



Illinois Expungement and Sealing

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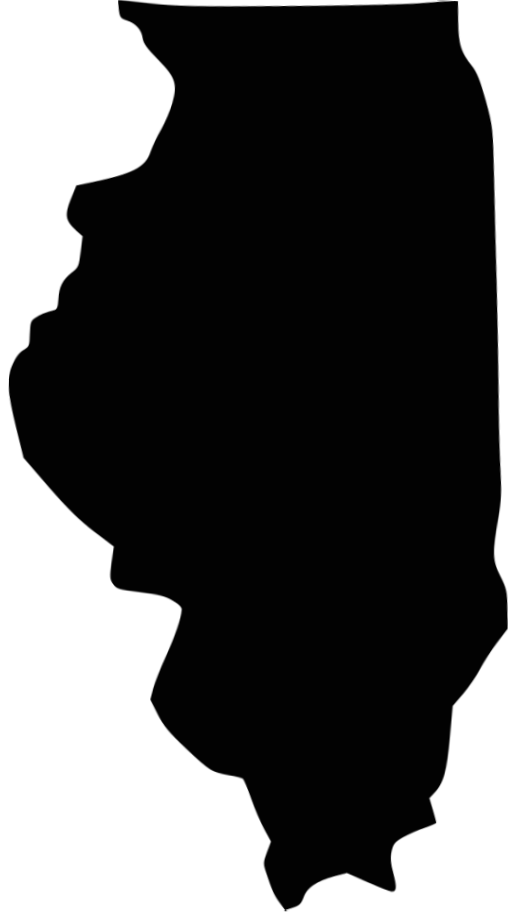


Agenda

Part 1: Introduction to criminal records relief in Illinois

Part 2: When does a person qualify?

Part 3: Filing a Request



Part 1: Introduction to Criminal Records Relief in Illinois

Self Test

328 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)



Background Checks

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



Recent Changes to the Criminal Identification Act



On August 24, 2017, Public Act 100-284 became effective broadly expanding the types of convictions that are eligible to be sealed

- Now, **most misdemeanor and felony convictions can be sealed** after a waiting period, as opposed to a limited number of class 3 and 4 felony convictions.

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)



Part 2: When does a person qualify?

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

Allows qualifying arrests, charges resulting in successful supervision and successful qualified probations (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

What Does This Mean?

Expungement

- **Non-Convictions**
 - Arrests that are not charged
 - Dismissals/acquittals
 - Successful supervision
 - Successful qualified probations
- Records are impounded by clerk and destroyed by law enforcement

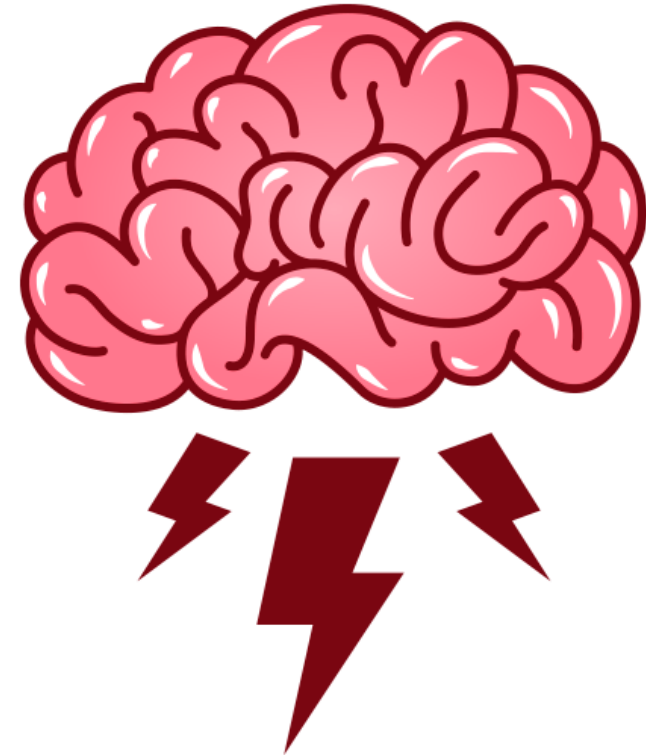
Sealing

- 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

Quiz Time

Which of these are criminal convictions are ineligible for sealing?

