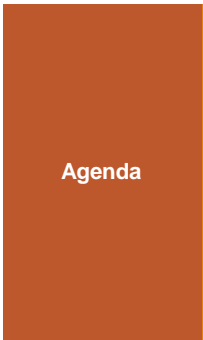




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- Part 1:** Introduction to criminal records relief in Illinois
- Part 2:** When does a person qualify?
- Part 3:** Filing a Request
- Part 4:** Charting a criminal history
- Part 5:** Preparing a Request

2



Part 1: Introduction to Criminal Records Relief in Illinois



3

Self Test

USA Population 334 Million Americans from June 10, 2019 estimate at <https://www.worldometers.info/world-population/us-population/>



What percentage of Americans have a criminal record of some kind?

- A: 5% (1/20)
- B: 8% (1/13)
- C: 20% (1/5)
- D: 50% (1/2)

4

Answer - C

According to the FBI, as of June 30th 2017, 73.5 million people had a criminal record (conviction or arrest) [according to Politifact](#)

This comes to 1 in 4.46 Americans (rounded up to 5)

82% of employers conduct some type of criminal background check on every new employee before they are hired.

Source: 2016 CareerBuilder.com survey



5

Criminal Identification Act History



Prior to August 2017, the types of convictions eligible to be sealed were limited to misdemeanor and a limited number of class 3 and class 4 felony convictions. On August 24, 2017, Public Act 100-284 broadly expanded the types of convictions eligible to be sealed.

As of August 10, 2018, a court cannot deny a request to seal simply because the petitioner has not paid fines and fees (does not include restitution). See 20 ILCS 2630/5.2(d)(6)(C)

6



Part 2: When does a person qualify?

7

The Illinois Criminal Identification Act (20 ILCS 2630/5.2)

Allows most non-convictions to be EXPUNGED

Allows most convictions to be SEALED



Does NOT apply to minor traffic offenses, petty ordinance violations (non-criminal in nature), or other civil matters

8

What Does This Mean?

Expungement	Sealing
<ul style="list-style-type: none"> • Non-Convictions • Arrests that are not charged • Dismissals/acquittals • Successful supervision (2/5 year wait period) • Successful Qualified Probation (5 year waiting period) • Conviction reversed or vacated • Successful completion of Veterans Court • Records are impounded by clerk and destroyed by law enforcement 	<ul style="list-style-type: none"> • Most felony or misdemeanor convictions • Removes the record from public view with some exceptions for law enforcement and employers required by law to run fingerprint background checks

9

Cannabis Offenses Motion to Vacate and Expunge

An individual may file a motion to vacate and expunge a conviction for misdemeanor or Class 4 felony violation of Section 4 or 5 of Cannabis Control Act (20 ILCS 2630/5.2(i)(3)).

Can be filed after the completion of the sentence or condition imposed by the conviction.

10

Quiz Time

Which criminal convictions are ineligible for sealing?



11

Answer

- Animal Cruelty Offenses
- Sex Crimes (other than prostitution)
- DUI/Reckless Driving >25 years old
- Domestic Violence Offenses

20 ILCS 2630/5.2(3)



12

Sealing Waiting Period

There is a **3-year waiting period** from the end of your last sentence.

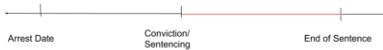
Most recent sentence must have been completed on or before February 12, 2020, to qualify.



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Waiver of Waiting Period

If the ex-offender obtained a degree or certification during the last sentence the waiting period can be waived and they are eligible for sealing upon completion of the sentence.



