual in pursuing an expungement or sealing without the assistance of an attorney, complex cases may require legal assistance.