- Domestic Violence
- Harm to Animals
- Murder
- Sex Crimes (other than prostitution)
- DUI/Reckless Driving
- Armed Burglary



Answer

- ☐ Harm to Animals
- ☐ Sex Crimes (other than prostitution)
- ☐ DUI/Reckless Driving
- ☐ Domestic Violence

20 ILCS 2630/5.2(3)



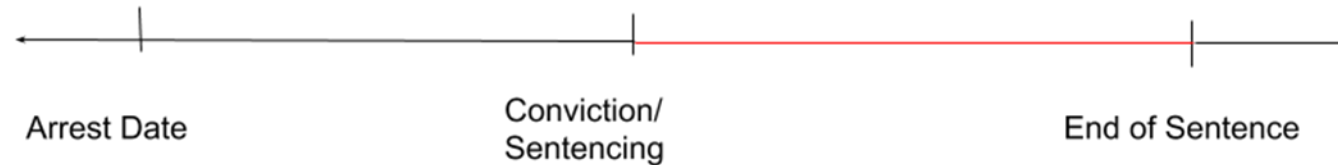
Waiting Period

There is a **3 year waiting period** from the end of your last sentence. Most recent sentence must have been completed on or before October 14, 2017 to qualify.

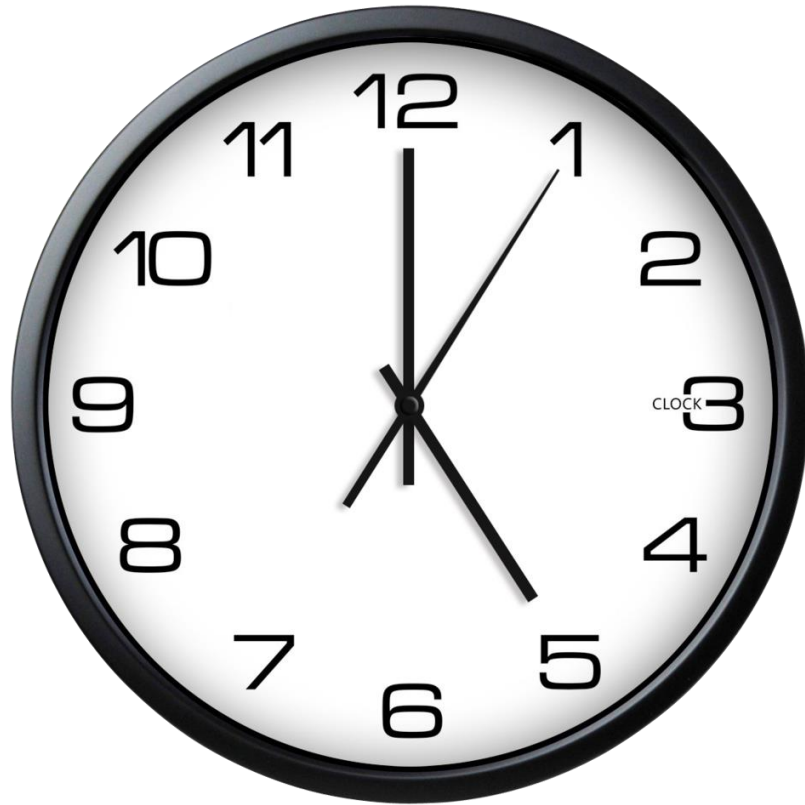


Waiver of Waiting Period

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.



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

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





Part 3: Filing a Request

Filing a Request in McLean County

\$136 Filing Fee or
Application for Waiver of
Court Fees



Request to Expunge &
Impound and/or Seal
Criminal Records
(Statewide Form)

Original and
4 copies

Notice of Filing for
Expungement and/or
Sealing (Statewide Form)

Original and
4 copies

(Proposed) Order to
Expunge and Impound
and/or Seal Criminal
Records (Statewide Form)

Original

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.



Notice/Objections/Hearing

Notice

Circuit Clerk's Office provides a letter to the Defendant or their attorney, Notice to the Illinois State Police, McLean County State's Attorney, arresting agencies, and municipal attorneys

Objection Period

60 days (ISP objects when record reads that person is ineligible; State's Attorney can object on statutory or discretionary grounds)

Hearing

If there is an objection, the case is set for hearing. If there is no objection, there is no hearing and the file is sent to the judge for approval of the order the week after the objection deadline



Common Objections

Attorney Mistake

- Objection – waiting period has not run
- Case ineligible
- Felony drug cases – did not attach clean drug test taken within 30 days of filing

Client Mistake

- Objection – client arrested after request filed
- Major traffic cases (i.e. DWLS)
- Objection – recent out of state or federal conviction