14

Additional Waiting Period Crimes that Require Public Registry



Convictions requiring public registration under certain acts may not be sealed until the petitioner is no longer required to register

- Arsonist Registration Act
- Sex Offender Registration Act
- Murder and Violent Offender Against Youth Registration Act

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**THE JUDGE'S
DECISION
WHETHER
TO GRANT OR
DENY RELIEF IS
ALWAYS
DISCRETIONARY**



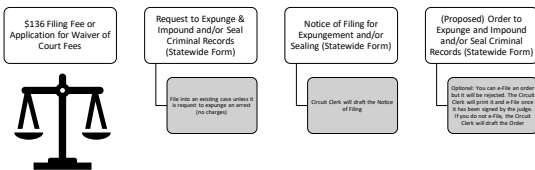
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**Part 3:
Filing a
Request**

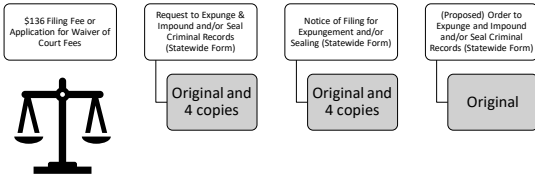
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e-Filing a Request in McLean County



18

Filing a Request in McLean County



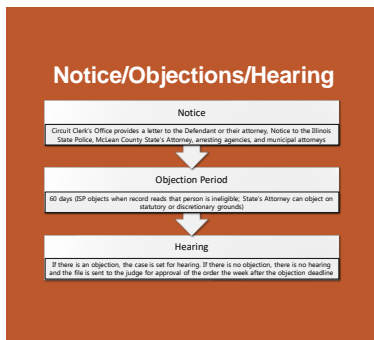
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Criminal Records in Multiple Counties

If an ex-offender has criminal records in multiple counties, they must file a request for expungement or sealing in each county that they have criminal records and want to seal or expunge those records.



20



21

Common Objections

Attorney Mistake	Client Mistake	Other
<ul style="list-style-type: none"> • Objection – waiting period has not run • Case ineligible • Felony drug cases – did not attach clean drug test taken within 30 days of filing 	<ul style="list-style-type: none"> • Objection – client arrested after request filed <ul style="list-style-type: none"> • Major traffic cases (i.e. DWLS) • Objection – recent out of state or federal conviction 	<ul style="list-style-type: none"> • Restitution is owed • Case includes both major traffic (misdemeanors) and minor traffic counts • Objection to expunging but not sealing a record that is eligible for both expungement or sealing • Seriousness of the crime

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Objection Hearing

The automatic first court setting is not intended for a full evidentiary hearing. The case will be set for a longer hearing if necessary.

Local practice - Witnesses are not expected in most cases. Letters of support from supervisors, law enforcement, community agencies, and certificates from professional development or counseling are usually considered.

In determining whether to grant or deny the request, the Court may consider the following factors:

- A. The strength of the evidence supporting the conviction;
- B. The reasons for retention of the conviction records by the State;
- C. The petitioner's age, criminal record history, and employment history;
- D. The period of time between the petitioner's arrest resulting in the conviction and the filing of the petition;
- E. The specific adverse consequences the petitioner may be subject to if the petition is denied.

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**THE JUDGE'S
DECISION
WHETHER
TO GRANT OR
DENY RELIEF IS
ALWAYS
DISCRETIONARY**



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Any
Questions?

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Part 4: Charting a Criminal History

Illinois State Police Access & Review Report
Court Records available from the Circuit Clerk

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Charting

Summary of criminal incidents in chronological order
All of the information needed is on one piece of paper
Helps analysis to determine whether records are eligible for
a sealing or expungement

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Please take the next 5 minutes to chart

Case Number or Arrest Number	Arrest Date	Charges	Disposition - Date	Sentence	Discharge Date (Supervision, Conditional Discharge, Probation)	Arresting Agency & County / Other notes	Restitution Due?

28

Case Number or Arrest Number	Arrest Date	Charges	Disposition - Date	Sentence	Discharge Date (Supervision, Conditional Discharge, Probation)	Arresting Agency & County / Other notes	Restitution Due?
18 CM 0000	1/13/2016	1. Possess Drug Paraphernalia N.P. 2. Possess Drug Paraphernalia N.P. 3. Retail Theft Drug Merch N.C.200	1/17/2016	Successful Supervision	1/13/2016	MPO	No

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Part 5: Preparing a Request to Expunge or Seal using the Illinois Statewide Form

Illinois Supreme Court Access to Justice Commission
Statewide Form

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