Other

Restitution is owed
Case includes both major traffic (misdemeanors) and minor traffic counts
Record shows a pattern of criminal behavior (expunge only)
Seriousness of the crime
Improper objections based on obsolete law

Objection Hearing

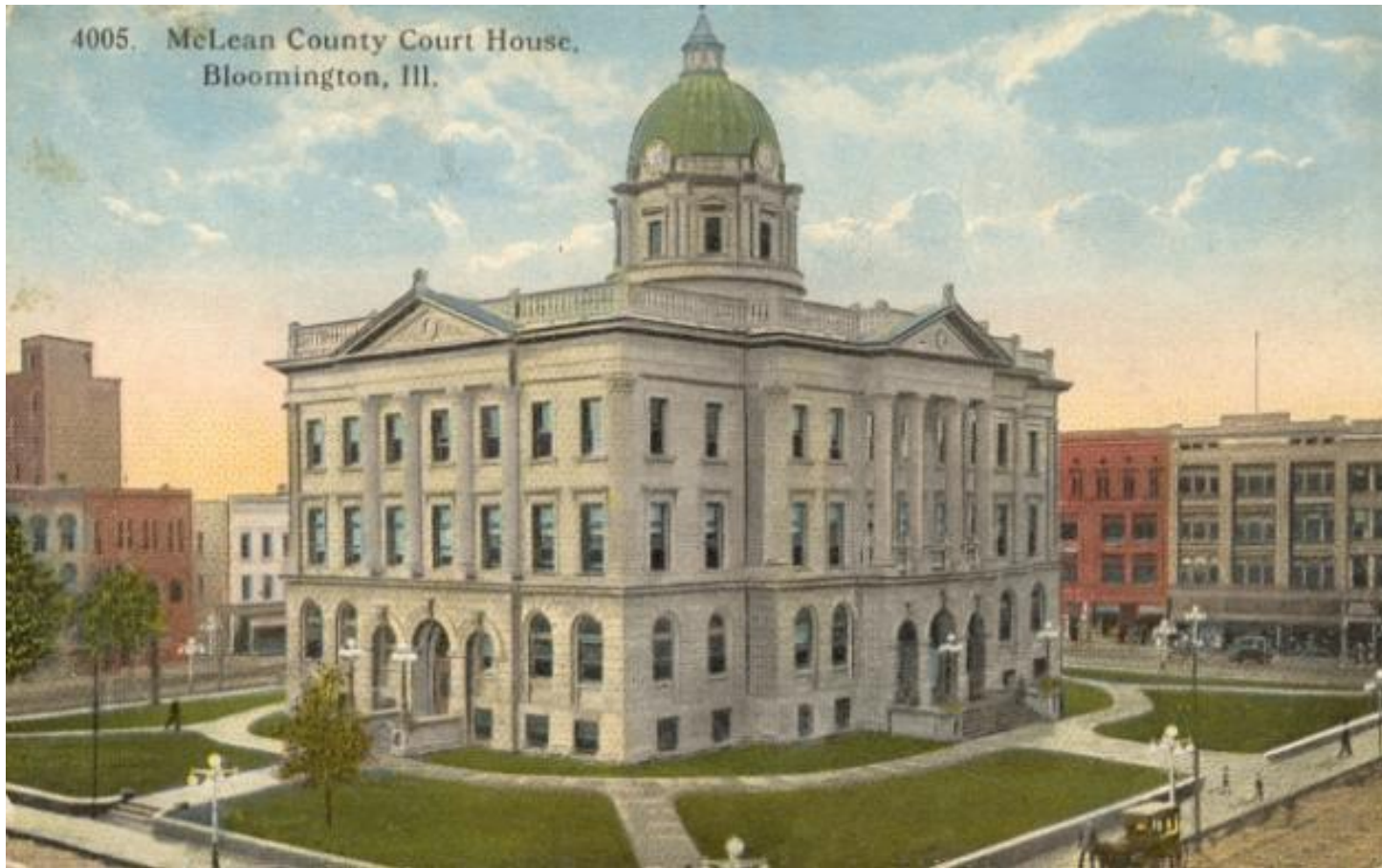
In determining whether to grant or deny the request, the Court may consider the following factors:

- 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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“I did have a question regarding your career history. Under ‘Strengths,’ you listed ‘Never convicted.’ Would you mind elaborating on that?”



Any
Questions?
